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110TH CONGRESS, 1st Session | SENATE | REPORT 110–143

BLINDED VETERANS PAIRED ORGAN ACT OF 2007

AUGUST 3, 2007.—Ordered to be printed

Mr. AKAKA, from the Committee on Veterans Affairs, submitted the following

R E P O R T

[To accompany S. 1163]

The Committee on Veterans' Affairs (hereinafter, "the Committee"), to which was referred the bill (S. 1163) to amend title 38, United States Code, to improve compensation and specially adapted housing for veterans in certain cases of impairment of vision involving both eyes, and to provide for the use of the National Directory of New Hires for income verification purposes, having considered the same, reports favorably thereon with an amendment in the nature of a substitute, and recommends that the bill, as amended, do pass.

INTRODUCTION

On April 19, 2007, Committee Chairman Daniel K. Akaka introduced S. 1163 with Senators Sherrod Brown, Russell Feingold, Chuck Hagel, Johnny Isakson, and Jim Webb as original cosponsors. Senator Bernard Sanders was added later as a cosponsor. S. 1163, as introduced, would amend the eligibility criteria for disability compensation and specially adapted housing in certain cases of impairment of vision in both eyes, and authorize the Secretary of Veterans Affairs to use the National Directory of New Hires for income verification purposes. The bill was referred to the Committee.

On May 2, 2007, Ranking Member Larry Craig introduced S. 1266. Senator Johnny Isakson was added later as a cosponsor. S. 1266 would increase assistance for veterans interred in cemeteries other than national cemeteries.

On May 8, 2007, Senator Christopher Dodd introduced S. 1334 with Senators Sherrod Brown, Robert Byrd, Kent Conrad, John

Kerry, and George Voinovich as original cosponsors. Senators Tim Johnson, Joseph Lieberman, and Blanche Lincoln were added later as cosponsors. S. 1334 would make permanent the authority to furnish government headstones and markers for graves of veterans interred at private cemeteries.

COMMITTEE HEARING

On May 9, 2007, the Committee held a hearing on benefits legislation at which testimony on S. 1163, S. 1266, and S. 1334, among other bills, was offered by: Daniel L. Cooper, Under Secretary for Benefits, Department of Veterans Affairs; Carl Blake, Senior Associate National Legislative Director, Paralyzed Veterans of America; Eric A. Hilleman, Assistant Director, National Legislative Service, Veterans of Foreign Wars of the United States; Brian E. Lawrence, Assistant National Legislative Director, Disabled American Veterans; and Alec S. Petkoff, Assistant Director, Veterans Affairs and Rehabilitation, The American Legion.

COMMITTEE MEETING

On June 27, 2007, the Committee met in open session to consider legislation pending before the Committee. Among the measures so considered was S. 1163 with an amendment in the nature of a substitute incorporating provisions from S. 1266 and S. 1334. By voice vote the Committee voted to report favorably S. 1163, as amended, to the Senate.

SUMMARY OF S. 1163 AS REPORTED

S. 1163, as reported (hereinafter, "Committee bill") is titled the "Blinded Veterans Paired Organ Act of 2007." The Committee bill is summarized below.

TITLE I—LOW-VISION BENEFITS MATTERS

Section 101 would modify the eligibility criteria for special monthly compensation in certain cases involving disability due to visual impairment.

Section 102 would amend the eligibility criteria that qualifies veterans to receive compensation for a service-connected disability due to blindness in both eyes although the visual impairment in only one of the eyes is, in fact, service-connected.

Section 103 would direct the Secretary of the Department of Veterans Affairs (hereinafter, "VA") and the Secretary of the Department of Health and Human Services (hereinafter, "HHS") to match and compare VA needs-based pension benefits data, parents' dependency and indemnity compensation data, health-care services data, and unemployability compensation data with the National Directory of New Hires maintained by HHS, for the purpose of determining eligibility for such VA benefits and services.

TITLE II—BURIAL AND MEMORIAL AFFAIRS MATTERS

Section 201 would require the Secretary to design and furnish a medallion or other emblem, upon request, signifying a deceased veteran's status to be affixed to headstones or markers purchased at private expense.

Section 202 would repeal the current two-year window within which States must file for reimbursement from VA for the interment or inurnment of unclaimed remains of deceased veterans. It would also authorize $5 million to cover the operational and maintenance expenses of State cemeteries.

Section 203 would make permanent the authority to furnish government headstones and markers for privately-marked graves of veterans interred at private cemeteries. It would also include retroactive authority to do the same for those interred on or between November 1, 1990 and September 10, 2001.

BACKGROUND AND DISCUSSION

TITLE I—LOW-VISION BENEFITS MATTERS

Section 101. Modification of rate of reimbursement of visual impairment for payment of disability compensation

Section 101 of the Committee bill would change the definition of blindness used for subsection (o) of section 1114, title 38, United States Code, to that commonly used in the United States.

Under current law, veterans with very serious disabilities are eligible to receive additional benefits (often referred to as "special monthly compensation," 38 C.F.R. 3.350) which are often higher than the rate paid to veterans who are totally and permanently disabled. Subsection (o) of section 1114 of title 38, United States Code, provides benefits of $4,313 per month for single veterans who have multiple severe disabilities. Under subsection (o), a veteran who has bilateral deafness (rated service-connected at 60 percent in one or both ears) and also service-connected blindness with visual acuity of 5/200 or less, is paid at the rate of $4,313 per month.

Subsection (o) of section 1114, title 38, United States Code, is derived from The United States Veterans' Administration Schedule for Rating Disabilities (March 20, 1933) where it was referred to as "special monthly pension." Under that rating schedule, including subsection (o), benefits for blindness were based on the veteran "having only light perception." In 1945, subsection (o) was amended by Public Law 79–182 to provide special monthly compensation for veterans who had multiple disabilities, including "total blindness with visual acuity of 5/200 or less." The 5/200 standard for blindness has been continued in subsection (o) to the present day.

According to the National Eye Institute, visual acuity is defined as the eye's ability to distinguish object details and shape with good contrast, using the smallest identifiable object that can be seen at a specified distance. It is measured by use of an eye chart and recorded as test distance/target size. Visual acuity of 5/200 means that an individual must be 5 feet away from an eye chart to see a letter that an individual with normal vision could see from 200 feet.

While VA has used the 5/200 or less standard of visual acuity for blindness over the last several decades, a consensus definition of what constitutes "legal blindness" has emerged.

This consensus definition, which is less stringent than VA's standard, encompasses individuals with lesser degrees of vision impairment. The American Medical Association has espoused this definition since 1934 and defines blindness as a "central visual acuity of 20/200 or less in the better eye with corrective glasses, or central

visual acuity of more than 20/200 if there is a visual field defect in which the peripheral field is contracted to such an extent that the widest diameter of the visual field subtends an angular distance no greater than 20 degrees in the better eye."

The Social Security Administration (hereinafter, "SSA") changed its definition of blindness to the same standard as the American Medical Association in 1968. As of 1952, the Social Security Act defined blindness, in Public Law 82–590, as visual acuity of 5/200 or less. On January 2, 1968, Congress changed the definition of blindness in section 216 of the Social Security Act, Public Law 90–248. Section 216 states that the SSA considers an individual to be blind if he or she has "central visual acuity of 20/200 or less in the better eye with the use of a correcting lens." SSA also considers an eye with a peripheral field of vision of less than 20 degrees to equate to having a central visual acuity of 20/200 or less. This definition is widely used by state and federal governments today, but not VA.

Section 101 of the Committee bill would provide that veterans who are very severely disabled as the result of blindness and other severe disabilities would be eligible to receive the higher rate of compensation provided under subsection (o) if their visual acuity in both eyes is 20/200 or less. The Committee believes that veterans who are so seriously disabled as to meet the visual acuity standard of 20/200 or less, in addition to the other statutory conditions needed to meet the criteria for an (o) rating under section 1114 of title 38, United States Code, should receive those benefits.

The provision would be effective for claims filed on or after the date of enactment.

Section 102. Improvement in compensation for veterans in certain cases of impairment of vision involving both eyes

Section 102 of the Committee bill, which is derived from S. 1163, would establish a definition of blindness in section 1160(a)(1) of title 38, United States Code, equivalent to that commonly used in the United States.

In 1962, Public Law 87–610 was enacted requiring special consideration for certain veterans' disability compensation claims involving cases of blindness in both eyes or bilateral kidney dysfunction when disability in only one eye or kidney is adjudged by VA to have been tied to military service. This law allowed for veterans to be compensated as if the "blindness in both eyes or such bilateral kidney involvement were the result of service-connected disabilities." This principle of "paired organ" impairment was extended to include ears in 1965 in Public Law 89–311 and hands, feet, and lungs in 1986 in Public Law 99–576.

These legislative enactments demonstrate Congress' view that certain organs are designed to work together and warrant special consideration for compensation in cases where a veteran has disabilities in both organs, even if only one is service-connected. Current law provides veterans who sustain a service-connected injury or loss of function in one of these organs with eligibility for additional compensation should they sustain a non-service-connected injury or loss of function in the companion organ.

In recent years, Congress has been active in updating the paired organ statute to address more adequately the disabilities that veterans face. In 2002, Congress enacted Public Law 107–330 that

amended section 1160, title 38, United States Code, (hereinafter, the "paired organ statute") with respect to hearing loss. The original language of Public Law 89–311 required that a veteran demonstrate "total deafness" in both the adjudged ear and the ear not affected by service in order to be eligible for compensation under the paired organ statute. Public Law 107–330 eliminated the "total deafness" requirement and allowed VA to consider partial hearing loss in either ear when adjudicating claims for deafness under the paired organ statute. Current law requires that a veteran have deafness rated at 10 percent or greater in the service-connected ear in order to receive consideration under the paired organ statute.

With respect to vision impairment, section 1160(a)(1) of title 38, United States Code, provides that a veteran with blindness in one eye as a result of a service-connected disability and blindness in the other eye as a result of a non-service-connected disability that is not as a result of a veteran's own willful misconduct is eligible to receive the applicable rate of compensation as if both disabilities are service-connected. However, section 1160(a)(1) does not define the term "blindness." In the absence of a statutory definition, VA has applied its own standard for vision impairment that amounts to "blindness" under the law—a visual acuity of 5/200 or less, a standard that equates to vision that is capable of light perception only.

According to an estimate conducted in March 2007 by the Congressional Budget Office (hereinafter, "CBO"), there are approximately 45,000 veterans receiving disability compensation primarily because of eye disease or impairment of vision, 1,150 of whom would qualify for increased benefits if the visual acuity standard of the paired organ statute was amended.

Future veterans who have sustained eye-related injuries in Operation Enduring Freedom and Operation Iraqi Freedom also stand to benefit from this legislation. As of June 2007, Walter Reed Army Medical Center reports having treated 534 soldiers from these operations for eye injuries. Of these soldiers, 428 were treated for an injury to just one eye, meaning that any future vision problems are likely to be considered connected to service in only that one eye.

It is the Committee's view that these individuals and other future veterans should not be denied benefits under the paired organ statute if they demonstrate a central visual acuity of greater than 5/200. Their vision impairment should be judged by the same standard that civilians are by the SSA.

Section 102 of the Committee bill would define "blindness," as referred to in section 1160(a)(1), title 38, United States Code, as central visual acuity of 20/200 or less or peripheral field of vision of 20 degrees or less. This would eliminate the gap between the conventional definition of legal blindness in the United States and the definition of blindness heretofore used by VA in applying the paired organ statute.

Section 103. Use of National Directory of New Hires for income verification purposes for certain veterans benefits

Section 103 of the Committee bill, which is derived from S. 1163, would authorize the Secretary to use the National Directory of New Hires (hereinafter, "NDNH") for income verification purposes.

Under current law, certain benefits programs administered by VA, including pensions for wartime veterans and compensation for Individual Unemployability (hereinafter, "IU"), are income based, meaning they are available only to beneficiaries whose annual income is below a certain level. Thus, VA must utilize certain income verification tools in order to ensure that those receiving benefits under its income-based programs are not earning a greater annual income than the law permits. One of the tools currently used by VA is the Internal Revenue Service's Income Verification Match (hereinafter, "IVM") module. Authority to use the IVM module expires on September 30, 2008.

A May 2006 Government Accountability Office (hereinafter, "GAO") study, "VA Should Improve Its Management of Individual Employability Benefits by Strengthening Criteria, Guidance, and Procedures," found that VA's process to enforce the earnings limit for ongoing eligibility for IU benefits is inefficient and ineffective. The study specifically identified a number of shortcomings of the IVM, including timeliness and efficiency. VA uses SSA earnings data that is about 1.5 years old, which can mean that, along with other processing delays, IU beneficiaries who earn an income above the threshold can continue to receive benefits for up to 2.5 years before VA determines they should be discontinued.

GAO suggested that HHS' NDNH database, which provides a national directory of employment and unemployment insurance information to facilitate employment and income verification, could serve as an efficient complement to IVM. NDNH gathers its information from State Directories of New Hires, which are required to furnish NDNH with information regarding newly hired employees within three business days after the date the information enters the State Directory database. The State Directories must also furnish NDNH with information concerning the wages and unemployment compensation paid to individuals on a quarterly basis.

NDNH provides more current earnings data than IVM, including quarterly wage data for up to eight quarters. Furthermore, NDNH's database also enjoys the advantage of being accessible online, whereas all computer matching information from IVM is transmitted to VA once a year on cartridge tapes. GAO reported that estimates from SSA indicate that VA could annually save $199 million by collecting and preventing overpayments through the use of NDNH, while only spending $23 million on matching, following up on matches, and overpayment collection, yielding an estimated 8.7 to one benefit-to-cost ratio.

Section 103 of S. 1163 would require VA to use HHS' NDNH to compare information provided by VA on individuals under 65 years of age who are applicants for or recipients of VA pension benefits, parents' Dependency and Indemnity Compensation benefits, health-care services, and IU compensation with NDNH data on recent earnings, new hires, and unemployment. This requirement would take effect 270 days after the enactment of this bill and would expire on September 30, 2012.

Under the Committee bill, VA would furnish to HHS the names and all other necessary information of those for whom the Secretary seeks verification of income. In turn, HHS would then disclose the results of the data match to VA. VA would then independently verify the information provided by HHS' NDNH database be-

fore any denial, reduction, or termination of benefits could take effect. VA would then be required to reimburse HHS for all costs incurred in performing data matches for VA under this authority.

TITLE II—BURIAL AND MEMORIAL AFFAIRS MATTERS

Section 201. Provision of medallion or other device for privately purchased gravemarkers

Section 201 of the Committee bill, which is derived from section 4 of H.R. 797 as passed by the House of Representatives on March 21, 2007, would give the Secretary authority to furnish a medallion or other device that could be placed on a privately purchased headstone or grave marker in a private cemetery to denote veteran status.

Current law, section 2306(d) of title 38, United States Code, requires the Secretary to furnish, on request, an appropriate headstone or marker for the grave of an eligible individual who died after September 10, 2001, and who is buried in a private cemetery, notwithstanding that the grave is marked by a headstone or marker furnished at private expense. Thus, in some cases, an individual's grave may have two markers—one privately-purchased and one furnished by VA.

Section 201 of the Committee bill would authorize VA to furnish, on request, an appropriate medallion or other device in lieu of a headstone or marker, which would be affixed to an existing privately-purchased headstone or marker. This medallion or device would serve to signify the deceased's status as a veteran.

The Committee is concerned that a bronze "V" as specified in H.R. 797 to denote veterans' status might be confused with the "V" device for valor used on military awards. After consultation with VA's National Cemetery Administration, the Committee decided that rather than specify a particular device, the Secretary should be required to design an appropriate medallion or other device to signify the deceased's status as a veteran.

Section 202. Increase in assistance for veterans interred in cemeteries other than national cemeteries

Section 202 of the Committee bill, which is derived from S. 1266, would repeal the current two-year window within which States must file for reimbursement from VA for the interment or inurnment of unclaimed remains of deceased veterans. Section 202 would also authorize $5 million to cover a portion of the operational and maintenance expenses of State cemeteries under criteria to be determined by VA.

Under section 2408 of title 38, United States Code, VA, through the State cemetery grant program, is authorized to award grants to assist States in establishing, expanding, or improving veterans' cemeteries owned by such States. States, in turn, must agree to obtain suitable land for cemeteries financed with VA grant money, and meet operations and maintenance costs. To assist States in meeting some or all of its cemetery operations and maintenance expenses, section 2303(b) of title 38 requires VA to pay to States a $300 plot allowance for the interment or inurnment of eligible veterans and reserve component members. In order to receive plot al-

lowance revenue, States must submit claims within two years after the permanent burial or cremation of remains has occurred.

The State cemetery grant program serves as a complement to VA's national cemetery system. VA's present policy is to build new national cemeteries in areas of the country with unserved veterans' populations of 170,000 or greater. Based largely on the results of a 2002 study that projected the need for veterans' cemeteries through 2020, VA embarked on the largest expansion of the national cemetery system since the Civil War. After this expansion is completed, it is unclear whether, or when, additional national cemeteries will be needed. It is apparent, then, that VA will need increasingly to partner with States to establish additional State cemeteries to meet veterans' burial needs in those parts of the country with unserved populations of less than 170,000.

The need to incentivize greater participation by States in the State cemetery grant program was foreseen in a December 19, 2000, VA-contracted report entitled An Assessment of the Burial Benefits Administered by the Department of Veterans Affairs. The report found that an option for better serving veterans and their families was to "provide maintenance support to state veterans cemeteries." Another recommendation to incentivize State participation was to "extend plot allowance eligibility for all veterans buried in a state veterans cemetery."

Section 202(a) of the Committee bill would permit States to submit claims to VA for plot allowance revenue for the interment or inurnment of unclaimed remains of deceased veterans, notwithstanding that such claims may be submitted more than two years after the permanent burial or cremation of the remains. Thus, under section 202(a), States which have sought, found, and provided dignified burials for the unclaimed remains of veterans, even if such remains had been cremated for more than two years, would be eligible to file claims for plot allowance revenue. Section 202(a) would take effect on October 1, 2006, in recognition of the one state, Idaho, known to have already interred the unclaimed remains of veterans since the beginning of fiscal year 2007.

Section 202(b) of the Committee bill would amend the State cemetery grant program to authorize VA to assist States with operating and maintaining cemeteries. Authorized assistance for operating and maintaining cemeteries under the grant program would be limited to $5 million per fiscal year, and VA would be required to prescribe regulations to carry out the provisions of section 202(b).

Section 203. Modification of authorities on provision of government headstones and markers for burials of veterans at private cemeteries

Section 203 of the Committee bill, which is derived from S. 1334, would permanently authorize VA to provide government headstones or markers for the privately-marked graves of veterans in private cemeteries. In addition, it would make retroactive VA's authority to provide headstones and markers for the privately-marked graves of veterans who died on or between November 1, 1990, and September 10, 2001.

Current law, section 2306(d) of title 38, United States Code, requires the Secretary to furnish, on request, at no cost to the vet-

eran or the veteran's family an appropriate headstone or marker for the grave of an eligible individual buried in a private cemetery, regardless, if it was privately-marked or not. This authority will expire on December 31, 2007. Section 203 of the Committee bill would make this authority permanent.

Prior to 1990, VA had authority to reimburse, up to the cost of a government headstone or marker, the costs incurred for a privately-furnished marker in a private cemetery or to provide a government headstone or marker if the grave was unmarked. The authority to reimburse for the cost of a privately-furnished marker in lieu of a government provided headstone or marker was repealed by section 8041 of Public Law 101–508, the Omnibus Budget Reconciliation Act of 1990. From then until December 27, 2001, no authority existed for reimbursing the cost of a privately-furnished marker or for providing a government headstone or marker for privately-marked graves in private cemeteries.

Section 502 of Public Law 107–103, the Veterans Education and Benefits Expansion Act of 2001, enacted on December 27, 2001, established a five year pilot program that required VA to provide, upon request, a government marker for an eligible veteran buried in a private cemetery which was privately marked. The authority under section 502 was initially set to expire on December 31, 2006. This authority was revised on December 6, 2002, under section 203 of Public Law 107–330 when the date of eligibility was changed to September 11, 2001. The authority was further revised under section 461 of Public Law 109–461 when the expiration date of the pilot program was extended until December 31, 2007. Under current law no authority exists to provide a government headstone or marker for an eligible veteran buried in a private cemetery where the grave was privately marked who died on or between November 1, 1990, and September 10, 2001.

Section 203 of the Committee bill is based upon recommendations made by VA in a February 2006 report to the Senate and House Committees on Veterans' Affairs, as required by Public Law 107–103, on the utilization of VA's authority to furnish headstones or markers in private cemeteries. In the report, VA endorsed the concept of having VA furnish government headstones and markers for privately marked graves at private cemeteries. It also recommended that the authority for providing a government headstone or marker for a privately marked grave at a private cemetery be made permanent and retroactive to 1990.

COMMITTEE BILL COST ESTIMATE

In compliance with paragraph 11(a) of rule XXVI of the Standing Rules of the Senate, the Committee, based on information supplied by the CBO, estimates that enactment of the Committee bill would, relative to current law, incur little, if any, cost. Enactment of the Committee bill would not affect direct spending or receipts, and would not affect the budget of state, local or tribal governments.

The cost estimate provided by CBO follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, August 3, 2007.

Hon. DANIEL K. AKAKA,
Chairman, Committee on Veterans' Affairs,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 1163, the Blinded Veterans Paired Organ Act of 2007.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Dwayne M. Wright.

Sincerely,

PETER R. ORSZAG, *Director.*

Enclosure.

S. 1163 contains provisions that would both increase and decrease spending for veterans' benefits. The bill would increase the disability benefits available for certain veterans with impaired vision and expand certain burial benefits. It also would allow the Department of Veterans Affairs (VA) to access the National Directory of New Hires (NDNH) database for income verification purposes. CBO estimates that enacting this legislation would decrease net direct spending for veterans' benefits by $12 million over the 2008–2012 period and by $10 million over the 2008–2017 period.

In addition, CBO estimates that implementing this legislation would have discretionary costs of $5 million in 2008 and $25 million over the 2008–2012 period, subject to appropriation of the necessary amounts. Enacting S. 1163 would have no effect on receipts.

S. 1163 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA). State and local governments would benefit from grant assistance authorized by the bill; any costs they incur would be incurred voluntarily.

Estimated cost to the Federal Government: The estimated budgetary impact of S. 1163 is shown in Table 1. The costs of this legislation fall within budget function 700 (veterans benefits and services).

TABLE 1. ESTIMATED BUDGETARY IMPACT OF S. 1163

	By fiscal year, in millions of dollars—				
	2008	2009	2010	2011	2012
CHANGES IN DIRECT SPENDING[1]					
Estimated Budget Authority	−1	−1	−3	−4	−5
Estimated Outlays	−1	−1	−3	−4	−5
CHANGES IN SPENDING SUBJECT TO APPROPRIATION					
Estimated Authorization Level	5	5	5	5	5
Estimated Outlays	5	5	5	5	5

[1] In addition to the direct spending effects shown here, enacting S. 1163 would have effects on direct spending after 2012 (see Table 2). The estimated net reduction in direct spending sums to $12 million over the 2008–2012 period and $10 million over the 2008–2017 period.

Basis of estimate: For this estimate, CBO assumes the bill will be enacted near the beginning of fiscal year 2008 and that the estimated amounts will be appropriated for each year.

Direct spending

S. 1163 would reduce direct spending through a new income verification program and would increase direct spending for several benefit programs. On balance, CBO estimates that enacting this legislation would decrease net direct spending for veterans' benefits by $12 million over the 2008–2012 period and by $10 million over the 2008–2017 period (see Table 2).

National Directory of New Hires. Section 103 would temporarily authorize VA to use the NDNH database maintained by the Department of Health and Human Services to verify veterans' income levels and their eligibility for certain veterans' benefits such as disability pensions and disability compensation for veterans whose disability rating is based on a finding of individual unemployability. That authority would expire on September 30, 2012. Currently, VA employs an income verification match with the Internal Revenue Service (IRS) for that purpose, but that authority expires on September 30, 2008. In addition, VA has recently re-instituted the use of an annual certification form that requires all individuals to certify their employment and income with VA.

TABLE 2. COMPONENTS OF THE ESTIMATED CHANGES IN DIRECT SPENDING UNDER S. 1163

	Outlays in millions of dollars, by fiscal year—											
	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2008–2012	2008–2017
National Directory of New Hires	−1	−2	−4	−6	−7	−5	−4	−3	−3	−2	−20	−37
Impairment of Vision Involving Both Eyes	*	1	1	2	2	2	3	3	3	3	6	21
Expansion of Special Monthly Compensation	*	*	*	*	*	*	1	1	1	1	1	4
Grave Markers	*	1	*	*	*	*	*	*	*	*	1	2
Total Changes	−1	−1	−3	−4	−5	−2	0	1	1	2	−12	−10

Notes.—Components may not sum to totals because of rounding. * = between −$500,000 and $500,000.

According to VA, the current income verification match using IRS data yields, on average, about $5 million in new, incremental savings per year. CBO assumes the savings for each individual continues until that individual's death. Thus, if an income matching program yielded $2 million in savings in the first year, the following year would see that savings of $2 million continue and even increase slightly due to cost-of-living increases (but reduced by some number of deaths) plus an additional $2 million in new savings, for a total savings in the second year of about $4 million.

The NDNH database would allow VA to analyze more recent wage and income data than the IRS data, which is up to a year and a half old when the data comparison is run. However, according to a Government Accountability Office (GAO) report, unlike the IRS income match, the NDNH data does not include complete information on independent contractors, self-employed individuals, subcontractors, or individuals who provide services such as childcare for private homes. According to the Department of Labor, about 15 percent of the total workforce would fall into one of those categories.

As another method to reduce improper benefit payments, VA has recently re-instituted the use of an annual certification form that

requires all individuals receiving means-tested veterans benefits to certify their employment and income with VA. Use of this annual certification was dropped in the late 1990s and VA reports that the number of cases where individuals have been discovered to have received these means-tested benefits fraudulently has since increased significantly.

Based on VA's renewed use of the annual certification of employment form and the NDNH database's lack of ability to account for the total workforce population in the income match, CBO estimates that the incremental savings from utilizing the NDNH database would be about $2 million per year, or slightly less than half of the current $5 million in annual savings that VA has been achieving using IRS data. As noted above, these savings would continue in subsequent years, with cost-of-living and mortality adjustments. This provision would take effect 270 days after enactment of the bill. Therefore, CBO estimates that enacting section 103 would reduce direct spending by about $1 million in 2008, $20 million over the 2008–2012 period, and $37 million over the 2008–2017 period.

Impairment of Vision Involving Both Eyes. For veterans with a service-connected vision impairment in one eye, current law requires that they must be diagnosed as blind in both eyes for vision impairment that was not caused by military service to be considered for the purposes of disability compensation. Section 102 would allow certain veterans who receive veterans' disability compensation for a severe, service-related impairment of vision in one eye (the impairment would have to reduce visual acuity to 20/200 or less or reduce the peripheral field to 20 degrees or less) to receive additional compensation if their other eye develops a comparable, nonservice-related, vision impairment. That change in eligibility standards would increase the amount of compensation paid to those veterans. In total, CBO estimates that enacting section 102 would increase direct spending for veterans' compensation by less than $500,000 in 2008, $6 million over the 2008–2012 period, and $21 million over the 2008–2017 period.

Veterans Already Receiving Disability Compensation for Vision Impairment. The Department of Veterans Affairs reports that, as of September 30, 2006, it was paying disability compensation for about 125,000 incidences of service-connected, eye-related disability among veterans. This figure, however, does not reflect the number of unique veterans who receive disability compensation for eye-related disabilities, since a veteran may exhibit more than one eye-related disability and thus be counted more than once in the reported data. VA also reports, as of that same date, that there were about 45,000 unique veterans receiving disability compensation primarily due to eye disease or impairment of vision. VA data does not indicate whether these veterans were receiving such compensation for impairments in one or both eyes.

Based on information from VA, CBO assumes, for this estimate, that the population of roughly 45,000 veterans receiving disability compensation primarily because of eye disease or impairment of vision would most likely constitute the bulk of veterans that would be affected by enactment of this bill. Of that population, CBO estimates that about 1,150 veterans would qualify for increased benefits under section 102. That estimate reflects the exclusion of eye diseases that would likely not cause impairment of vision (such as

the loss of eyebrows), and veterans rated as either 100 percent disabled or less than 70 percent disabled (ratings that would not be eligible for an increase under the bill—a veteran with a visual acuity of 20/200 or less in both eyes or a peripheral field of 20 degrees or less would be rated at least 70 percent disabled). Finally, while VA data does not indicate whether a veteran's disability rating considered conditions in one or both eyes, VA indicated that between 30 percent and 50 percent of the veterans currently on the rolls for eye disabilities received a service-connected rating for both eyes. Based on that information, CBO estimates that 40 percent of the affected population are currently receiving disability compensation for service-connected disabilities in both eyes, and therefore, would have ratings that would be unaffected by enactment of section 102. Thus, CBO estimates that about 700 veterans in 2008 might qualify for an increase in their disability rating under this bill.

Veterans receiving disability compensation are, on average, 57 years old. According to information from the National Institutes of Health and a report on vision loss prepared by researchers at the University of Washington, the most common causes of impairment of vision in persons age 40 and older are age-related maculopathy, cataracts, and glaucoma. Those organizations report that about 30 percent of persons over the age of 40 experience increased impairment of vision due to one or more of those conditions. Because VA does not track the progression of vision impairment in the veterans population, CBO assumes that veterans experience vision impairment from these same conditions at that same rate.

Thus, CBO estimates that about 200 of the roughly 700 veterans discussed above would likely experience additional vision loss that could qualify them for a disability rating increase under the bill. Using data provided by VA, CBO estimates that about 15 percent of veterans who are already receiving disability compensation apply for a reevaluation of their rating each year. After adjusting for claims processing times, CBO estimates that just over 30 of those veterans would receive an increase in their disability rating in 2008 and that number would reach 200 veterans by 2017.

In addition, based on VA data, CBO estimates that about 150 veterans who currently have a disability rating for eye disease or vision impairment between 20 percent and 60 percent (20 percent is the lowest rating a veteran can receive for a service-connected visual acuity of 20/200 in one eye) would apply to have their rating reevaluated sometime over the 2008–2014 period and would have the nonservice-disabled eye evaluated with a visual acuity of 20/200 or less or a peripheral field of 20 degrees or less.

The disability rating for a veteran receiving disability compensation for a visual acuity of 20/200 or less or a peripheral field of 20 degrees or less in both eyes is 70 percent and in 2006 the average annual compensation payment for that rating was $22,326. Using data from VA about the average rating increase for veterans currently on the disability compensation rolls with a 70 percent rating, CBO expects that the average disability rating for veterans qualifying under the bill would increase to 80 percent and that the average annual disability compensation payment would increase by $2,388 (expressed in 2006 dollars). For veterans with a disability rating between 20 percent and 60 percent, and with a visual acuity in one eye of 20/200 or less or a peripheral field of 20 degrees or

less who come in for a reevaluation, CBO expects that they would now qualify under section 102 and their average disability ratings would increase to 70 percent. After adjusting for cost-of-living increases and information from VA on individuals moving to 70 percent on the disability rolls, CBO estimates that enacting this provision would increase direct spending for veterans' disability compensation for veterans currently on the rolls by less than $500,000 in 2008, about $6 million over the 2008–2012 period, and $19 million over the 2008–2017 period.

New Accessions. According to information from VA, in 2006 there were roughly 2.7 million veterans receiving veterans' disability compensation and less than 2 percent of those veterans were rated disabled primarily due to eye disease or vision impairment. Using discharge data from the Department of Defense, information from VA on new compensation cases that enter the rolls at 70 percent disabled, the information and assumptions above regarding common eye disabilities for persons over age 40, and the rate at which veterans return to be reevaluated, CBO also estimates that, over the 10-year period, about 150 veterans out of the impairment for the first time each year would be eligible for a higher disability rating under this bill.

Assuming that disability ratings for veterans qualifying under the bill would increase from 70 percent to 80 percent, that the average annual disability compensation payment would increase by $2,388 (expressed in 2006 dollars), and that payments are adjusted for cost-of-living increases, CBO estimates that enacting this provision would increase direct spending for veterans' disability compensation for veterans coming onto VA's disability compensation rolls (i.e., for new accessions after enactment) by less than $500,000 in 2008, $1 million over the 2008–2012 period, and $2 million over the 2008–2017 period.

Expansion of Special Monthly Compensation. Section 101 would expand the number of veterans with impaired vision who could qualify to receive a special monthly compensation (SMC) payment from VA. Under current law, a veteran who has been rated for both service-connected total blindness with 5/200 visual acuity or less and bilateral deafness rated at 60 percent or more (eligible for a combination rating of 100 percent) is eligible for an SMC payment of $4,313 per month. Section 101 would reduce the threshold for visual impairment from 5/200 or less to 20/200 or less.

A veteran rated for service-connected total blindness with 20/200 visual acuity or less and bilateral deafness rated at 60 percent or more is eligible for a combined rating of 80 percent. Based on information from VA on the number of veterans rated at 80 percent or greater for visual impairment who are probably not receiving SMC (about 330 veterans) and the percentage of the veterans population with hearing impairment (about 2 percent), CBO estimates that fewer than 10 veterans currently on the rolls would become eligible for SMC based upon both their visual impairment of 20/200 or less and a bilateral hearing loss rated at 60 percent or more.

Using data provided by VA, CBO estimates that about 15 percent of veterans who are already receiving disability compensation apply for a reevaluation of their rating each year. After adjusting for claims processing times, CBO estimates that very few veterans would receive an increase in disability rating over the next couple

of years, and that number would increase to about 10 veterans by 2017.

Also, section 101 would increase the number of new accessions to the disability compensation rolls who would be eligible for SMC. According to information from VA, of the roughly 2.7 million veterans receiving veterans' disability compensation, less than 2 percent were rated disabled primarily due to eye disease or vision impairment. Using discharge data from the Department of Defense, information from VA on new compensation cases that enter the rolls with a disability rating of 80 percent or greater, and the estimated percentage of veterans with both a visual impairment and hearing loss (2 percent), CBO estimates that under section 101, about 20 new veterans would become eligible for SMC over the 2008–2017 period.

In 2006 dollars, a veteran rated at 80 percent would receive a monthly payment of $2,068 ($24,800 annually), on average. The SMC for a person with 20/200 or less visual acuity and a hearing loss rated at 60 percent or greater would be $4,313 per month ($51,800 annually) for an annual difference of about $27,000. After adjusting for cost-of-living increases and mortality rates for veterans currently on the rolls and for new accessions, CBO estimates that enacting this provision would increase direct spending for veterans' disability compensation by less than $500,000 in 2008, about $1 million over the 2008–2012 period, and $4 million over the 2008–2017 period.

Grave Markers. Section 203 would allow VA to provide a marker or headstone to be placed on a marked grave or other appropriate location in a private cemetery to commemorate a veteran's military service for those veterans who were buried after November 11, 1990. Under current law, veterans buried in a private cemetery are eligible for a second marker or headstone only if they were buried after September 11, 2001.

Section 203 also would indefinitely extend the period during which a marker or headstone could be requested. The authority for VA to provide government headstones or markers to veterans buried in private cemeteries currently expires on December 31, 2007.

Based on VA projections regarding veterans' death rates and the number of veterans who will be buried in private cemeteries, CBO estimates that about 20,000 requests for headstones or markers would be submitted over the 2008–2017 period. The estimate also reflects information from a VA study that showed that only 27 percent of private cemeteries allow second markers and that less than 5 percent of those eligible would participate in this program. According to VA, a marker or headstone costs about $100 on average. CBO estimates that this provision would result in an increase in spending for burial benefits of $1 million over the 2008–2012 period and $2 million over the 2008–2017 period.

Medallions for Graves in Private Cemeteries. Section 201 would allow VA to provide a medallion or other memorial representation to be attached to a headstone or marker of an eligible individual at a private cemetery instead of a VA-provided headstone or marker. According to VA, the cost for medallions and headstones or markers are similar. Therefore, CBO expects there would be no significant change in direct spending under this section.

Reimbursement for Interment Costs. Under current law, any claim for reimbursement for interment costs must be made within two years of the burial or cremation of the body. Section 202 would repeal the two-year limit during which a state can request a reimbursement for interment costs related to the unclaimed remains of a veteran and would make the repeal retroactive to October 1, 2006. Based on information from VA regarding the average number of reimbursement claims that are filed for interment of unclaimed remains each year and the cost ($300) of the interment payment to a state, CBO expects any increase in direct spending to be insignificant.

Spending subject to appropriation

Section 202 would authorize VA to provide up to $5 million per year for establishing, expanding, improving, operating, and maintaining state veterans cemeteries. CBO estimates that implementing section 202 would cost $5 million in 2008 and $25 million over the 2008–2012 period, subject to appropriation of the estimated amounts.

Intergovernmental and private-sector impact: S. 1163 contains no intergovernmental or private-sector mandates as defined in UMRA. The bill would benefit state and local governments that operate and maintain cemeteries for veterans. Any cost those governments incur would be incurred voluntarily.

Previous CBO estimate: On March 20, 2007, CBO transmitted a cost estimate for H.R. 797 as ordered reported by the House Committee on Veterans' Affairs on March 15, 2007. Sections 102 and 103 of S. 1163 are similar to sections 1 and 2 of H.R. 797, and the estimated costs for those provisions are unchanged from our previous estimate.

Estimate prepared by: Federal Costs: Dwayne M. Wright; Impact on State, Local, and Tribal Governments: Lisa Ramirez-Branum; Impact on the Private Sector: Victoria Liu.

Estimate approved by: Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

REGULATORY IMPACT STATEMENT

In compliance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee on Veterans' Affairs has made an evaluation of the regulatory impact that would be incurred in carrying out the Committee bill. The Committee finds that the Committee bill would not entail any regulation of individuals or businesses or result in any impact on the personal privacy of any individuals and that the paperwork resulting from enactment would be minimal.

TABULATION OF VOTES CAST IN COMMITTEE

In compliance with paragraph 7 of rule XXVI of the Standing Rules of the Senate, the following is a tabulation of votes cast in person or by proxy by members of the Committee on Veterans' Affairs at its June 27, 2007 meeting.

On that date, the Committee, by voice vote, ordered S. 1163 to be reported favorably to the Senate.

AGENCY REPORT

On May 9, 2007, Daniel L. Cooper, Under Secretary for Benefits of the Department of Veterans Affairs, appeared before the Committee at a hearing on pending benefits legislation and submitted testimony on, among other bills, S. 1163, the Blinded Veterans Paired Organ Act of 2007. Excerpts from this statement are reprinted below:

STATEMENT OF DANIEL L. COOPER, UNDER SECRETARY FOR BENEFITS, DEPARTMENT OF VETERANS AFFAIRS

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

* * * * * * *

S. 1163

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

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

amended section 1160(a)(3) to replace the requirement of "total deafness" with "deafness compensable to a degree of 10 percent or more" for the service-connected impairment and "deafness" for the nonservice-connected hearing loss.

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

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

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

from HHS. Furthermore, an individual would have the opportunity to contest any findings made by VA when verifying the information. VA's expenses related to use of this directory for income-verification purposes would be paid from amounts available for the payment of VA compensation and pension. The authority for the income verification would expire on September 30, 2012.

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

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

As currently drafted, section 3 of this bill would make the data match between VA and HHS mandatory, except to the extent that HHS determined that it would interfere with the effective operation of part D of title IV of the Social Security Act, "Child Support and Establishment of Paternity." Accordingly, section 3 could conceivably require VA to enter a computer data matching program for which little or no justification exists and for which cost savings are unlikely. The decision to enter into a computer matching agreement under section 3 should be within the sound discretion of VA, instead of a mandatory requirement. In addition, any administrative expenses associated with data matching should be paid from VA discretionary administration accounts and not from mandatory entitlement accounts.

VA currently matches data with the Internal Revenue Service (IRS) and the SSA. As a result of these matches, VA obtains unearned and earned income data concerning its needs-based applicants and beneficiaries. VA's authority to use the NDNH for VA health-care services would not substantially improve the current income verification activities of VHA. It would add an interim match step into the current process VHA has established for income matching, which would not be definitive for the majority of veterans for whom matching is required. While the data may be more current than existing match data from the IRS and SSA, it is not a comprehensive income reporting source, particularly since it does not include unearned in-

come. VA believes that the cost of adding such a match to the income verification business process and information and technology support systems is unlikely to be recouped by any substantial gain to the Government from integrating such a match into the income verification process. VA does not support enactment of section 3 as it applies to VA health-care services because VA believes it is unnecessary.

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

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

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

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On July 25, 2007, the Committee received a letter from R. James Nicholson, Secretary of the Department of Veterans Affairs, stating

the Department's views on Senate bills S. 1266 and S. 1334. The letter is reprinted below:

JULY 25, 2007.

Hon. DANIEL K. AKAKA,
Chairman, Committee on Veterans' Affairs,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: I am pleased to provide the Committee with the views of the Department of Veterans Affairs (VA) on two bills: S. 1266, 110th Cong., the "Veterans' Dignified Burial Assistance Act of 2007," and S. 1334, 110th Cong., a bill "to make permanent the authority to furnish government headstones and markers for graves of veterans at private cemeteries, and for other purposes." For the reasons explained below, with respect to S. 1266, we defer taking a position on subsections (a) and (b) of section 2 and do not support section 2(c). We support S. 1334.

S. 1266

Section 2(a) of S. 1266 would increase from $300 to $400 the amount of reimbursement allowed for the costs of a burial plot or interment for a veteran who is eligible for burial in a VA national cemetery but is buried in a state or private cemetery. This plot or interment allowance was last increased from $150 to $300 by Public Law 107–103 in 2001. Section 2(b) of the bill would nullify the two-year time limitation in 38 C.F.R. § 3.1604(d)(2) for states to file claims for the plot or interment allowance as it applies to claims in connection with interment of a deceased veteran's unclaimed remains. Section 2(b) would be retroactively effective as of October 1, 2006.

VA has embarked upon an independent evaluation of VA's memorial benefits program. The main objectives of this evaluation are to determine the extent to which VA's memorial benefits program is achieving its expected outcomes and to identify the program's impact on the eligible veteran population. The evaluation will assess the appropriateness of VA's current burial benefits based on the data obtained and beneficiary needs. We expect to complete this program evaluation by April 2008. We believe it would be premature to take a position on subsections (a) and (b) of section 2 of S. 1266 before we have completed our memorial benefits program evaluation. Accordingly, we defer taking a position on these provisions until we have had an opportunity to review the results of this program evaluation.

Enactment of section 2(a) of the bill would result in costs of $7.2 million for Fiscal Year (FY) 2008, $37 million for the five-year period FY 2008 through FY 2012, and $77 million for the ten-year period FY 2008 through FY 2017. Enactment of section 2(b) of the bill would result in insignificant costs.

Section 2(c) of the bill would authorize VA to provide up to $5 million annually in grants to states or tribal organizations for operating and maintaining state veterans' cemeteries or veterans' cemeteries on trust land owned by, or held in trust for, tribal organizations. It would also require VA, not later than 180 days after enactment, to prescribe regulations to carry out the amendments. VA does not support using the State Cemetery Grant Program to operate and maintain state veterans' cemeteries or tribal organization

cemeteries. (For convenience, we refer below only to grants to states and state veterans' cemeteries, but our rationale applies also to grants to tribal organizations and their veterans' cemeteries.)

The State Cemetery Grant Program is intended to complement the national cemetery system in providing a dignified burial place reasonably close to where veterans live. Through the grant program, states establish, expand, or improve cemeteries in areas where there are no plans to create an open national cemetery. Under current law, VA may fund 100 percent of certain costs related to the establishment, expansion, or improvement of a state veterans' cemetery.

Historically, states have been solely responsible for all operational and maintenance activities at state veterans' cemeteries. Federal grants to operate and maintain state veterans' cemeteries may create ambiguities in the states' responsibility for the operation and maintenance of state cemeteries. Also, because operating costs are recurring, it is unclear upon what basis the grants would be awarded or how the grants would be distributed. Funds obligated for this new purpose could otherwise be used for state cemetery grants in the existing program or to help fund operation and maintenance costs for VA national cemeteries. Authorizing Federal grants to fund operation and maintenance could discourage states that have already received grants from fulfilling their commitments to operate and maintain their cemeteries, or could encourage future grant applicants to inadequately plan for funding the operation and maintenance of their cemeteries because of the availability of Federal grants to cover those costs.

Enactment of section 2(c) of this bill would result in costs of $5 million for FY 2008, $25 million for the five-year period FY 2008 through FY 2012, and $50 million for the ten-year period FY 2008 through FY 2017.

S. 1334

Section 1(a) of S. 1334 would make permanent VA's authority to provide a Government-furnished headstone or marker for the private-cemetery grave of an eligible veteran regardless of whether the grave has been marked at private expense. VA's current authority to do so will expire on December 31, 2007. Section 1(b) would authorize VA to furnish this benefit for a private-cemetery grave of a veteran who died on or after November 1, 1990.

Under current law, if a veteran died before September 11, 2001, VA is authorized to furnish a Government headstone or marker only if the veteran's grave is unmarked. Although this law has allowed VA to begin to meet the needs of families who view the Government-furnished marker as a means of honoring and publicly recognizing a veteran's military service, VA is now in the difficult position of having to deny a benefit based solely on when a veteran died.

Moreover, the law has never precluded the addition of privately purchased headstone to a grave after placement of a Government-furnished marker, resulting in double marking. However, when a private marker was placed in the first instance, a Government marker may not be provided if the veteran died before September 11, 2001. We believe this creates an arbitrary distinction disadvantaging families who promptly obtain a private marker.

From October 18, 1979, until November 1, 1990, with an enactment of the Omnibus Budget and Reconciliation Act of 1990, VA paid a headstone or marker allowance to those families who purchased a private headstone or marker, in lieu of furnishing a Government headstone or marker. Those families all had the opportunity to benefit from the VA-marker program. S. 1334 would benefit the families of veterans who died between November 1, 1990, and September 11, 2001. The extension of the authority to cover deaths since November 1, 1990, will assist VA in providing uniform benefits to veterans, regardless of the date of their deaths, and will meet public expectations for honoring veterans and their service to the Nation.

Enactment of S. 1334 would result in costs of $630,000 for FY 2008, $2.88 million for the five-year period FY 2008 through FY 2012, and $5.47 million for the ten-year period FY 2008 through FY 2017.

The Office of Management and Budget has advised that there is not objection to the submission of this report from the standpoint of the Administration's program.

Sincerely yours,

R. JAMES NICHOLSON.

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CHANGES IN EXISTING LAW

In compliance with rule XXVI paragraph 12 of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman).

TITLE 38—VETERANS' BENEFITS

PART II—GENERAL BENEFITS

CHAPTER 11—COMPENSATION FOR SERVICE-CONNECTED DISABILITY OR DEATH

Subchapter II—Wartime Disability Compensation

SEC. 1114. RATES OF WARTIME DISABILITY COMPENSATION.

* * * * * * *

(o) if the veteran, as the result of service-connected disability, has suffered disability under conditions which would entitle such veteran to two or more of the rates provided in one or more subsections (l) through (n) of this section, no condition being considered twice in the determination, or if the veteran has suffered bilateral deafness (and the hearing impairment in either one or both ears is service connected) rated at 60 percent or more disabling and the veteran has also suffered service-connected total blindness with [5/200] *20/200* visual acuity or less, or if the veteran has suffered service-connected total deafness in one ear or bilateral deafness (and the hearing impairment in either one or both ears is service connected) rated at 40 percent or more disabling and the veteran has also suffered service-connected blindness having only light per-

ception or less, or if the veteran has suffered the anatomical loss of both arms so near the shoulder as to prevent the use of prosthetic appliances, the monthly compensation shall be $4,313;

* * * * * * *

Subchapter VI—General Compensation Provisions

SEC. 1160. SPECIAL CONSIDERATION FOR CERTAIN CASES OF LOSS OF PAIRED ORGANS OR EXTREMITIES.

(a) * * *

(1) [blindness] *impairment of vision* in one eye as a result of service-connected disability and [blindness] *impairment of vision* in the other eye as a result of non-service-connected disability not the result of the veteran's own willful [misconduct;] *misconduct if—*

(A) the impairment of vision in each eye is rated at a visual acuity of 20/200 or less; or

(B) the peripheral field of vision for each eye is 20 degrees or less;

* * * * * * *

CHAPTER 23—BURIAL BENEFITS

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SEC. 2306. HEADSTONES, MARKERS, AND BURIAL RECEPTACLES.

* * * * * * *

(d) * * *

[(3) The authority to furnish a marker under this subsection expires on December 31, 2007.]

[(4)] *(3)* The headstone or marker furnished under this subsection shall be the headstone or marker selected by the individual making the request from among all the headstones and markers made available by the Government for selection.

[(5)] *(4) The Secretary may, upon request, furnish in lieu of a headstone or marker authorized by this subsection a medallion or other device of a design determined by the Secretary to signify the deceased's status as a veteran to be affixed to a headstone or marker purchased at private expense.*

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CHAPTER 24—NATIONAL CEMETERIES AND MEMORIALS

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SEC. 2408. AID TO STATES FOR ESTABLISHMENT, EXPANSION, AND IMPROVEMENT OF VETERANS' CEMETERIES.

(a)(1) Subject to subsection (b) of this section, the Secretary may make grants to any State to [assist such State in establishing, expanding, or improving veterans' cemeteries owned by such State.] *assist such State in the following:*

(A) Establishing, expanding, or improving veterans' cemeteries owned by such State.

(B) Operating and maintaining such cemeteries.

(2) Any such grant may be made only upon submission of an application to the Secretary in such form and manner, and containing such information, as the Secretary may require.

(3) * * *

(b) [Grants under this section] *Grants under this section for the purposes described in subsection (a)(1)(A)* shall be subject to the following conditions:

(1) The amount of [a grant under this section] *such a grant* may not exceed—

(A) in the case of the establishment of a new cemetery, the sum of: (i) the cost of improvements to be made on the land to be converted into a cemetery; and (ii) the cost of initial equipment necessary to operate the cemetery; and

(B) in the case of the expansion or improvement of an existing cemetery, the sum of: (i) the cost of improvements to be made on any land to be added to the cemetery; and (ii) the cost of any improvements to be made to the existing cemetery.

(2) If the amount of [a grant under this section] *such a grant* is less than the amount of costs referred to in subparagraph (A) or (B) of paragraph (1), the State receiving the grant shall contribute the excess of such costs over the grant.

(3) If a State that has received [a grant under this section] *such a grant* to establish, expand, or improve a veterans' cemetery ceases to own such cemetery, ceases to operate such cemetery as a veterans' cemetery, or uses any part of the funds provided through such grant for a purpose other than that for which the grant was made, the United States shall be entitled to recover from such State the total of all grants made under this section to such State in connection with such cemetery.

(c) * * *

(d)(1) In addition to the conditions specified in subsections (b) and (c), any grant made to a State under this section to assist such State in establishing, expanding, or improving a veterans' cemetery, *or in operating and maintaining a veterans' cemetery*, shall be made subject to the condition specified in paragraph (2).

* * * * * * *

(e)*(1)* Amounts appropriated to carry out this section shall remain available until expended. If all funds from a grant under this section have not been utilized by a State for the purpose for which the grant was made within three years after such grant is made, the United States shall be entitled to recover any such unused grant funds from such State.

(2) In any fiscal year, the aggregate amount of grants awarded under this section for the purposes specified in subsection (a)(l)(B) may not exceed $5,000,000.

(f)(1) The Secretary may take grants under this subsection to any tribal organization to assist the tribal organization in establishing, expanding, or improving veterans' cemeteries, *or in operating and maintaining veterans' cemeteries*, on trust land owned by, or held in trust for, the tribal organization.

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PART IV—GENERAL ADMINISTRATIVE PROVISIONS

CHAPTER 53—SPECIAL PROVISIONS RELATING TO BENEFITS

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SEC. 5320. USE OF NATIONAL DIRECTORY OF NEW HIRES FOR INCOME VERIFICATION PURPOSES.

(a) INFORMATION FROM NATIONAL DIRECTORY OF NEW HIRES.—(1) The Secretary shall furnish to the Secretary of Health and Human Services information in the custody of the Secretary on individuals under the age of 65 who are applicants for or recipients of benefits or services specified in subsection (d) for comparison with information on such individuals in the National Directory of New Hires maintained by the Secretary of Health and Human Services pursuant to section 453 of the Social Security Act (42 U.S.C. 653). The Secretary shall furnish the information on a quarterly basis or at such other intervals as may be determined by the Secretary.

(2) The Secretary shall furnish information under paragraph (1) with respect to any individual only if doing so is essential to determine the individual's eligibility for benefits and services specified in subsection (d) or the amount of benefits specified in paragraphs (1), (2), and (4) of subsection (d), to which the individual is entitled.

(3)(A) The Secretary of Health and Human Services shall, in cooperation with the Secretary and in accordance with this subsection—

(i) compare information in the National Directory of New Hires with information furnished pursuant to paragraph (1); and

(ii) disclose information in that directory to the Secretary for the purposes specified in this subsection.

(B) The Secretary of Health and Human Services may make a disclosure in accordance with subparagraph (A) only to the extent that the Secretary of Health and Human Services determines that such disclosure does not interfere with the effective operation of the program under part D of title IV of the Social Security Act (42 U.S.C. 651 et seq.).

(4) The Secretary may use information resulting from a data match pursuant to this subsection only for the purpose of determining eligibility for benefits and services specified in subsection (d), and the amount of benefits specified in paragraphs (1), (2), and (4) of that subsection, for indivudals under the age of 65.

(5) The Secretary shall reimburse the Secretary of Health and Human Services for the additional costs incurred by that Secretary in furnishing information under this subsection. Such reimbursement shall be at rates that the Secretary of Health and Human Services determines to be reasonable (and shall include payment for the costs of obtaining, verifying, maintaining, and comparing the information).

(b) NOTIFICATION TO BENEFICIARIES.—The Secretary shall notify each applicant for, or recipient of, a benefit or service specified in subsection (d) that income information furnished by the applicant

to the Secretary may be compared with information obtained by the Secretary from the Secretary of Health and Human Services under subsection (a). The Secretary shall periodically transmit to recipients of such benefits additional notices under this subsection.

(c) INDEPENDENT VERIFICATION REQUIRED.—The Secretary may terminate, deny, suspend, or reduce any benefit or service described in subsection (d) by reason of information obtained from the Secretary of Health and Human Services under subsection (a) only if the Secretary takes appropriate steps to verify independently information relating to employment and income from employment.

(d) COVERED BENEFITS AND SERVICES.—The benefits and services specified in this subsection are the following:

(1) Needs-based pension benefits provided under chapter 15 of this title or under any other law administered by the Secretary.

(2) Parents' dependency and indemnity compensation provided under section 1315 of this title.

(3) Health-care services furnished under subsections (a)(2)(G), (a)(3), and (b) of section 1710 of this title.

(4) Compensation paid under chapter 11 of this title at the 100 percent rate based solely on unemployability and without regard to the fact that the disability or disabilities are not rated as 100 percent disabling under the rating schedule.

(e) OPPORTUNITY TO CONTEST FINDINGS.—The Secretary shall inform the individual of the findings made by the Secretary on the basis of verified information under subsection (c), and shall give the individual an opportunity to contest such findings in the same manner as applies to other information and findings relating to eligibility for the benefit or service involved.

(f) SOURCE OF FUNDS FOR ADMINISTRATION OF SECTION.—The Secretary shall pay the expenses of carrying out this section from amounts available to the Department for the payment of compensation and pensions.

(g) TERMINATION OF AUTHORITY—The authority of the Secretary to obtain information from the Secretary of Health and Human Services under subsection (a) expires on September 30, 2012.

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