

[Senate Committee
Report
(S.Rpt.114-237),
highlighted to
show Gulf War
provisos inserted
by Senator Tammy
Baldwin (D-WI),
and other related
provisos of
interest]

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114TH CONGRESS }
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114-237

MILITARY CONSTRUCTION, VETERANS AFFAIRS, AND
RELATED AGENCIES APPROPRIATION BILL, 2017

APRIL 18, 2016.—Ordered to be printed

Mr. KIRK, from the Committee on Appropriations,
submitted the following

REPORT

[To accompany S. 2806]

The Committee on Appropriation reports the bill (S. 2806) making appropriations for military construction, the Department of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2017, and for other purposes, reports favorably thereon and recommends that the bill do pass.

Amounts in new budget authority

Total of bill as reported to the Senate	\$190,096,633,000
Amount of 2016 appropriations	278,249,736,000
Amount of 2017 budget estimate	189,937,038,000
Bill as recommended to Senate compared to—	
2016 appropriations	– 88,153,103,000
2017 budget estimate	+ 159,595,000

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COMMITTEE RECOMMENDATION

The Committee recommends \$2,856,160,000 for the General Operating Expenses, Veterans Benefits Administration account, which is \$148,426,000 above the fiscal year 2016 enacted level and \$30,000,000 above the budget request. The Committee has included bill language to make available through September 30, 2018, up to 5 percent of the General Operating Expenses, Veterans Benefits Administration account.

Disability Claims Processing.—The Committee remains concerned over the growing backlog of disability claims at all stages of the appeals process. The fiscal year 2017 justification accompanying the Department's budget submission notes the number of cases received by the Board of Veterans [BVA] appeals increased 57 percent, from 66,778 in 2014 to 105,012 in 2016. Each year since 1996, the volume of appeals received by VBA equated to 9 to 15 percent of the total claims completed in those years. The Board notes that it expects the backlog to increase dramatically over the coming years without additional resources and legislative reform. The Committee has repeatedly expressed its concern over the backlog and provided additional resources beyond the President's request to help address the issue. To date, funding has largely been directed at increasing capacity at Board of Veterans Appeals, including hiring an additional 242 full-time employees since 2015.

The Committee recommends the Department consider a more comprehensive approach to increasing capacity in the appeals process, specifically hiring additional BVA Members as well as Decision Review Officers. Since 2011, the Board of Veterans Appeals has added more than 250 new staff; however, the number of Board Members has increased only slightly from 60 to 64. Given the dramatic increase in workload, additional Board Members may be necessary. In addition, despite pending appeals exceeding several years, some Regional Offices employ two or fewer Decision Review Officers. To begin to fully address the rapidly expanding backlog of appeals claims, VA should consider increasing its capacity at all stages of the appeals process.

VBA Staffing Levels.—The Committee remains concerned about the Department's staffing and production model and directs VA to conduct an assessment of the VBA staffing and production models, including its resource allocation model. This assessment shall include discussion on efforts by the VBA Office of Strategic Planning to develop a workforce capacity model and a discussion of how the National Work Queue initiative will impact staffing throughout VBA. The Department is directed to submit a report to the Committees on Appropriations of both Houses of Congress no later than 180 days after enactment of this act detailing its findings.

Women Veteran Participation Rates.—The Committee directs the Department to include an analysis of trends and satisfaction rates among women veterans participating in the Vocational Rehabilitation and Employment program in the annual report to Congress to ensure these services are adapting to the changing demographics of veterans and the needs of women veterans with disabilities.

Gulf War Veterans Claims for Service-Connected Disability Compensation.—The Committee is concerned by the Department's rates

[Of key interest, but inserted by another Senator]

[Gulf War provisos included by Sen. Baldwin]

of denial of Gulf War veterans' claims for undiagnosed illnesses and chronic multi-symptom illnesses. The Department is directed to provide the Committees on Appropriations of both Houses of Congress with a finalized Disability Benefits Questionnaire [DBQ] within 180 days of the enactment of this act for each of these types of claims for which a DBQ does not currently exist. The Committee urges the Department to make permanent the period for filing Gulf War presumptive claims under 38 CFR 3.317. While the Committee commends VA on its efforts to revise the Compensation and Pension manual for "Service Connection for Certain Disabilities Associated with Gulf War Service," concern remains that VA claims adjudicators are not consistently following these changes.

[Gulf War provisos included by Sen. Baldwin, ct'd.]

Work-Study Program.—The VA work-study program allows veterans and eligible dependents who are in school to be paid for working up to 20 hours a week on a job that is directly related to Department activities. These activities could be part-time work at a local VA hospital, benefits office, Vet Center, or at the school handling VA-related work. The program not only helps the student cover school-related expenses, it also gives them work experience that can help bolster their resume as they search for employment after graduation. The Committee supports this program and is very concerned about recent reports of delays in the VA processing of work-study participants pay. The Committee is aware that in some locations it is taking as long as 40 days for the pay to be processed. This is unacceptable, and the Department is directed to report to the Committees on Appropriations of both Houses of Congress within 60 days on steps it is taking to better monitor the time it takes to process pay for work-study participants and to address any identified delays in the process.

VETERANS HEALTH ADMINISTRATION

Appropriations, 2016	\$61,767,227,000
Advance appropriations, 2017	63,271,000,000
Budget estimate, 2017	2,391,359,000
Committee recommendation, 2017	2,249,459,000
Budget estimate, advance appropriations, 2018	66,385,032,000
Committee recommendation, advance appropriations, 2018	66,385,032,000

ADMINISTRATION OVERVIEW

The Veterans Health Administration [VHA] is home to the United States' largest integrated healthcare system consisting of 167 medical centers, 1,018 community-based outpatient clinic, 300 vet centers, and 135 community living centers.

The Department of Veterans Affairs Medical Care Collections Fund [MCCF] was established by the Balanced Budget Act of 1997 (Public Law 105-33). In fiscal year 2004, Public Law 108-199 allowed the Department to deposit first-party and pharmaceutical co-payments, third-party insurance payments and enhanced-use collections, long-term care co-payments, Compensated Work Therapy Program collections, Compensation and Pension Living Expenses Program collections, and Parking Program fees into the MCCF.

The Parking Program provides funds for the construction, alteration, and acquisition (by purchase or lease) of parking garages at VA medical facilities authorized by 38 U.S.C. 8109. The Secretary

that of their civilian counterparts. The Committee notes 20 percent of veterans with PTSD have a substance abuse disorder, and substance abuse is proven to lead to increased suicidal tendencies. The Committee encourages the prioritization of funding for substance abuse counseling based treatment for veterans in order to decrease suicide rates among veterans suffering from PTSD. The Committee remains concerned about the alarming prevalence of suicide among rural veterans as they are more likely than urban veterans to commit suicide. The Committee urges VA to prioritize suicide prevention within rural communities and increase the availability of mental health resources available within States with great geographic barriers. The Department is directed to conduct a new study on the prevalence of suicide among veterans, which shall include an assessment of the data provided by each State and an identification of which States should increase or improve data reporting to the Department and submit a report to the Committees on Appropriations of both Houses of Congress no later than 180 days after enactment of this act detailing its findings.

Veterans Crisis Line.—One tool VA has to combat high suicide rates and help those who are considering suicide is the Veterans Crisis Line [VCL], a 24-hour, toll-free hotline that veterans across the United States can call to connect to a responder trained in crisis management. VCL is invaluable, but it is not without shortcomings. An OIG investigation was initiated in 2015 after complaints that phone calls to the center were routed to voicemails and left unanswered. The OIG published its final report February 11, 2016, which substantiated the allegation that some calls were not answered in an appropriate amount of time. One potential reason for these unanswered calls was inadequate staffing levels. The Committee is aware changes were implemented to VCL before publication of the OIG report, including hiring a new director of the facility and improving tracking of quality assurance indicators. The Committee notes plans are underway to move VCL to a new state-of-the-art facility, and VA hopes to hire 100 additional employees at the call center, plus an additional 40 employees for quality assurance purposes. To ensure veterans receive the care they need and deserve, especially in times of crisis, the Committee provides \$8,700,000 above the budget request for VCL so the Department can hire, train, and staff the call center to an appropriate level and ensure its facilities and technologies remain up-to-date.

Infectious Disease Screening.—The Committee remains concerned about the high rates of HIV/AIDS and viral hepatitis among veterans. The Department is directed to submit a report to the Committees on Appropriations of both Houses of Congress no later than 180 days after enactment of this act detailing its efforts to improve HIV/AIDS and hepatitis screening rates in traditional and non-traditional settings and the utilization of innovative strategies like point-of-care testing and public health outreach.

Functional Gastrointestinal Disorders and Gulf War Illness.—The Committee continues to monitor the Department's plan to address Gulf War Illness and encourages the Department to include research on early intervention for functional gastrointestinal disorders related to Gulf War Illness in veterans and military personnel.

[Gulf War proviso inserted by another Senator]

Encouraging Public-Private Partnerships.—The Committee is aware of private-sector solutions that can effectively and efficiently leverage innovations in healthcare delivery, information technology, and data interoperability capabilities to eliminate existing silos and better coordinate and integrate health services for our Nation’s veterans across care settings. These solutions hold particular potential to improve care for veterans residing in rural areas and veterans served by community providers under the Choice program. The Committee directs VA to implement public-private pilot projects within one or more VISNs to adopt a delivery model that fosters a culture of patient-centered care and utilizes a collaborative, integrated team approach to focus on care planning and coordination; patient education, management, and self-compliance; service integration and data sharing; monitoring protocols; performance metrics and trend analysis; predictive analytics; and systems improvement. The pilots should employ effective models of care that hold the promise of improving patient outcomes and reducing costs by avoiding re-hospitalizations and by enabling clinicians to: (1) use data to develop personalized care plans for medical and behavioral health services, reduce missed visits, avoid delayed services and long waits, and identify medical trends; (2) access systems that standardize clinical workflow and provide real-time transparency for care management; and (3) monitor patients outside of the clinical care setting. The Department is directed to submit a report to the Committees on Appropriations of both Houses of Congress no later than 180 days after enactment of this act evaluating the effectiveness of the pilots and providing an assessment regarding the potential for broader adoption of the solutions within VA’s healthcare programs.

Agent Orange Registry.—VA maintains an Agent Orange Registry for veterans who served in Vietnam. The Committee is aware, however, of a number of instances where U.S. veterans may have been exposed to chemicals including Agent Orange during training activities and missions outside of Vietnam. The Department is directed to submit a report to the Committees on Appropriations of both Houses of Congress no later than 180 days after enactment of this act on the feasibility of establishing a registry of U.S. veterans who served or trained outside of Vietnam and have subsequently experienced health issues, which may have resulted from exposure to these chemicals.

Sleep Disorders.—The Committee recommends the Department assign a program manager for sleep disorders, including sleep apnea, which affects at least 200,000 veterans of the Persian Gulf War and Operations Iraqi Freedom and Enduring Freedom.

Magnetic EEG/EKG-guided Resonance Therapy.—The Committee understands Magnetic EEG/EKG-guided Resonance Therapy [MERT] has successfully treated veterans with Post Traumatic Stress Disorder [PTSD], Traumatic Brain Injuries [TBI], chronic pain, and opiate addiction. Recent non-significant risk and non-invasive clinical trials and pilot studies have produced promising results in the evolution of MERT treatment. The Committee encourages VA to undertake MERT pilot programs at up to five VA facilities of its determining to create access to MERT in treating

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research; and identification of a research entity or entities with expertise and ability to conduct the relevant scientific research.

National Academy of Sciences Study on Gulf War Illness.—The Committee recommends the Department continue to conduct and publish epidemiological studies regarding the prevalence of Gulf War illness and disease-specific morbidity and mortality in Gulf War veterans and the development of effective treatments, preventions, and cures. The Department is directed, within 60 days of the enactment of this act, to contract with the National Academy of Sciences [NAS] for a study with the NAS collecting new data to determine the prevalence of “diagnosed neurological diseases, including multiple sclerosis, Parkinson’s disease, and brain cancers,” in Gulf War veterans, as directed by Public Law 110–389, section 804 and advised in the IOM’s 2015 report on the study’s design. The Committee is concerned by VA’s ever-evolving terminology for the signature adverse health outcome of the Persian Gulf War as recognized by the Institute of Medicine [IOM]—Gulf War illness—and encourages the Department to utilize the term, “Gulf War illness,” as IOM has recommended. The Committee urges the Secretary to consider revising and updating the Clinical Practice Guideline for Chronic Multisymptom Illness [CMI] consistent with the July 2011 Veterans Health Initiative, “Caring for Gulf War Veterans,” that it, “cannot be reliably ascribed to any known psychiatric disorder,” and to focus on recent Gulf War illness treatment research findings and ongoing Gulf War illness treatment research direction. Furthermore, the Committee encourages VA to strengthen the training of primary, specialty, and mental healthcare providers on the Gulf War illness case definitions recommended by the IOM. The role of the Research Advisory Committee on Gulf War Veterans’ Illnesses [RAC] was intended to provide a meaningful consultative role in helping shape the Persian Gulf War research agenda, strengthen the process by which the government sets its Persian Gulf War research agenda, and lend credibility to future research activities. However, concern has been raised that this role has been degraded and compromised. The RAC charter no longer requires it to assess the effectiveness of Federal Gulf War research, no longer contains a requirement for its own staff, and its purview is presently limited solely to research conducted by the Department. Determinations by the RAC and IOM that Gulf War illness is physiological and not psychological should be the basis in determining the type of medical practitioners and scientific researchers needed to create a well-qualified membership. The Committee notes the RAC has provided no new recommendations since September 2014 and encourages the RAC renew its efforts in studying Gulf War Illness. Finally, the Committee urges the Department to restore regular reporting throughout the year of healthcare and benefits utilization by Gulf War and post-9/11 veterans, to publish these reports on the Department’s Web site, and to consider for adoption the “Recommendations for New VA Gulf War-Era Data Report,” adopted by the RAC on February 1, 2012.

Research Reports.—The Committee is aware VA publicly reports all of its completed and ongoing VA funded research projects through the NIH Research Portfolio Online Reporting Tools [RePORT]. However, funding information for each project is not

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provided on the site by VA. The Committee directs VA to report the total cost of each ongoing project and going forward, provide funding information for any new projects, in addition to the information which is already publicly reported. Additionally, the Committee directs VA to prominently place a description and a link to the NIH RePORT Web site on the VA Office Research and Development main Web page so that any veteran may access this information easily.

Burn Pits.—The Committee recommends VA continue conducting medical trials, using available treatments for pulmonary, cardiovascular, and other diseases and conditions related to the exposure to open air burn pits. The Department is directed to provide an update to the Committees on Appropriations of both Houses of Congress no later than 180 days after enactment of this act on the status and progress of such medical trials. Furthermore, where appropriate, VA is encouraged to work with private and public institutions which have already begun to research the chronic impacts of exposure to burn pits in order to develop treatments for veterans exposed to burn pits. The Department is directed to submit a report to the Committees on Appropriations of both Houses of Congress no later than 90 days after enactment of this act regarding the feasibility of entering into cooperative agreements with institutions engaged in the aforementioned research and whether additional authorities and funding are needed to pursue such research.

[Of key interest,
but included by
another Senator]

MEDICAL CARE COST RECOVERY COLLECTIONS

MEDICAL CARE COLLECTION FUND

Appropriations, 2016	\$2,445,000,000
Budget estimate, 2017	2,637,000,000
Committee recommendation	2,637,000,000

MEDICAL CARE COLLECTION FUND—REVENUES APPLIED

Appropriations, 2016	-\$2,445,000,000
Budget estimate, 2017	-2,637,000,000
Committee recommendation	-2,637,000,000

PROGRAM DESCRIPTION

The Medical Care Collection Fund [MCCF] was established by the Balanced Budget Act of 1997 (Public Law 105–33). In fiscal year 2004, Public Law 108–199 allowed the Department of Veterans Affairs to deposit first-party and pharmacy co-payments; third-party insurance payments and enhanced-use collections; long-term care co-payments; Compensated Work Therapy Program collections; and Parking Program fees into the MCCF. The Secretary of Veterans Affairs has the authority to transfer funds from the MCCF to the Medical Services account.

COMMITTEE RECOMMENDATION

The Committee recommendation includes the authority to retain co-payments and third-party collections, estimated to total \$2,637,000,000 in fiscal year 2017.