

Executive Summary

The Veterans' Disability Benefits Commission was established by Public Law 108-136, the National Defense Authorization Act of 2004. Between May 2005 and October 2007, the Commission conducted an in-depth analysis of the benefits and services available to veterans, service members, their survivors, and their families to compensate and provide assistance for the effects of disabilities and deaths attributable to military service. The Department of Veterans Affairs expended \$40.5 billion on the wide array of these benefits and services in fiscal year 2006. The Commission addressed the appropriateness and purpose of benefits, benefit levels and payment rates, and the processes and procedures used to determine eligibility. The Commission reviewed past studies on these subjects, the legislative history of the benefit programs, and related issues that have been debated repeatedly over many decades.

Congress created the Commission out of concern for a variety of issues pertinent to disabled veterans, disabled service members, their survivors, and their families. Those matters included care for severely injured service members, treatment and compensation for posttraumatic stress disorder (PTSD), the concurrent receipt of military retired pay and disability compensation, the timeliness of processing disabled veterans' claims for benefits, and the size of the backlog of those claims. Another area of concern was the program known as Individual Unemployability, which allows veterans with severe service-connected disabilities to receive benefits at the highest possible rate if their disabilities prevent them from working. The Commission gave these issues special attention.

The Commission received extensive analytical support from the CNA Corporation

(CNAC), a well-known research and consulting organization. CNAC performed an in-depth economic analysis of the average impairment of earning capacity resulting from service-connected disabilities. In addition, to assess the impact of disabilities and deaths on quality of life, CNAC conducted surveys of disabled veterans and survivors. To gain insight into claims processing issues, CNAC surveyed raters from the Department of Veterans Affairs (VA) and representatives of veterans' service organizations who assist veterans in filing claims. CNAC also completed a literature review and a comparative analysis of disability programs similar to those provided by VA.

The Commission received expert medical advice from the Institute of Medicine (IOM) of the National Academies. Required by statute to consult with IOM, the Commission asked the institute to conduct a thorough analysis of the VA Schedule for Rating Disabilities (hereafter the Rating Schedule) and a study of the processes used to decide whether one may presume that a disability is connected to military service. In addition, the Commission examined two studies that IOM conducted for VA about the diagnosis of PTSD and compensation to veterans for that disorder. Unfortunately, a third IOM study—of the treatment of PTSD—was not completed in time to be considered by the Commission.

Additionally, the Commission conducted eight field visits and held numerous public sessions.

Guiding Principles

The Commission wrestled with philosophical and moral questions about how a nation cares for disabled veterans and their survivors and how it expresses its gratitude for their sacrifices. The Commission agreed that the United States has a solemn obligation, expressed so eloquently by President Lincoln, "to care for him who shall have borne the battle, and for his widow, and his orphan...."

In going about its work, the Commission has been mindful of the 1956 Bradley Commission principles, which have provided a valuable and historic baseline. This Commission's report addresses what has changed and what has endured over those five decades and throughout our nation's wars and conflicts since the Bradley report. Many of the changes—social, technological, cultural, medical, and economic—that have taken place during that timespan are significant and must be carefully considered as our nation renews its compact with our disabled veterans and their families. This long-term context, a history of both significant change and key elements of constancy from the 1950s to the 21st century, provides the solid basis for this Commission's principles, conclusions, and recommendations.

This Commission identified eight principles that it believes should guide the development and delivery of future benefits for veterans and their families:

1. *Benefits should recognize the often enormous sacrifices of military service as a continuing cost of war, and commend military service as the highest obligation of citizenship.*
2. *The goal of disability benefits should be rehabilitation and reintegration into civilian life to the maximum extent possible and preservation of the veterans' dignity.*
3. *Benefits should be uniformly based on severity of service-connected disability without regard to the circumstances of the disability (wartime v. peacetime, combat v. training, or geographical location.)*
4. *Benefits and services should be provided that collectively compensate for the consequence of service-connected disability on the average impairment of earnings capacity, the ability to engage in usual life activities, and quality of life.*
5. *Benefits and standards for determining benefits should be updated or adapted frequently based on changes in the economic and social impact of disability and impairment, advances in medical knowledge and technology, and the evolving nature of warfare and military service.*
6. *Benefits should include access to a full range of health care provided at no cost to service-disabled veterans. Priority for care must be based on service connection and degree of disability.*
7. *Funding and resources to adequately meet the needs of service-disabled veterans and their families must be fully provided while being aware of the burden on current and future generations.*
8. *Benefits to our nation's service-disabled veterans must be delivered in a consistent, fair, equitable, and timely manner.*

With these principles clearly in mind, the nation must set the firm foundation upon which to shape and evolve a system of appropriate, and generous, benefits for the disabled veterans of tomorrow.

The Commission believes that just as citizens have a duty to serve in the military, the Federal government has a duty to preserve the well-being and dignity of disabled veterans by facilitating their rehabilitation and reintegration into civilian life. The Commission believes that compensation should be based on the nature and severity of disability, not whether the disability occurred during wartime, combat, training, or overseas. It is virtually impossible to accurately determine a disease's origin or to

differentiate the value of sacrifice among veterans whose disabilities are of similar type and severity. Setting different rates of compensation for the same degree of severity would be both impractical and inequitable.

Disabled veterans require a range of services and benefits, including compensation, health care, specially adapted housing and vehicles, insurance, and other services tailored to their special needs. Compensation must help service-disabled veterans achieve parity in earnings with nonservice-disabled veterans. Compensation must also address the impact of disability on quality of life. Money alone is a poor substitute for the consequences of the injuries and disabilities faced by veterans, but it is essential to ease the burdens they experience.

It is the duty of Congress and VA to ensure that the benefits and services for disabled veterans and survivors are adequate and meet their intended outcomes. IOM concluded that the VA Rating Schedule has not been adequately revised since 1945. This situation should not be allowed to continue. Systematic updates to the Rating Schedule and assessments of the appropriateness of the level of benefits should be made on a frequent basis.

Excellent health care should be provided in a timely manner at no cost to veterans with service-connected disabilities (i.e., service-disabled veterans) and, in the case of severely injured veterans, to their families and caregivers.

The funding and resources necessary to fully support programs for service-disabled veterans must be sufficient while ensuring that the burden on the nation is reasonable. Care and benefits for service-disabled veterans are a cost of maintaining a military force during peacetime and of fighting wars. Benefits and services must be provided promptly and equitably.

Results of the Commission's Analysis

The analyses conducted by the Commission with the assistance of IOM and CNAC provide a consistent and complementary picture of many aspects of veterans' disability compensation.

Ensure Horizontal and Vertical Equity

For veterans to receive proper compensation for their service-connected disabilities,

the VA Rating Schedule must be designed so that ratings result in horizontal and vertical equity in terms of compensation for average impairments of earning capacity. Horizontal equity means that persons with the same ratings percentage should have experienced the same loss of earning capacity. Vertical equity means that loss of earning capacity should increase in proportion to an increase in the degree of disability. A comparison of the earnings of disabled veterans with those of veterans who lacked service-connected disabilities revealed that the average amount of earnings lost by disabled veterans generally increased as disability ratings increased. In addition, mortality rates rose with degree of disability. Thus, vertical equity is achieved. The average earnings loss was similar across different types of disabilities except for PTSD and other mental disorders, indicating that horizontal equity also is generally being achieved at the level of body systems.

Ensure Parity with Non-Disabled Veterans

Overall, disabled veterans who first apply to VA for compensation at age 55 (the average age) receive amounts of money that are nearly equal to their average loss of earnings as a consequence of their disabilities among the broad spectrum of physical disabilities.

The earnings of a representative sample of non-disabled veterans were compared with the sum of earnings plus compensation of disabled veterans to determine the extent to which disability compensation helps disabled veterans achieve parity with their non-disabled counterparts. Among veterans whose primary disabilities are physical, those who are granted individual unemployability are substantially below parity; those who are rated 100 percent disabled and who enter the system at a younger age (45 years or less) are slightly below parity; and those who enter at age 65 or older are above parity. For those whose primary disabilities are mental, the sum of earnings plus VA compensation is generally below parity at average age of entry, substantially below parity for severely disabled individuals who enter the system at a younger age, and above parity for those who enter at age 65 or older. Also, among veterans whose primary disabilities are mental, those rated 10 percent disabled are slightly below parity. Thus, parity is generally present with respect to earnings loss except among individuals whose primary disabilities are mental, among the younger severely disabled, and among those granted individual unemployability.

Compensate for Loss of Quality of Life

Parity in average loss of earnings means that disability compensation does not compensate veterans for the adverse impact of their disabilities on quality of life.

Current law requires only that the VA Rating Schedule compensate service-disabled veterans for average impairment of earning capacity. However, the Commission concluded early in its deliberations that VA disability compensation should recompense veterans not only for average impairments of earning capacity, but also for their inability to participate in usual life activities and for the impact of their disabilities on quality of life. IOM reached the same conclusion; moreover, it made extensive recommendations on steps to develop and implement a methodology to evaluate the impact of disabilities on veterans' quality of life and to provide appropriate compensation.

The Commission concluded that the VA Rating Schedule should be revised to include compensation for the impact of service-connected disabilities on quality of life. For some veterans, quality of life is addressed in a limited fashion by special monthly compensation for loss of limbs or loss of use of limbs. Some ancillary benefits attempt to ameliorate the impact of disability. However, the Commission urges Congress to consider increases in some special monthly compensation awards to address the profound impact of certain disabilities on quality of life and to assess whether other ancillary benefits might be appropriate. While a recommended systematic methodology is developed for evaluating and compensating for the impact of disability on quality of life, the Commission believes that an immediate interim increase of up to 25 percent of compensation should be enacted.

A survey of a representative sample of disabled veterans and survivors was conducted to assess their quality of life and other issues. The survey found that among veterans whose primary disability is physical, their physical health is inferior to that of the general population for all levels of disability, and their physical health generally worsens as their level of disability increases. Physical disabilities did not lead to decreased mental health. For veterans whose primary disability is mental, not only were their mental health scores much lower than those of the general population, but their physical health scores were well below population norms for all levels of mental disability. Those veterans with PTSD had the lowest physical health scores.

The survey also sought to address two specific issues through indirect questions. There are concerns that service-disabled veterans tend not to follow medical treatments because they fear it might impact their disability benefits. This premise was not substantiated. Likewise, when questioned whether VA benefits created a disincentive to work, only 12 percent of respondents indicated they might work or work more if not for compensation benefits; thus this is not a major issue.

Update the Rating Schedule

The Rating Schedule consists of slightly more than 700 diagnostic codes organized under 14 body systems, such as the musculoskeletal system, organs of special sense, and mental disorders. For each code, the schedule provides criteria for assigning a percentage rating. The criteria are primarily based on loss or loss of function of a body part or system, as verified by medical evidence; however, the criteria for mental disorders are based on the individual's "social and industrial inadaptability," i.e., overall ability to function in the workplace and everyday life.

IOM concluded that it has been 62 years since the VA Rating Schedule was adequately revised and made a series of recommendations for immediately updating the Schedule and requiring that it be revised on a systematic and frequent basis. The Commission generally agrees with these recommendations; however, the Commission does not agree that the revision should begin with those body systems that have not been revised for the longest time period. Rather, the Commission recommends that first priority be given to revising the mental health and neurological body systems to address PTSD, other mental disorders, and traumatic brain injury expeditiously. A quick review by VA of the Rating Schedule could be completed to determine the sequence in which the other body systems should be addressed, and a timeline should be developed for completing the revision.

To emphasize the importance and urgency of revising the Rating Schedule, the Commission urges Congress to require that the entire schedule be reviewed and updated as needed over the next five years. Congress should monitor progress carefully. Thereafter, the Rating Schedule should be reviewed and updated on a frequent basis.

Individual Unemployability

The Individual Unemployability (IU) program enables a veteran rated 60 percent or more but less than 100 percent to receive benefits at the 100 percent rate if he or she is unable to work due to service-connected disabilities. IU has received considerable attention recently because the number of veterans granted IU increased by 90 percent. The Commission found this increase to be explained by the aging of the cohort of Vietnam veterans.

Develop PTSD-Specific Rating Criteria and Improve PTSD Treatment

Concerning PTSD and other mental disorders, it is very clear that having one set of

criteria for rating all mental disorders has been ineffective. IOM recommended separate criteria for PTSD. Similarly, the CNAC survey of VA raters found that raters believe separate criteria for PTSD would enable them to rate PTSD claims more effectively. In addition, the earnings analysis described above demonstrates that there is a disparity in earnings of those with PTSD and other mental disorders and that the current scheme for rating all mental disorders in five categories of severity—10, 30, 50, 70, and 100 percent—does not result in adequate compensation. It is also unclear why 31 percent of those with PTSD as their primary diagnosis are granted IU, especially since incapacity to work is part of the current criteria for granting 100 percent for PTSD and other mental disorders. It would seem that many of these veterans should be awarded 100 percent ratings without IU. The Commission agrees with the IOM recommendation that new Rating Schedule criteria specific to PTSD should be developed and implemented based on the Diagnostic and Statistical Manual criteria.

The Commission believes that a new, holistic approach to PTSD should be considered. This approach should couple PTSD treatment, compensation, and vocational assessment. The Commission believes that PTSD is treatable, that it frequently recurs and remits, and that veterans with PTSD would be better served by a new approach to their care. There is little interaction between the Veterans Health Administration, which examines veterans for evaluation of severity of symptoms and treats veterans with PTSD, and the Veterans Benefits Administration, which assigns disability ratings and may or may not require periodic reexamination. It is evident that PTSD reexaminations have been scheduled with less frequency in recent years due to the backlog of disability claims. It is also evident that case management of PTSD patients could be improved through greater interaction between the therapy received in Vet Centers and treatment in VA medical centers. IOM concluded that the use of standardized testing and the frequency of reexaminations should be recommended by clinicians on a case by case basis, but did not suggest how that would be achieved. The Commission suggests that treatment should be required and its effectiveness assessed to promote wellness of the veteran. Reexaminations should be scheduled and conducted every two to three years.

Vocational Rehabilitation and Employment (VR&E)

The Commission believes that the goal of disability benefits, as expressed in guiding principle 2, is not being met. In spite of the studies done and recommendations made in recent years, VR&E is not accomplishing its primary goal. The Commission believes that recent studies have provided the necessary analysis and that the VA possesses the necessary expertise to remedy this failure. Simply put, VA must develop specific plans and Congress must provide the resources to quickly elevate the performance of VR&E.

Allow Concurrent Receipt

The Commission carefully reviewed whether disabled veterans should be permitted to receive both military retirement benefits and VA disability compensation. The Commission also reviewed whether the survivors of veterans who die either on active duty or as a result of a service-connected disability should be allowed to receive both DoD Survivor Benefit Plan (SBP) and VA Dependency and Indemnity Compensation (DIC). Currently, military retirees with service-connected disabilities rated 50 percent or higher are authorized to receive both benefits, which are being phased in over the next few years. Survivors are not authorized to receive both benefits. The Commission is persuaded that these programs have unique intents and purposes: military retirement benefits and SBP are intended to compensate for years of service, while VA disability compensation and DIC are intended to compensate for disability or death attributable to military service. It should be permissible to receive both sets of benefits concurrently.

In addition, the Commission believes that those separated as medically unfit with less than 20 years of service should also be able to receive military retirement and VA compensation without offset. Currently, those receiving ratings of less than 30 percent from DoD receive separation pay, which must be paid back through deductions from VA compensation for the unfitting conditions before VA compensation is received. Those receiving DoD ratings of 30 percent or higher and a continuing disability retirement have their DoD payments offset by any VA compensation. Priority among medical discharges should be given to those separated or retired with less than 20 years of service and disability rating greater than 50 percent or disability as a result of combat.

Allow Young, Severely Injured Veterans to Receive Social Security Disability Insurance

Among the benefits available for disabled veterans, those not able to work may be eligible for Social Security Disability Insurance (SSDI). To be eligible for SSDI, an individual must have worked a minimum number of quarters, be unable to work due to medical conditions, not have income above a minimum level, and be less than 65 years of age. At 65, SSDI converts to normal Social Security at the same amount. Some very young service members who are severely injured may not have sufficient quarters to qualify for SSDI. The Commission recommends eliminating the minimum quarters requirement for the severely injured. Only 61 percent of those granted IU by VA and 54 percent of those rated 100 percent by VA are receiving SSDI. Considering the very low earnings by those rated 100 percent and the exceptionally low earnings of those granted IU, it is apparent that either these veterans do not know to apply for

SSDI or are being denied the insurance. Increased outreach should be made and better coordination between VA and Social Security should result in increased mutual acceptance of decisions.

Realign the VA-DoD Process for Rating Disabilities

The Commission also assessed the consistency of ratings by DoD and VA on individuals found unfit for military service by DoD under 10 U.S. Code chapter 61. Some 83,000 service members were found unfit between 2000 and 2006. DoD rated 81 percent of those individuals as less than 30 percent and discharged them with severance pay, including over 13,000 who were found unfit by the Army and given zero percent ratings. Seventy nine percent of these service members later filed claims with VA and received substantially higher ratings. The reasons for the higher ratings are that VA rates about three more conditions than DoD and at the individual diagnosis level, VA assigns higher ratings than DoD.

The Commission finds that the policies and procedures used by VA and DoD are not consistent and the resulting dual systems are not in the best interest of the injured service members nor the nation. Existing practices that allow service members to be found unfit for pre-existing conditions after up to eight years of active duty and that allow DoD to rate only the conditions that DoD finds unfitting should be re-examined. Service members being considered unfit should be given a single, comprehensive examination and all identified conditions should be rated and compensated.

The Commission agrees with the President's Commission on the Care of Returning Wounded Warriors that the DoD and VA disability evaluation process should be realigned so that the military determines if the service member is unfit for service and awards continuing payment for years of service and healthcare coverage for the family while VA pays disability compensation. However, in accordance with one of our key guiding principles, the Commission believes that benefits should not be limited to combat and combat-related injuries. Nor does the Commission believe that VA disability compensation should end and be replaced with Social Security at retirement age.

Link Benefits to Cost-of-Living Increases

In its review, the Commission found that the ancillary and special purpose benefits payments and award limits are not automatically indexed to cost of living. A few of these benefits have not been increased in many years, and as a result, some no longer meet the original intent of Congress. The Commission recommends that Congress raise ancillary and special purpose benefits to the levels originally intended and provide for automatic annual adjustments to keep pace with the cost of living.

Simplify and Expedite the Processing of Disability Claims and Appeals

VA disability benefits and services are not currently provided in a timely manner. Court decisions, statutory changes, and resource limitations have all contributed to this unacceptable situation. Numerous studies over the years have assessed the processing of both claims and appeals and have made numerous recommendations for change. Still, veterans seeking disability compensation face a complex process. The population of veterans is steadily decreasing with the passing of veterans of World War II and Korea. Yet, the aging of the Vietnam Era veterans means that they are filing original and re-opened claims in large numbers. Technology offers opportunities for improvement, but is unlikely to solve all problems. The Commission believes that increased reliance on best business practices and maximum use of information technology should be coupled with a simplified and expedited process for well-documented claims to improve timeliness and reduce the backlog. The Commission is aware that a significant increase in claims processing staff has been recently approved but is also aware that the time required for training and the slow development of job experience will limit the speed with which results can realistically occur.

The Commission believes that claimants should be allowed to state that claim information submitted is complete and waive the normal 60-day timeframe permitted for further development.

Improve Transition Assistance

A smooth transition from military to civilian status is crucial for veterans and their families to quickly adjust to civilian life. This goal, often expressed as "seamless transition," has yet to be fully realized, although VA and DoD have made significant improvements during the past few years. The two departments' medical and other systems are not truly compatible and both departments will have to rely on paper records for many years. Perhaps the single most important step that can be taken to assist veterans, particularly those who are disabled and their families, and to reduce the lengthy delays plaguing claims processing would be to achieve electronic compatibility. In addition, the Commission believes that making VA benefit payments effective the day after discharge will help ease the financial aspect of transition.

Improve Support for Severely Disabled Veterans and their Caregivers

Severely disabled service members who are about to transition into civilian life need far more support and assistance than is currently provided. An effective case management program should be established with a clearly identified lead agent who has authority and responsibility to intercede on behalf of disabled individuals. The lead agent should be an advocate for service members and their families. In addition, VA should be authorized to provide family assistance similar to that provided by DoD up until discharge. Tricare deductibles and copays are costs incurred by the severely

disabled; the Commission believes that these costs should be waived. In addition, consideration should be given to expanding health care and providing an allowance for caregivers of the severely disabled. Currently, health care is only provided for the dependents of severely disabled veterans but not for parents and other family members who are caregivers.

Implement a New Process for Determining Presumption

Various processes have been used to create presumptions when there are uncertainties as to whether a disabling condition is caused by military service. Presumptions are established when there is evidence that a condition is experienced by a sufficient cohort of veterans and it is reasonable to presume that all veterans in that cohort who experience the condition acquired the condition due to military service. The Commission asked IOM to review the processes used in the past to establish presumptions and to recommend a framework that would rely on more scientific principles. IOM conducted an extensive analysis and recommended a detailed and comprehensive approach that includes the creation of an advisory committee and a scientific review board, formalizing the process and making it transparent, improving research, and tracking military troop locations and environmental exposures. Perhaps most importantly, the approach includes using a causal effect standard for decision making rather than a less-precise statistical association. The Commission endorses the recommendations of the IOM but expresses concern about the causal effect standard. Consideration should also be given to combining the advisory committee on presumptions with the recommended advisory committee on the Rating Schedule.

Conclusion

The Commission made 113 recommendations. All are important and should receive attention from Congress, DoD, and VA. The Commission suggests that the following recommendations receive immediate consideration. Congress should establish an executive oversight group to ensure timely and effective implementation of the Commission recommendations.

Priority Recommendations

Recommendation 4.23

Chapter 4, Section I.5

VA should immediately begin to update the current Rating Schedule, beginning with those body systems addressing the evaluation and rating of posttraumatic stress disorder and other mental disorders and of traumatic brain injury. Then proceed through the other body systems until the Rating Schedule has been comprehensively revised. The revision process should be completed within 5 years. VA should create a

system for keeping the Rating Schedule up to date, including a published schedule for revising each body system.

Recommendation 5.28

Chapter 5, Section III.3

VA should develop and implement new criteria specific to posttraumatic stress disorder in the VA Schedule for Rating Disabilities. VA should base those criteria on the *Diagnostic and Statistical Manual of Mental Disorders* and should consider a multidimensional framework for characterizing disability due to posttraumatic stress disorder.

Recommendation 5.30

Chapter 5, Section III.3

VA should establish a holistic approach that couples posttraumatic stress disorder treatment, compensation, and vocational assessment. Re-evaluation should occur every 2–3 years to gauge treatment effectiveness and encourage wellness.

Recommendation 6.14

Chapter 6, Section IV.2

Congress should eliminate the ban on concurrent receipt for all military retirees and for all service members who separated from the military due to service-connected disabilities. In the future, priority should be given to veterans who separated or retired from the military under chapter 61 with:

- fewer than 20 years service and a service-connected disability rating greater than 50 percent, or
- disability as a result of combat.

Recommendation 7.5

Chapter 7, Section II.3

Eligibility for Individual Unemployability should be consistently based on the impact of an individual's service-connected disabilities, in combination with education, employment history, and medical effects of an individual's age or potential employability. VA should implement a periodic and comprehensive evaluation of Individual Unemployability-eligible veterans. Authorize a gradual reduction in compensation for Individual Unemployability recipients who are able to return to substantially gainful employment rather than abruptly terminating disability payments at an arbitrary level of earning.

Recommendation 7.6**Chapter 7, Section II.3**

Recognizing that Individual Unemployability is an attempt to accommodate individuals with multiple lesser ratings but who remain unable to work, the Commission recommends that as the *VA Schedule for Rating Disabilities* is revised, every effort should be made to accommodate such individuals fairly within the basic rating system without the need for an Individual Unemployability rating.

Recommendation 7.7**Chapter 7, Section III.2**

Congress should increase the compensation rates up to 25 percent as an interim and baseline future benefit for loss of quality of life, pending development and implementation of quality of life measure in the Rating Schedule. In particular, the measure should take into account the quality of life and other non-work related effects of severe disabilities on veterans and family members.

Recommendation 7.9**Chapter 7, Section III.2**

Congress should consider increasing special monthly compensation, where appropriate, to address the more profound impact on quality of life by the disabilities subject to special monthly compensation and review ancillary benefits to determine where additional benefits could improve disabled veterans' quality of life.

Recommendation 7.10**Chapter 7, Section III.2**

Congress should enact legislation that would bring the ancillary and special purpose benefits to the levels originally intended considering cost of living and provide for automatic annual adjustments to keep pace with cost of living.

Recommendation 7.14**Chapter 7, Section III.3**

VA and DoD should realign the disability evaluation process so that the Services determine fitness for duty, and service members who are found unfit are referred to VA for disability rating. All conditions that are identified as part of a single, comprehensive medical examination should be rated and compensated.

Recommendation 8.2

Chapter 8, Section III.1.B

Congress should eliminate the Survivor Benefit Plan/Dependency and Indemnity Compensation offset for survivors of retirees and in-service deaths.

Recommendation 9.1

Chapter 9, Section II.5.A.b

Improve claims cycle time by:

- establishing a simplified and expedited process for well documented claims, using best business practices and maximum feasible use of information technology; and
- implementing an expedited process by which the claimant can state the claim information is complete and waive the time period (60 days) allowed for further development.

Congress should mandate and provide appropriate resources to reduce the VA claims backlog by 50 percent within 2 years.

Recommendation 10.11

Chapter 10, Section VII

VA and DoD should expedite development and implementation of compatible information systems including a detailed project management plan that includes specific milestones and lead agency assignment.

Recommendation 11.1

Chapter 11

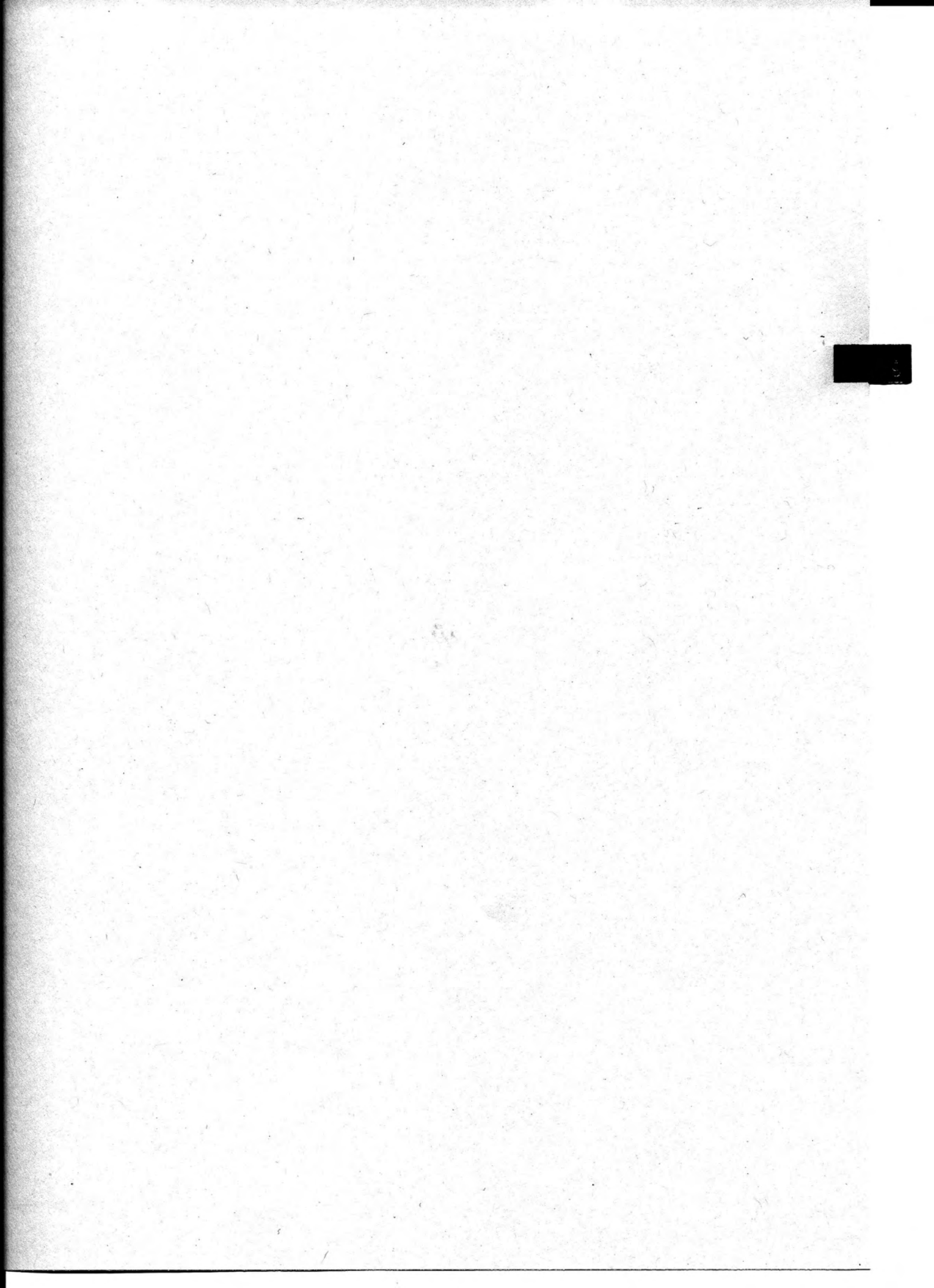
Congress should establish an executive oversight group to ensure timely and effective implementation of the Commission recommendations. This group should be co-chaired by VA and DoD and consist of senior representatives from appropriate departments and agencies. It is further recommended that the Veterans' Affairs Committees hold hearings and require annual reports to measure and assess progress.

One commissioner submitted a statement of separate views regarding four aspects of the report. His statement is in Appendix J.

Electronic access to the complete **report** of the Veterans' Disability Benefits Commission is available at: <http://www.vetscommission.org>

Also available on the Commission's website are:

- [Bios of the Commissioners](#)
- [Commission Charter](#)
- [Commission Charter](#) (renewed, 2-21-2007)
- [Public Law 108-136](#) establishing the Commission
- [Extension of the Commission's Charter in Public Law 109-163](#)
- [Legislative History of VA Disability Compensation Program, Economic Systems Inc.](#), Dec 2004
- [Appendices to the Legislative History](#) (Dec 2004)
- [Literature Review of VA Disability Compensation Program, Economic Systems Inc.](#), Dec 2004
- [Appendices to the Literature Review](#) (Dec 2004)
- Commission's [Approved Research Questions](#), October 14, 2005
- Institute of Medicine (IOM) [Summary of the PTSD Review](#) contracted by the Veterans Health Administration, Mar 2006
- [A History and Analysis of Presumptions of Service Connection \(1921-1993\)](#)
- [An Updated Legal Analysis of Presumptions of Service Connection \(1993-2006\)](#)
- Center for Naval Analyses (CNA) [Literature Review](#) (Final), May 2006
- [Appendix to the CNA Literature Review](#) (Final), May 2006
- [Veterans' Claims Adjudication Commission \(VCAC\)](#), also known as the Melidosian Commission Report (1996)
- [Blue Ribbon Panel on Claims Processing: Proposals to Improve Disability Claims Processing in the Veterans Benefits Administration](#), November 1993
- [Bradley Commission Report](#) 1956
- IOM Report to VA on [Posttraumatic Stress Disorder: Diagnosis and Assessment](#), 2006
- [Testimony of Chairman Scott](#) at a Joint Hearing of the Senate Armed Services & Veterans' Affairs Committees, April 12, 2007
- CNA Report: [Findings from Raters and VSOs Surveys](#), May 2007
- IOM Report to VA on [PTSD Compensation and Military Service](#), 2007
- [A 21st Century System for Evaluating Veterans for Disability Benefits](#), IOM Final Report, June 2007
- [Improving the Presumptive Disability Decision-Making Process for Veterans](#), IOM Final Report, and [Executive Summary](#) August 2007
- CNA Final Report: [Final Report for the Veterans' Disability Benefits Commission: Compensation, Survey Results and Selected Topics](#), August 2007



October 16, 2007

The Honorable Nancy Pelosi
Speaker of the House of
Representatives
Washington, DC 20515

Dear Madam Speaker:

We are transmitting a draft bill, "America's Wounded Warriors Act," which would implement recommendations of the President's Commission on Care for America's Wounded Warriors for our Nation to provide better support for seriously wounded combat veterans and their families. This bill will end the disparate and often-times confusing disability systems administered by the Department of Defense (DoD) and the Department of Veterans Affairs (VA) and implement a single disability system.

It will also help our wounded warriors more easily transition from active duty to civilian life by providing both a transition benefit to help them return to the workforce and increased family support services for injured service members and their families. We request that this bill be referred to the appropriate committee for prompt consideration and look forward to working with Congress to assist in the efforts to pass this important legislation.

We are also enclosing a section-by-section analysis of the draft bill that describes its provisions in detail.

Title I

Section 101 of the draft bill would achieve the restructuring of the DoD disability retirement system as recommended by the Commission, expanding it to all service members found unfit, with retired pay based solely on rank and length of service. Decisions regarding fitness or unfitness would continue to be made by the military department concerned. TRICARE benefits would be extended to all members separated due to combat-related serious injuries. Section 101 would become effective upon implementation by VA of its restructuring of the disability compensation system. Section 102 would make members retired for combat-related serious injuries eligible for TRICARE respite-care and aid-and-attendance benefits similar to those currently provided under the TRICARE Extended Care Health Option program.

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2.

The Honorable Nancy Pelosi

Title II

This bill implements the Commission's recommendations that VA restructure its disability compensation payments to include the appropriate level and duration of transition payments, quality of life payments, and loss of earnings resulting from specific injuries. Within 7 months after entering into a contract to study these payment levels, VA would have to report to Congress its findings, conclusions and recommendations, if any, for legislative action.

The bill will also carry out the Commission's recommendations that VA provide care to all veterans who have been deployed in Afghanistan and Iraq who have post-traumatic stress disorder (PTSD). Although VA currently has authority to provide expedited initial evaluations to all veterans who need them, it does not have authority to give a higher priority in providing them to veterans who served in Operation Enduring Freedom (OEF) and Operation Iraqi Freedom (OIF).

This bill implements the Commission's recommendation that VA and DoD provide appropriate training and counseling to the families of service members who require long-term personal care to support them in their new care-giving roles.

Finally, we recognize that the new retired pay based on years of service recommended by the Commission would reduce the Survivor Benefit Plan (SBP) annuity for some survivors. Section 204 of the draft bill therefore would create a new survivor benefit to compensate for any such reduction of the SBP annuity. The new survivor benefit would be in addition to any dependency and indemnity compensation (DIC) payable, to the extent the new survivor benefit exceeds the DIC payment.

Title III

The Commission recommended strengthening family support programs by extending the Family and Medical Leave Act (FMLA) for up to 6 months for a family member of a service member who has a combat-related serious injury. Because of certain limitations in the FMLA, specifically with respect to eligibility, Title III of the draft bill provides a new form of leave for family members to care for the wounded member for up to 26 weeks. Section 302 of the draft bill would provide any employee family member of a recovering service member with 26 workweeks of unpaid leave to care for a recovering service member within the first 24 months following the injury or diagnosis of the injury. Employee family members would also be able to use FMLA leave they are otherwise eligible for,

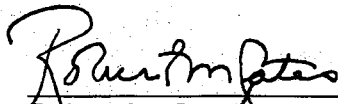
3.

The Honorable Nancy Pelosi

but would be limited to a maximum combined total of 38 workweeks of leave under the FMLA and the draft bill to care for a recovering service member during the 24-month period. Section 303 of the draft bill describes the employee family member's employment restoration rights and provides for the continuation of health coverage while the employee is taking leave. The language in the draft bill fully meets and expands upon the Commission's recommendation.

We look forward to working with Congress on this important legislation.

Sincerely yours,



Robert M. Gates
Secretary of Defense



Gordon H. Mansfield
Acting Secretary of Veterans Affairs

President Bush Meets with Senator Bob Dole and Secretary Donna Shalala on the Commission on Care for Wounded Warriors

The Rose Garden

4:25 P.M. EDT

THE PRESIDENT: Good afternoon. Thanks for coming. Welcome to the Rose Garden. I appreciate Senator Dole and Secretary Shalala and other members of their commission for joining me today. Welcome.

I just finished an inspiring meeting -- with Secretary Gates and Acting Secretary Mansfield -- with service members who were rebuilding their lives after being severely wounded in the service of our country. I wish all Americans could hear the service members talk about their strong desire to not only rehabilitate, but to enter -- be productive citizens here in America. I was most impressed by your spirit and your courage, and I -- welcome here to the White House.

I appreciate the fact that they are helping to find a -- to define a culture that says we're going to judge people by their potential, not their disabilities. I appreciate the fact that they are demonstrating the great breakthroughs in technologies that are now available for the wounded. I don't know if you noticed, two of them came in on a Segway.

Medical advances have enabled battlefield medics and hospitals to provide our wounded warriors with care that would have been unimaginable just a decade ago. Yet our system for managing this care has fallen behind; it's an old system, it's an antiquated system, it's an outdated system that needs to be changed.

You know, that's what happened at Walter Reed Army Medical Center earlier this year. First of all, the care that's provided there is magnificent. Our doctors and nurses at Walter Reed are great healers and care givers, and they've saved a lot of lives. But there were serious problems caused by bureaucratic delays and administrative failures. And we're not going to let those problems continue.

We took immediate steps to address the problems at Walter Reed. The building where outpatients were living that was substandard was shut down. They were moved to high-quality housing, and those responsible were held to account. And to ensure wounded troops at Walter Reed and other facilities across America get the care they deserve, I asked Senator Dole and Secretary Shalala to chair a bipartisan presidential commission. The commission conducted a comprehensive review of the care provided to service members returning from the global war on terror from the time they leave the battlefield through their return to civilian life.

At the end of this review, the commission submitted specific recommendations for modernizing and improving our system of care. My administration strongly supports the commission's recommendations. We've taken steps to implement them where we can through administrative action. And today we're sending Congress legislation to implement the recommendations that require legislative action.

The legislation will help us achieve three important goals. First, this legislation will modernize and improve the way we evaluate disabilities and award compensation for injured service members. Right now the Departments of Defense and Veterans Affairs both have their own

systems for making these determinations. The commission found that this process is difficult to navigate and confusing for service members and their families. We need to streamline the system.

So this legislation will assign both departments clear and separate roles. The Defense Department will determine whether wounded warriors are still fit for service. Those unable to serve will receive a pension from the Defense Department based on their rank and length of service. Then they will move directly into the Veterans Affairs system, where they will receive compensation for their disabilities. This compensation will take into account both loss of earnings and the overall impact on the quality of life resulting from a service member's injury or disability.

This new system will also emphasize rehabilitation and retraining. It will provide new support and financial incentives for therapy and education. It will help our wounded warriors rejoin their communities. These men and women want to be productive, and they want to be active members of our society, and this legislation will help them achieve that goal.

Secondly, this legislation will strengthen support for families during the recovery process. When our service members suffer wounds, their families suffer with them. They pray beside hospital beds, they discuss the options with the doctors, and they help injured loved ones readjust to everyday life. These commitments often require family members to take long leaves of absence from work, yet many family members cannot get this time off without losing their jobs.

Our military families deserve better. So this legislation will give many parents and spouses the opportunity to take up to six months of unpaid leave when their loved ones are seriously wounded in combat. It provides severely wounded service members with aid and attended care services -- for instance, up to 40 hours per week of in-home help from an assistant -- so their families do not have to shoulder the responsibilities of caring alone.

Third, this legislation will improve treatment for Post Traumatic Stress Disorder. The commission found that many service members still worry about the stigma associated with this serious condition. We need to end this stigma by encouraging those suffering to get help. This legislation will make it easier for our troops to receive care for this disorder, and it will help affected service members to move forward with their lives.

The need to enact these reforms into law is urgent, and I call on both Republicans and Democrats in Congress to come together and pass a good bill that I can sign into law. We also need to complete the Veterans Affairs appropriations bills that fund veterans' benefits and other ongoing programs. I fully recognize Congress and I have our differences on other appropriations bills, but the Veterans Affairs bill is one where we agree. I ask the House and Senate to work together to pass a bill that I can sign, and send it to my desk by Veteran's Day.

As we work with Congress on this legislation, my administration will continue to institute the recommendations of the Dole-Shalala commission that do not require congressional approval. We're acting on the commission's recommendations to form a new corps of well-trained recovery coordinators. These coordinators will work with families to establish recovery plans and monitor the healing process, facilitate the transition to civilian life, and ensure wounded service members do not get lost in the system.

We're also acting on the commission's recommendations to ensure health professionals working at the Defense Department and Veteran's Affairs facilities can easily share patient information. This will allow us to provide patients with better care as they move through the system. We're also developing a new secure web portal, where service members will be able to access all their medical files and benefit information in one place.

We're acting on the commission's recommendation to create incentives for medical professionals and administrators to work at Walter Reed. One out of every five wounded service members passes through this hospital. While Walter Reed is set to close at 2011, we will ensure it remains a state-of-the-art facility until the last day of operation.

By taking these steps, we'll honor a shared commitment to care for those who defend our freedom. One of those people is Ryan Groves. While serving with the Marines in Iraq in 2004, he lost his left leg and severely injured his right leg in a rocket attack. Today, he refuses to allow his disability to stop him from living his life. He's going to Georgetown. He wants to be a lawyer. He travels using the Segway. He's an amazing fellow. He's an inspiration for all Americans. And we need to build a system of care that is worthy of the sacrifice that he and others have made.

I look forward to working with Congress to achieve this goal. Together, we can give our wounded warriors the best possible care and help them build their lives of hope and promise.

And now it's my honor to introduce Secretary Donna Shalala.

SECRETARY SHALALA: Thank you very much, Mr. President. First, let me compliment your administration on the implementation of 90 percent of our recommendations. When we proposed our recommendations, we separated them between what Congress needed to do and what the administration could do. And Secretary Gates and Acting Secretary Mansfield have been relentless in trying to get these recommendations implemented here in Washington.

But as you pointed out, our recommendations do require legislation, particularly to modernize the disability system. We have a very old-fashioned system. As Senator Dole has pointed out, it was the Bradley Commission, General Bradley, that made the first recommendations on disability.

We have a modern health care system. We have changed attitudes about disability, making investments in these young men and young women on the front end, making sure they get educational benefits, making certain that their parents and loved ones, that their wives and husbands are not responsible for coordinating care, for fighting the bureaucracy. That's our responsibility -- the American people's responsibility, the government's responsibility.

But more than anything else, Congress now -- and as Senator Dole and I will testify tomorrow -- must modernize the disability system. It is old fashioned, it doesn't reflect modern medicine, it's too slow, it's too confusing. We need a system in which any soldier, any sailor, any Marine, any member of their family understand it and can make it work.

And so I thank you, Mr. President. Senator Dole and I will be on the Hill tomorrow to make our case to the Senate. And you're absolutely right -- we can do this. Our commission members

believe we can do it; the young Americans who have been injured, many of them severely, believe we can do it. And we must do it. Thank you very much.

SENATOR DOLE: Well, first I want to thank you, Mr. President. I remember when I was asked to be on this commission -- I think Josh Bolten and I had a discussion, and Secretary Gates and with yourself -- I said, at my age, I don't need any -- to be on a commission that's going to gather dust, like most commissions do. But I'm here today to attest to your commitment and to the tremendous work of the White House staff.

I've been around -- not the White House as long as I'd like -- (laughter) -- but I've been around Washington for quite a while. And I know when the staff is working. And I've been here for at least five or six meetings, and they weren't 15, 20 minutes; they were two hours, three-hour, four-hour meetings. So because of the dedication of the Veterans Administration and the Department of Defense, the President of the United States and the President's staff, we're where we are today.

And we're honored to have a number of our commissioners here today. It might -- well to point out that five of the nine commissioners had disabilities. So it wasn't a group of people who had never focused and never had to deal with problems. Four had disabilities, and one was the wife of a man who was burned over 70 percent of his body. So out of the nine, we had a good representative group.

And I can't think of a better person to work with, except she works too hard, than Secretary Shalala. I mean, she's 24-7; I think that's where it started. But we did the work. We know there are some veterans groups that are a little skeptical about certain things. They're living now with a 600-page of band-aids and amendments and things that are well-intended, but we're dealing with a new generation, and they're seated right over in this group. There are five -- well, there is Sarah, who takes care of her husband, Sarah Wade and her husband, and four other young men over there are amputees. And it's this generation. I mean, it's a different generation than my generation, than the Vietnam generation. And the treatments are different.

And the survival rates in World War II, for every one killed, maybe one would survive. Now the ratio is one to, I think, 18. I mean, it's a big, big difference because of the great medical care received the moment you're wounded on the battlefield until you arrive at Walter Reed or Brooke Hospital in Texas, or wherever it may be.

This is -- maybe the benefits are going to be a little better for this group. We never talked about cost. We never talked about politics. I knew Secretary Shalala's; she knew mine; we didn't know anybody else's. That wasn't important. We never talked about cost. I remember the President telling us in the Oval Office -- he just said three words: Whatever it takes. And so we set about to do whatever we thought it would take. And we believe we've done a good job.

We've had experts in electronic transfer information, with Dr. Martin Harris, who is a specialist at the Cleveland Clinic. We've had a lot of great assistance from staff, from outstanding staff that we were able to assemble, and from cooperation from the DOD and the VA. So I've been around long enough to know that nothing is perfect. And we didn't have -- some people say, you should have done the whole system. Well, our charter was limited to Iraq and Afghanistan. And we

didn't have time to do the whole system. We had about four months. And we finished our work on July 31 of this year.

So we're here today to thank the President, to thank these young men and women who are serving their country. Whatever your views may be on the war, we have one common view, on taking care of those who are wounded or injured, whatever it takes.

Thank you. (Applause.)

Fact Sheet: Ensuring Our Wounded Warriors Get the Best Possible Care

Administration Moves Forward To Implement Recommendations Of The President's Commission On Care For America's Returning Wounded Warriors

Today, President Bush discussed legislation Congress should pass and actions the Administration is taking to implement recommendations of the President's Commission on Care for America's Returning Wounded Warriors. In March, President Bush signed an Executive Order creating this bipartisan commission to conduct a comprehensive review of the services America is providing our returning wounded warriors. The Commission released its findings on July 25, 2007, and the President immediately instructed the Secretaries of Defense and Veterans Affairs to implement its recommendations.

- **The Administration is working with Congress and taking action to implement the Commission's six recommendations to improve care for America's returning wounded warriors.** Today, the President discussed progress on these goals in a meeting with Commission co-chairs Bob Dole and Donna Shalala, Defense Secretary Robert Gates, acting Veterans Affairs Secretary Gordon Mansfield, and wounded service members and their families:
 1. Modernizing and improving the disability and compensation systems.
 2. Aggressively preventing and treating post-traumatic stress disorder and traumatic brain injury.
 3. Significantly strengthening support for families.
 4. Immediately creating comprehensive recovery plans to provide the right care and support at the right time in the right place.
 5. Rapidly transferring patient information between the Departments of Defense (DoD) and Veterans Affairs (VA).
 6. Strongly supporting Walter Reed by recruiting and retaining first-rate professionals through 2011.

Congress Should Pass The Legislation Necessary To Ensure The Commission's Recommendations Are Fully Implemented

To the extent that the Administration can move forward without legislative action, we are working to implement the Commission's recommendations; however, some reforms require Congressional action:

Modernizing And Improving The Disability And Compensation Systems

Commission Recommendations

1. Change DoD Disability Entitlement for those deemed unfit for duty for combat-related reasons by providing an annuity based solely on rank and service, rather than percent disability.

2. Expand TRICARE Coverage to those unfit for duty for combat-related reasons, not just those who are at least 30 percent disabled or who have 20 years of service, as in the current system.
3. Restructure VA disability entitlement such that, for new entrants retired from service for fitness, VA benefits would include transition payments to cover living expenses equal to either three months of base pay (if no rehabilitation is needed) or family living expenses for longer-term rehab patients. The new VA disability benefits would also include "earnings-loss payments" and "quality-of-life payments."
4. Reassess all disability rating schedules to ensure they reflect modern medicine and modern concepts of the impact of disability. VA would reassess disability status every three years and adjust compensation accordingly.
5. Increase vocational rehabilitation benefits such that VA would pay a bonus equal to 10 percent of transition pay after year one, 5 percent after year two, and 10 percent after year three of training completion.

Legislation

- DoD disability payments should be replaced by DoD annuity payment for all eligible service members separated or retired after the implementation date of this provision. Those separated or retired since the beginning of the Operation Enduring Freedom/Operation Iraqi Freedom will be able to choose between the existing system and the new system.
- TRICARE benefits should be extended for those seriously injured in combat or combat-related activities.
- The VA disability system should be strengthened and improved to provide for an immediate transition payment, loss of earnings, and quality of life payment.
- Individuals and their conditions will be reassessed every three years.
- The disability rating schedule should be updated to reflect modern concepts of medicine and disability.
- The disability system restructure will take effect upon conclusion of the seven-month disability compensation study, legislation implementing VA disability payment rates, and regulations updating VA's disability rating schedules.

Administrative Actions

- Beginning in November 2007, DoD and VA will pilot a replacement to the cumbersome previous system of two entirely separate disability determinations by each Department with a single, comprehensive medical exam to be administered by DoD.
- Rulemaking is underway to update the VA Schedule for Rating Disabilities to include Traumatic Brain Injury (TBI) and severe burns.

Aggressively Preventing And Treating Post-Traumatic Stress Disorder And Traumatic Brain Injury

Commission Recommendations

1. Expand VA health coverage to ensure that all veterans of Operation Enduring Freedom and Operation Iraqi Freedom with post-traumatic stress disorder (PTSD) receive care related to this condition.
2. Address DoD shortage of mental health clinicians.
3. Conduct awareness training and provide clinical guidelines for PTSD and traumatic brain injury (TBI).

Legislation

- All Operation Enduring Freedom and Operation Iraqi Freedom veterans should be allowed to receive PTSD care from the VA without first showing service connection.

Administrative Actions

- Secretaries of the military departments have begun using existing authorities such as incentive pay and bonuses to recruit and retain sufficient experts in mental health fields.
- DoD and HHS are working on an MOU to provide additional mental health professionals to meet short term needs.
- By November 30, 2007, DoD and VA will establish a National Center of Excellence to conduct training and research, deliver care, and disseminate clinical best practices with regard to TBI, PTSD, and other mental health conditions.
- DoD has expanded mental health and TBI training programs for deploying service members.
- VA is working to screen all patients for PTSD as part of their initial treatment.

Significantly Strengthening Support For Families

Commission Recommendations

1. Expand TRICARE respite care and aide and personal attendant benefits to service members seriously injured in combat.
2. Provide training and counseling to family members to support them as caregivers. DoD and VA should standardize and assure universal access to family services early in the treatment process. This package should include education about the service member's injuries and expected progress, caregiver training and counseling, and psychological services.

3. Amend the Family Medical Leave Act (FMLA) to allow up to six months of unpaid leave for family members of combat-injured service members, and allow combinations of unpaid and paid leave, when available.

Legislation

- TRICARE respite care and aide and personal attendant benefits should be provided to service members seriously wounded in combat under Extended Care Health Option (ECHO).
- Many family members of service members with combat-related serious injuries should be eligible to receive 26 weeks of unpaid leave within the first 24 months following the injury or diagnosis of the injury.

Administrative Actions

- DoD and VA have implemented family caregiver training.
- DoD and VA are developing a package of employment options and health care options for caregivers of seriously injured service members.

The Administration Is Acting Now To Implement Recommendations That Do Not Require Legislative Action

Immediately Creating Comprehensive Recovery Plans To Provide The Right Care And Support At The Right Time In The Right Place

Commission Recommendations

1. Those seriously injured in combat will receive an individual Recovery Plan that leads them back to duty or public life seamlessly guiding and supporting them through medical, rehabilitation, and disability programs.
2. A Recovery Coordinator will be assigned to service members seriously injured in combat to serve as their ultimate resource in the recovery process. The Public Health Service (PHS) Commissioned Corps will help develop this cadre of well-trained and highly skilled advocates.

Administrative Actions

- On September 19, 2007, DoD, VA, and the Department of Health and Human Services (HHS) signed a joint Memorandum of Understanding (MOU) for the creation of a joint Recovery Coordinator Program for service members seriously injured in combat or combat-related activity.
- By December 1, 2007, DoD and VA will develop the Recovery "Life" Plan to be used by the Federal Recovery Coordinators for seriously injured service members with combat-related injuries.

- VA will take the lead on creating the organizational structure for the Federal Recovery Coordinators. The PHS Commissioned Corps will serve as consultants for program development and care management.

Rapidly Transferring Patient Information Between The Departments Of Defense And Veterans Affairs

Commission Recommendations

1. DoD and VA must continue the work under way towards a fully interoperable IT system that will meet long-term administrative and clinical needs.
2. DoD and VA must, within the next 12 months, have all patient information viewable by any clinician, health professional, or administrator who needs it within either department.
3. DoD and VA must develop a plan for a user-friendly health and benefits portal for service members, veterans, and family members.

Administration Actions

- No later than October 31, 2008, DoD and VA will make available and viewable all essential health and administrative data.
- By March 31, 2008, DoD and VA will have the ability to share all essential health images.
- DoD and VA are creating a single Web portal to provide for the care and support needs of veterans and their families.

Strongly Supporting Walter Reed By Recruiting And Retaining First-Rate Professionals Through Closure In 2011

Commission Recommendations

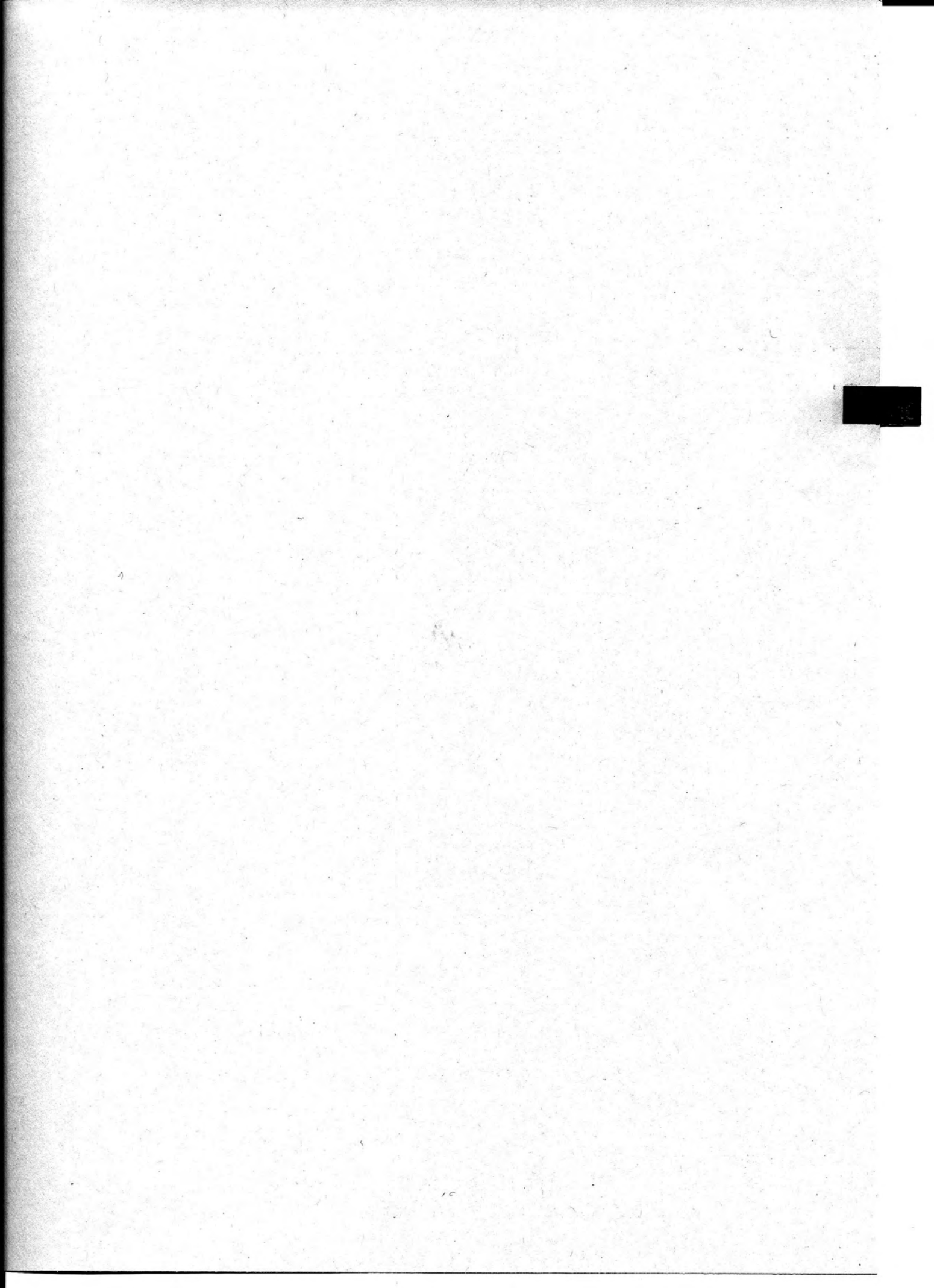
1. DoD must ensure that Walter Reed (WRAMC) has the resources it needs in outpatient and inpatient care.
2. DoD must implement tailored incentive packages to encourage civilian personnel to continue working at Walter Reed, and enable recruitment of new professionals as needed.

Administrative Actions

- The Secretary of the Army will ensure that WRAMC has a sufficient budget to fund recruitment and retention bonuses.
- The Secretary of the Army is pursuing additional recruitment authorities to hire and assign health care practitioners and support personnel.
- DoD sent a request to the Office of Personnel Management to authorize DoD's use of retention bonuses to retain high-quality personnel.

- DoD is creating a "guaranteed placement program" to ensure that critical employees at Walter Reed will have placement at the new National Military Medical Center if they stay in place until WRAMC closure.

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Veterans Day, 2007

A Proclamation By the President of the United States of America

Throughout our history, America has been protected by patriots who cherished liberty and made great sacrifices to advance the cause of freedom. The brave members of the United States Armed Forces have answered the call to serve our Nation, ready to give all for their country. On Veterans Day, we honor these extraordinary Americans for their service and sacrifice, and we pay tribute to the legacy of freedom and peace that they have given our great Nation.

In times of war and of peace, our men and women in uniform stepped forward to defend their fellow citizens and the country they love. They shouldered great responsibility and lived up to the highest standards of duty and honor. Our veterans held fast against determined and ruthless enemies and helped save the world from tyranny and terror. They ensured that America remained what our founders meant her to be: a light to the nations, spreading the good news of human freedom to the darkest corners of the earth.

Like the heroes before them, today a new generation of men and women are fighting for freedom around the globe. Their determination, courage, and sacrifice are laying the foundation for a more secure and peaceful world.

Veterans Day is dedicated to the extraordinary Americans who protected our freedom in years past, and to those who protect it today. They represent the very best of our Nation. Every Soldier, Sailor, Airman, Marine, and Coast Guardsman has earned the lasting gratitude of the American people, and their service and sacrifice will be remembered forever. In the words of Abraham Lincoln: ". . . let us strive on to finish the work we are in, to bind up the Nation's wounds, to care for him who shall have borne the battle . . ." On this Veterans Day, I ask all Americans to express their appreciation to our Nation's veterans.

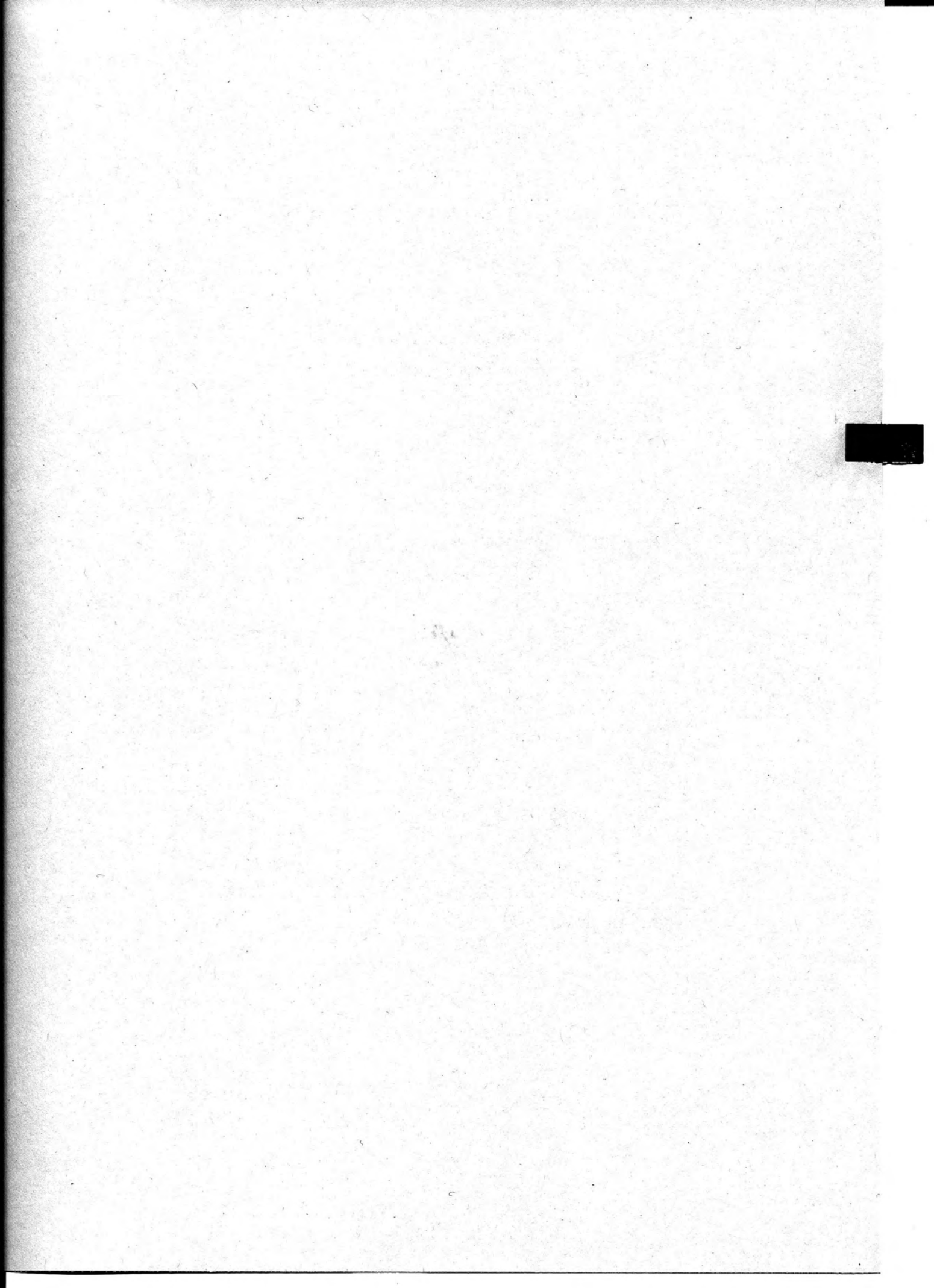
With respect for and in recognition of the contributions our service men and women have made to the cause of peace and freedom around the world, the Congress has provided (5 U.S.C. 6103(a)) that November 11 of each year shall be set aside as a legal public holiday to honor our Nation's veterans.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, do hereby proclaim November 11, 2007, as Veterans Day and urge all Americans to observe November 11 through November 17, 2007, as National Veterans Awareness Week. I encourage all Americans to recognize the valor and sacrifice of our veterans through ceremonies and prayers. I call upon Federal, State, and local officials to display the flag of the United States and to support and participate in patriotic activities in their communities. I invite civic and fraternal organizations, places of worship, schools, businesses, unions, and the media to support this national observance with commemorative expressions and programs.

IN WITNESS WHEREOF, I have hereunto set my hand this thirty-first day of October, in the year of our Lord two thousand seven, and of the Independence of the United States of America the two hundred and thirty-second.

GEORGE W. BUSH

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President Bush Visits Wounded Warriors at Center for the Intrepid

Brooke Army Medical Center San Antonio, Texas

4:27 P.M. CST

THE PRESIDENT: Thank you all very much for having me here today. If anybody were to come to this center, they would have to leave inspired and thankful, inspired by the servicemen and women who are recovering from wounds with such courage; thankful that there are instructors and preachers and volunteers who are helping these people get back on their feet and getting their lives together.

This center was funded entirely by contributions of more than 600,000 Americans through what's called the Intrepid Fallen Heroes Fund. This center is a tribute to the generosity of the American people. Make no mistake about it, the American people support the men and women who wear our nation's uniform. This center is a testament to our deep belief that someone wounded in the defense of America needs all the help he or she can get. The servicemen and women here have borne the burdens of battle. They have kept our country safe. We honor them and their families by helping them with all we can.

I am here to highlight one of the world's top rehabilitation facilities -- right here in my home state of San Antonio, Texas. It's a partnership between the private sector and the federal government. The Center for the Intrepid makes use of the best available technologies to give severely injured service members and amputees the opportunity to lead full and productive lives. That's the mission. The mission is to take a good man who I've met before, and help him live a full and productive life.

This facilities include a pool, a -- where's my man? There he is -- a wave runner. By the way, this guy from Oklahoma handled those waves pretty well. An indoor running track, a two-story climbing wall, a prosthetics center, a virtual driving program that teaches patients how to control an automobile -- that was my driver, right there -- a fully-furnished apartment that helps patients learn to adjust to disabilities in the real-life world.

This center also provides compassionate support for the families. The Fisher House program -- and I want to thank the Fishers for joining us today -- provides on-site housing for up to 57 families, where they're here to visit their injured loved ones. The Fisher family that has supported the Fisher houses is a remarkable family, and these good folks represent the true spirit of America -- people coming forth to help a neighbor in need. Real proud you both are here.

Medical advances have enabled facilities such as this one to provide wounded warriors with care that would have been unimaginable just a decade ago. The technology that's being used here is state of the art. Our system for managing the care, however, has fallen behind. The technology has advanced. Our system needs to be modernized.

We have an outdated system that can bog down some of those recovering in a maze of bureaucracy. And that's what happened at Walter Reed Army Medical Center. The care at Walter Reed is fantastic. Our military doctors and nurses are some of the best in the world. The United States owes a huge debt of gratitude to the care providers at Walter Reed and at rehabilitation facilities like this one. However, there were serious problems caused by bureaucratic delays and

administrative failures. And that is unacceptable. It's unacceptable to me as the Commander-in-Chief, it's unacceptable to the families of those who deserve the best care, and it's unacceptable to the American people.

And so at my request, I asked Senator Bob Dole, former Secretary of Health and Human Services Donna Shalala to analyze the issue, to look at the problem, and to come up with specific recommendations for modernizing and improving our system of care. They came up with recommendations, and I strongly support them, and so should the United States Congress.

Now, many of the recommendations require administrative action, and that's precisely what this administration is doing. For example: Over the next few weeks, the first Federal Recovery Coordinators will be hired. These Coordinators will guide seriously wounded service members through their recuperation. We don't want people to fall through the cracks of care. We don't want people to be confused by the system. We want people's families to be comfortable with the care that their loved one is receiving, and therefore we'll have these specially trained people to stay with a person throughout their rehabilitation.

A pilot program to establish a single comprehensive disability exam is underway. This replaces the two difficult -- two different, difficult exams that service members must currently undergo through the Defense and Veterans Affairs Departments separately. It makes no sense. Somebody gets hurt, there ought to be one exam, not two. The whole purpose is to analyze somebody to make sure that they get that which they're entitled to as quickly as possible, without confusion.

We're working to aggressively prevent and treat Post-Traumatic Stress Disorder and Traumatic Brain Injury. A new National Center of Excellence for PTSD and Traumatic Brain Injury has just hired its first staff members and moved into temporary offices. The purpose is to develop best practices. The real purpose is to make sure we help those coming out of combat to be able to adjust to real life as a civilian.

The Defense Department is working to ensure that the best health professionals are kept on duty at Walter Reed. There's some concern, since Walter Reed will be shut down, that Walter Reed is not going to have the best there is. They don't have to worry about it. We'll make sure that those at Walter Reed are incented to stay there until there's a new facility opened in Washington, D.C.

And tomorrow the Department of Veterans Affairs will initiate two studies that will help provide the information necessary to modernize the veterans' disability system. The system needs to be modernized, and I want to make sure our men and women coming out of combat in Afghanistan and Iraq have a modern disability system. And that's what the studies are going to do.

Some of the recommendations put forward by Dole-Shalala commission require legislative action. And we're working with the Congress. I look forward to having quick action by the Congress on the Dole-Shalala commission recommendations, just like I expect the United States Congress to get the Veterans Affairs appropriations bill to my desk. Now, look, there's obvious some disagreements between me and the Congress, but there's no disagreement over the amount of money we're going to spend for veterans. And they need to get the bill -- to do their job. They need to get the bill to the desk of the President as a standalone piece of legislation, so the veterans of this country understand that we're going to support them.

Congress needs to take prompt action on measures that will send a clear signal that we support our troops in the field, and we support them when they're coming off the field -- that we support those in harm's way, and we support those through the best possible care and rehabilitation facilities.

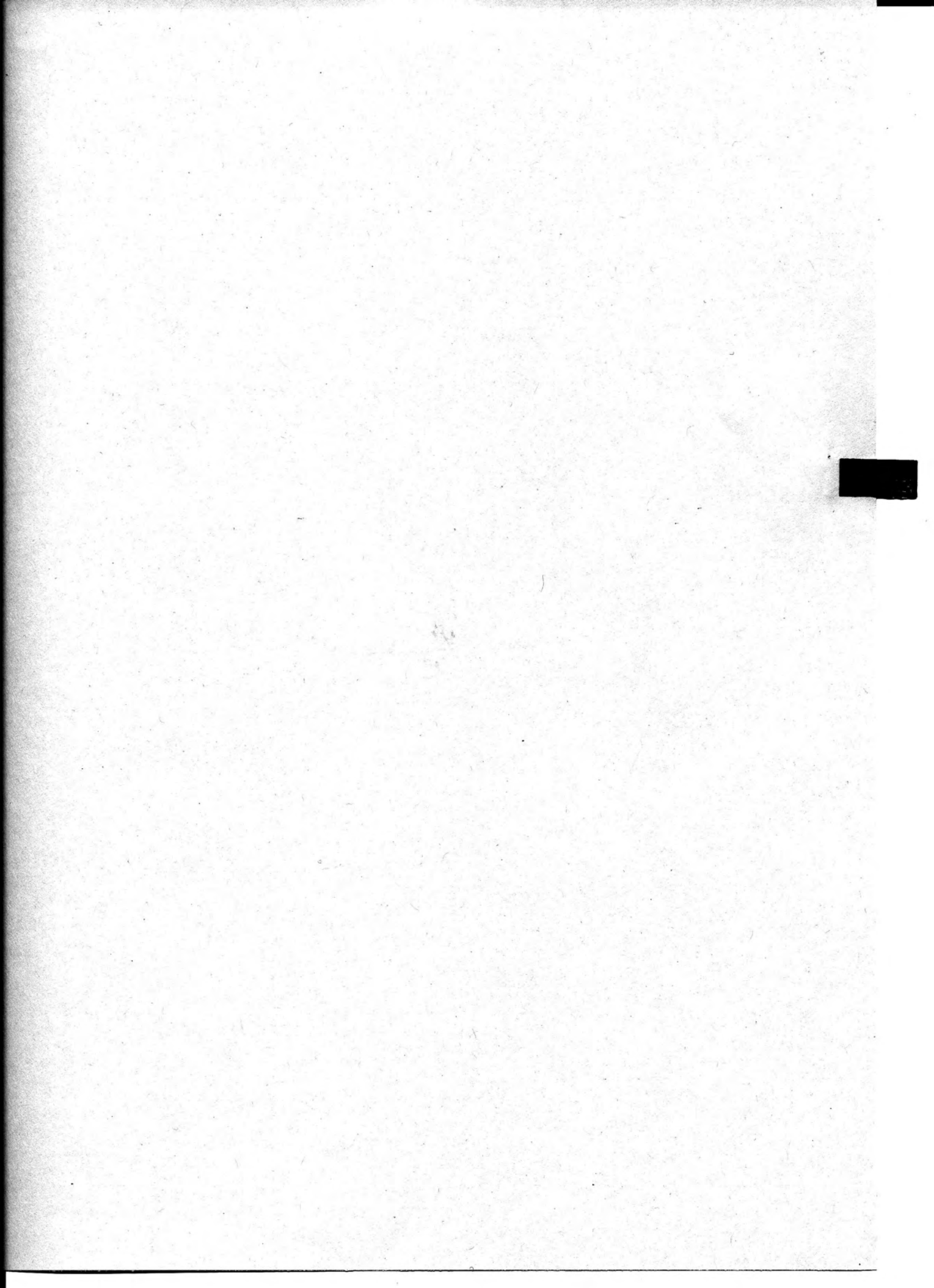
Service members being treated here and at other veterans' facilities are focused on what they have left to give, rather than what they have lost. And they have high hopes for their future.

Our country is inspired by Americans that we find in facilities like this. Christian Bagge is a guy I met over here at the hospital. I'll never forget looking at Christian's eyes, and wondering whether or not he was going to make it. See, both his legs were blown off, and he didn't look good. I knew he'd get the best possible care. I knew that this government would do everything we could to help him heal, and after talking to him for a minute, I realized he had the courage necessary. He told me one thing -- he looked at me, he said, Mr. President, you don't need to worry about me; someday I'm going to come to the White House and run with you on the South Lawn. I looked at him and said, come on, Christian; I'll be ready when you are, not sure whether or not this good man would really be able to do it; certain he wanted to, but unsure. And if you'd have been in my position, you would have, too. After all, he'd just come off the battlefield and lost both his legs.

Sure enough, the phone call came to the White House. Christian came. Guy who had both legs blown off, as a result of the care and compassion, and as a result of the courage in his heart, came to run with the President at the White House. Plus, he outran me.

The spirit of America is strong in facilities like this. Our country is a remarkable country that has produced men and women who volunteer to protect our nation in the face of danger. And there's no better example of finding those type of citizens than right here; citizens who have shown incredible courage; citizens who love our country; and citizens whose resolve is inspiring.

And so I appreciate you letting me come by. May God bless you all. (Applause.)



VA/DOD Commence Single Disability Examination Pilot for Wounded Warriors

November 29, 2007

Evaluation to Provide Smoother Transition to Disability Benefits and Compensation

WASHINGTON -- The Department of Veterans Affairs (VA) and the Department of Defense (DoD) this week began a pilot program to test a new single disability evaluation system for wounded warriors at the three major military medical facilities in the Washington D.C. area.

This initiative is designed to eliminate the duplicative and often confusing elements of the current disability processes of the two departments. Key features of the disability evaluation system (DES) pilot include one medical examination and a single-sourced disability rating.

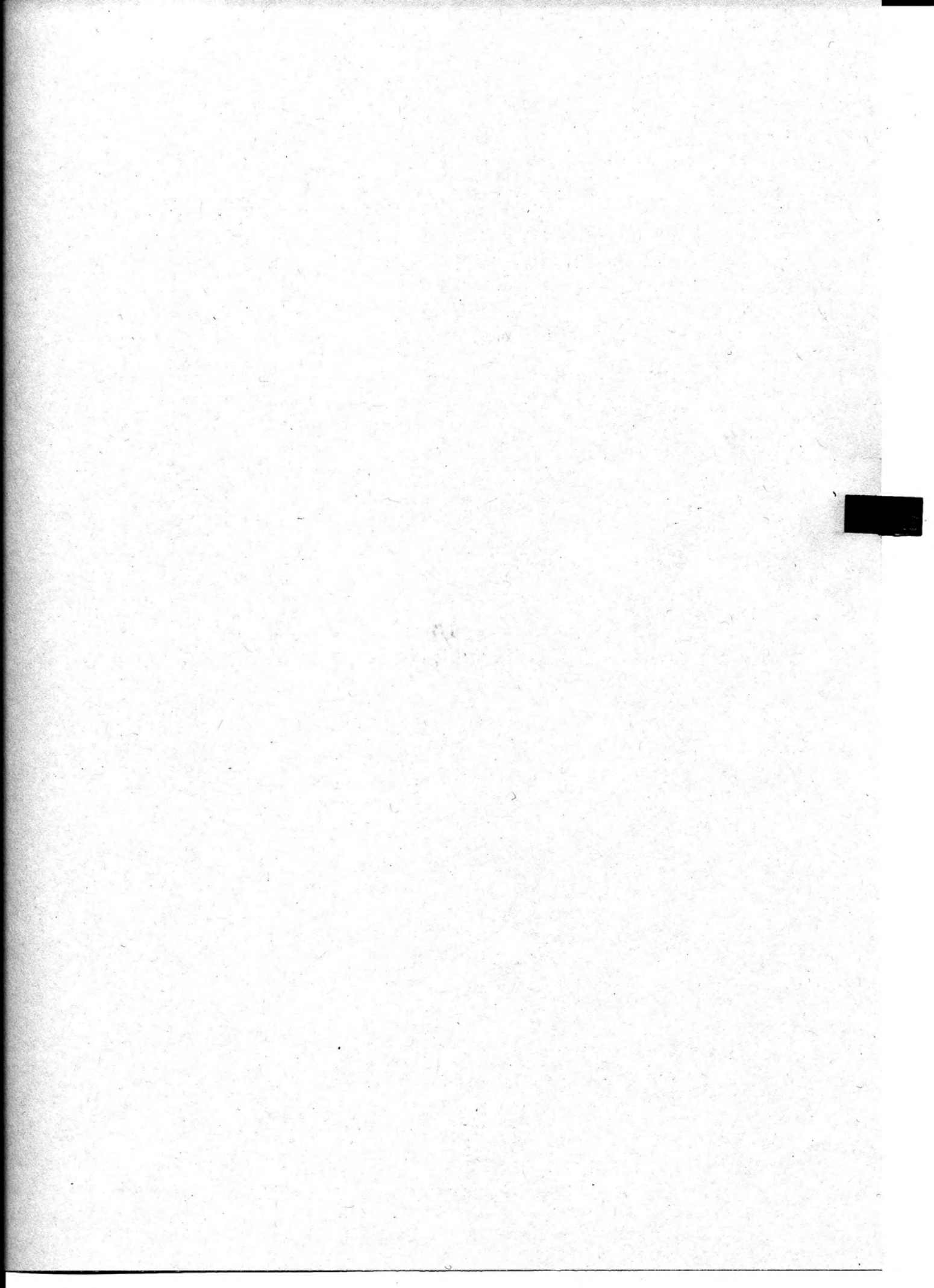
The single disability examination pilot is another improvement as a result of the President's[™] Commission on Care for America's[™] Returning Wounded Warriors (Dole/Shalala) and is aimed to simplify health care and rehabilitation for injured service members and veterans.

This pilot program will seek to ease the transition of wounded service members through the disability evaluation system to reentry into the civilian community with more efficient delivery of disability compensation at the time they leave military service.

VA is providing the medical professionals performing the examinations. The pilot is being conducted for service members at the Washington, D.C., VA Medical Center, Walter Reed Army Medical Center in Washington, D.C., the National Naval Medical Center in Bethesda, Md., and the Malcolm Grow Medical Center at Andrews Air Force Base, Md., and will run for one year. Throughout the pilot, VA and DoD officials will monitor progress to determine potential expansion into other locations.

The pilot includes all non-clinical care and administrative activities, such as case management and counseling requirements associated with disability case processing from the service member's[™] initial referral to a Military Department Medical Evaluation Board to VA's[™] compensation and benefits program.

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EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

THE DIRECTOR

December 21, 2007

MEMORANDUM FOR THE PRESIDENT

SUBJECT: Enrolled Bill H.R. 2764 -- Consolidated Appropriations Act, 2008

Sponsors: Representative Obey (D), Wisconsin
Senator Byrd (D), West Virginia

Last Day for Action

Friday, January 4, 2008; however, your signature is recommended as soon as possible. Funding for the agencies and accounts covered by the enrolled bill is currently provided under the Fourth Continuing Resolution, H.J. Res. 72, which will expire at midnight on Monday, December 31, 2007.

Purpose

H.R. 2764 provides FY 2008 appropriations for every Department, agency, and branch of the Federal Government, including the Department of Defense (e.g., DOD's military construction and a portion of its Global War on Terror funding). On November 13, 2007, you signed into law the FY 2008 Department of Defense Appropriations Act, covering the bulk of that Department's non-war needs.

Agency Recommendations

Office of Management and Budget	Approval
Other affected departments and agencies	Approval (Assumed)

Summary

H.R. 2764 provides \$473.5 billion in discretionary budget authority, \$20.4 billion more than FY 2007 enacted, and \$3.5 billion over your FY 2008 Budget request for programs funded in this bill, using Congressional Budget Office (CBO) scoring. Overall for FY 2008, base discretionary spending totals \$932.8 billion. This is the same as your request (as re-estimated by CBO), and \$22 billion below the Congressional Budget Resolution and subsequent spending allocations adopted by the Appropriations Committees. The overall discretionary spending level for FY 2008 includes reductions in the already-enacted Defense appropriations bill of \$3.5 billion and reductions in International Affairs of \$2.1 billion from the President's budget request offsetting increases in other programs in H.R. 2764.

The bill also provides \$72.4 billion in emergency spending without strings for Department of Defense (DOD) and International Affairs programs to support the Global War on Terror for part of the year. Furthermore, the bill provides \$5.1 billion in domestic emergency spending, including \$3.0 billion for border security and immigration enforcement activities. An additional \$3.7 billion in *contingent* emergency funding was included for veterans programs above and beyond your request. This \$3.7 billion can only be spent if, prior to January 18, 2008, you submit a formal request for the entire amount, designating it as an emergency requirement. As in the past, funding designated as an emergency requirement by you and the Congress is not subject to budget limits and not included in the budget baseline in subsequent years.

On December 18, 2007, the Senate passed the regular appropriations section of the bill by a vote of 76 to 17 (with one present) and passed \$70 billion in GWOT funding by a vote of 70 to 25. On December 17, 2007, the House passed the base appropriations bill by a vote of 253-154 and, on December 19th, passed the \$70 billion in GWOT funding by a vote of 272-142.

Earmarks

You have called on Congress to reform the earmarking process which has led to wasteful and unnecessary spending. Specifically, you asked Congress to provide greater transparency and full disclosure of earmarks, to put them in the language of the bill itself, eliminate wasteful earmarks, and to cut the cost and number by at least half. Overall, H.R. 2764 contains nearly 9,800 earmarks, which is an 11-percent reduction from the 2005 level, and the earmarks total \$14.1 billion. When combined with the earmarks contained in the enacted Defense appropriations bill, the total number (approximately 11,900) and dollar amount (\$20.7 billion) represent 9-percent increase from the 2005 levels.

Samples of earmarks in the bill include:

- A \$4 billion earmark that prohibits the disposal or transfer of property at the 388-acre West Los Angeles Medical Center.
- \$98,000 for signage and streetscape improvements in the Los Angeles Fashion District.
- \$49,000 for construction of a National Mule and Packers Museum in Bishop, California.
- \$245,000 for construction of the Walter Clore Wine and Culinary Center in Prosser, Washington.
- \$97,000 for O'Neill Sea Odyssey, an "educational" program conducted on board a 65-foot catamaran sailing Monterey Bay.
- \$2.2 million for the AFL-CIO Appalachian Council.
- \$1.95 million for Charles B. Rangel Center for Public Service, City College of New York.

Terminations and Reductions

Congress rejected the majority of the 141 terminations and reductions -- proposed in your FY 2008 Budget -- that would have saved \$11.9 billion. However, the bill does include a few such terminations. For example, the bill:

- Adopts two terminations in the Education Department: State Grants for Innovative Education (\$99 million in 2007) and Star Schools (\$11.5 million in 2007).
- Authorizes the National Commission on Libraries and Information Sciences to close out in FY 2008, and complete the transition of its functions and activities into the Institute of Museum and Library Services, as you originally proposed in your FY 2007 Budget.
- Adopts three proposed terminations and reductions for the Department of the Interior, resulting in \$50 million in savings.

Veto Issues

You have threatened to veto the Consolidated Appropriations Act if it did not provide adequate war funding for the Department of Defense without restrictions. However, the current bill provides sufficient funding for the Global War on Terror for the time being and attaches no strings to those funds.

Of the individual appropriations bills contained in this omnibus legislation, you vetoed one -- the Departments of Labor, Health and Human Services, and Education, and Related Agencies appropriations bill on November 13, 2007. The bill was vetoed because it exceeded your request by \$10 billion, continued to fund duplicative and ineffective programs, and contained more than 2,200 earmarks totaling nearly \$1 billion. With the exception of the Military Construction/Veterans Affairs appropriations bill, you had threatened to veto the other remaining regular appropriations bills for similar reasons and/or because they contained highly objectionable policy language.

In subsequent negotiations with Congress, however, your Administration fought successfully to keep FY 2008 spending to a more acceptable level. Furthermore, the final versions of the appropriations bills in H.R. 2764 exclude a number of objectionable provisions that could have resulted in a veto, as noted below:

- *Cuba Sanctions*: Both the House and Senate versions of several of the appropriations bills included in the omnibus contained provisions that would have weakened current sanctions against Cuba. These were removed from the final version of the bill.
- *Family Planning*: Senate and House provisions that would have overturned or modified the Administration's international family planning policy (commonly known as the "Mexico City" policy) were struck from the final version of the bill.
- *Domestic Partners*: A provision in the House-committee bill that would have excluded a longstanding provision prohibiting the use of Federal funds to register unmarried, cohabitating couples in the District, enabling them to qualify for benefits on the same basis as legally married couples, was not included.
- *Davis-Bacon*: A House provision that would have expanded Davis-Bacon Act applicability to all federally-assisted projects funded under the Homeland Security bill and could have, at a minimum, increased disaster recovery costs and delay disaster recovery projects was not included in the final version of the bill.

- *Private Debt Collection*: Both House-committee and Senate provisions that would have ended the Internal Revenue Service's ability to increase revenue collections and reduce the tax gap by hiring private debt collectors were removed.

Selected Administration Priorities

The enrolled bill funds many of your Administration priorities. For example:

- *Millennium Challenge Account*: \$1.544 billion, \$208 million below FY 2007 enacted and \$1.456 billion below your request.
- *Global AIDS*: \$6.0 billion for your Emergency Plan for AIDS relief to combat HIV/AIDS, malaria, and tuberculosis. The Foreign Operations/State bill provides \$5.198 billion, and the Labor, Health and Human Services, and Education bill provides an additional \$795 million.
- *Access to Recovery*: \$96.5 million, \$2.2 million below FY 2007 enacted and \$1.5 million below your request.
- *Health Centers*: \$2.1 billion, \$77 million above FY 2007 enacted and your request. The bill includes language that permits HHS to expand health centers into areas of the country without access to health centers, but urges HHS not to allocate new funding according to certain geographic areas, such as counties.
- *American Competitiveness Initiative*: Research component (with 10-year doubling commitments): \$10.6 billion, \$0.2 billion above FY 2007 enacted but \$1.0 billion below your request after \$200 million of unrequested earmarks and grants are excluded; Education component: \$44 million, \$7 million above FY 2007 enacted and \$353 million below your request.
- *No Child Left Behind*: \$24.4 billion, \$0.9 billion above FY 2007 enacted and \$57 million below the request. However, this funding did not support many of your 2008 Budget priorities, nor was it coupled with the reforms included in your reauthorization proposal.
- *Major Border Security Initiatives (Homeland)*: Customs and Border Protection - SBInet: \$172 million, \$828 million below your request. (An additional \$1.1 billion is included as emergency funding.) 3,000 Border Patrol agents: \$3.7 billion, \$33 million above your request. Immigration and Customs Enforcement's detention and removal operations were funded at \$2,381 million, \$274 million higher than your request. Congress funded 32,000 Detention Beds, 3,550 more than the request.
- *American Masterpieces (National Endowment for the Arts)*: \$13.3 million, \$3.5 million above FY 2007 enacted and \$1 million above your FY 2008 request.
- *We the People (National Endowment for the Humanities)*: \$15 million, \$0.2 million below the FY 2007 enacted and your FY 2008 request.
- *Vision for Space Exploration*: \$3.8 billion, \$0.4 billion above FY 2007 and \$100 million below the request.

- *National Parks Centennial Initiative:* \$100 million above FY 2007, as requested. In addition the bill provides \$25 million for the first year of your Centennial Challenge proposal to match private donations to national parks.
- *Northwest Forest Plan:* \$431 million for the Northwest Forest Plan, \$2 million above your FY 2008 request. We will work to ensure the Forest Service meets its portion of the Plan's goal of 800 million board feet of timber offered for sale.
- *Healthy Forest Initiative:* The bill provides \$510 million, \$16 million above the FY 2008 request, to remove dense vegetation and underbrush to reduce the risk of catastrophic wildfires.

Civilian Pay

The enrolled bill provides a 3.5 percent pay increase for civilian employees. Your FY 2008 Budget request assumed a 3 percent pay raise; therefore, agencies will need to absorb more than \$600 million in additional costs.

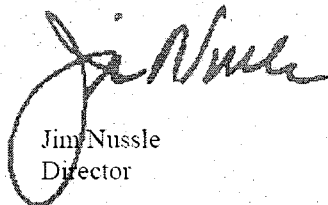
Constitutional Concerns

The enrolled bill includes provisions that purport to direct or burden the President's conduct of foreign relations, including the authority to negotiate international agreements on behalf of the United States, impinge on the ability of the President to protect sensitive information and supervise the unitary executive branch, or infringe upon the President's authority as Commander in Chief. The bill also includes provisions that impinge on the President's authority to determine which legislative proposals that should be provided to Congress and provisions that purport to require the approval of Congressional committees before a law can be implemented. The bill also contains race-based provisions that will need to be implemented in a manner consistent with the guarantee of equal protection under the law.

Recommendation

H.R. 2764 partially funds most of your major priorities and remains within your requested spending limits. I join with the heads of the affected Departments and agencies in recommending that you sign the enrolled bill.

Sincerely,



Jim Nussle
Director

Attachment

SUMMARY OF AGENCY PROVISIONS IN H.R. 2764

Note: multiple across-the-board reductions that apply to specific titles are included in the bill. Amounts referenced below for individual programs do not reflect these across-the-board reductions.

AGRICULTURE APPROPRIATIONS (Division A)

Based on CBO scoring, H.R. 2764 provides \$18.1 billion in discretionary, non-emergency budget authority, \$0.3 billion above FY 2007 enacted, and \$0.3 billion above your FY 2008 request.

Department of Agriculture (USDA)

Food and Nutrition Service. The bill provides \$6.4 billion, \$0.9 billion above FY 2007 enacted and \$0.8 billion above your request.

Food Aid Reform. While the enrolled bill provides the funding requested in your FY 2008 Budget of \$1.2 billion, it fails to provide the authority requested to use up to 25 percent of the appropriations for cash food aid when a rapid response is critical to saving lives.

Special Supplemental Nutrition Program for Women, Infants and Children (WIC). The bill provides \$6.0 billion for FY 2008, \$0.8 billion above FY 2007 enacted and \$0.6 billion above your request. Within this amount, \$0.2 billion is provided to restore the contingency fund and \$0.4 billion is provided under emergency funding.

International Programs. Although the bill does not include the requested funding increase for the Provincial Reconstruction Teams, USDA will be able to accomplish the mission through other means including its continuing reimbursable agreement with the State Department.

Conservation. The bill includes \$2.2 billion for farm bill conservation programs, roughly \$0.2 billion above the FY 2008 Budget request. The Environmental Quality Incentives Program would be funded at \$1 billion, equivalent to the request and consistent with recent enacted levels.

Rural Development. The bill provides \$2.4 billion, \$0.2 billion below FY 2007 enacted and \$0.3 billion above the request.

Animal and Plant Health Inspection Service. The bill provides \$0.9 billion, about the same level as FY 2007 enacted and about \$0.1 billion below your request.

Food Safety and Inspection Service. The bill provides your request of \$930 million, \$38 million above FY 2007 enacted.

Agricultural Research. The enrolled bill includes \$2.6 billion for agricultural research, extension and education programs, an increase of \$0.1 billion over the FY 2007 enacted level and an increase of \$0.3 billion from your request. The enrolled bill contains significant earmarked funding in both in-house research and research grants.

2002 Farm Bill Extension. The bill extends most 2002 Farm Bill programs that were in place on September 30, 2007, until March 15, 2008. There is no cost associated with this provision.

Farm Disaster Assistance. The bill extends the 2007 crop and livestock disaster programs (from the May 25, 2007 supplemental) to losses suffered between March 1, 2007 and December 31, 2007. The bill provides \$0.6 billion in unrequested emergency funding. These funds are not offset, which your Administration has always tried to require for farm disaster funding.

Department of Health and Human Services

Food and Drug Administration (FDA). H.R. 2764 provides \$1.7 billion in budget authority for FDA, which is \$92 million above your FY 2008 request and \$158 million above FY 2007. Within this total, \$623 million is for food protection.

Commodities Futures Trading Commission (CFTC)

The bill provides \$112 million in funding for CFTC, \$4 million below your request, but a \$14 million increase that will help address the rapidly expanding commodity and futures markets. The bill does not adopt your proposal to bring funding for the CFTC in line with all the other Federal financial regulators by charging user fees to market participants.

COMMERCE/JUSTICE/SCIENCE APPROPRIATIONS (Division B)

H.R. 2764 provides \$51.8 billion in discretionary non-emergency budget authority based on CBO scoring, \$0.9 billion above FY 2007 enacted, and \$1.5 billion above your request.

Department of Commerce

The bill provides a total of \$6.8 billion for the Department, \$230 million above FY 2007 enacted, and \$281 million above your FY 2008 request. The bill supports your request for the Census Bureau, including preparations for the 2010 Census. The bill provides \$3.9 billion for the National Oceanic and Atmospheric Administration, \$81 million above your request, including most of the funding requested for the Oceans Initiative. The bill also provides the requested full access to fees for the Patent and Trademark Office (PTO), as well as requested language to permit PTO to spend an additional \$100 million in fees if they materialize.

The bill provides a smaller increase over FY 2007 than requested for the National Institute of Standards and Technology (NIST) activities related to the American Competitiveness Initiative (ACI), similar to the treatment of the NSF and DOE portions of the ACI. In addition,

the bill provides unrequested earmarks and grant funds for NIST. The bill also provides unrequested funding for the Technology Innovation Program (\$65 million) and the Manufacturing Extension Partnership program (\$90 million, \$43 million above your request).

The bill authorizes, but does not appropriate, funds for a pilot program in 2008 and 2009 in which the National Telecommunications and Information Administration would provide grants to certain minority-serving higher education institutions to establish digital and wireless networks for online educational programs. The bill also directs the Department to negotiate at the World Trade Organization to allow countries to disperse anti-dumping and countervailing duties to domestic industries. In addition, the bill prohibits funds from being used to include in future trade agreements specific intellectual property protections. These protections, which were included in the Singapore, Morocco, and Australia free trade agreements, would allow patent-holders to restrict the importation of a patented product and protect against unauthorized use of the product.

Department of Justice (DOJ)

The enrolled bill provides a total of \$21.1 billion for DOJ, \$1.0 billion, or 5 percent, above your request. The bill supports your national security and Federal law enforcement goals by providing the full request for the FBI and adequate funding for prison construction, drug enforcement, and DOJ's litigating components. Consistent with previous years, the bill includes language prohibiting Federal funds from being spent to require any individual to perform or facilitate in the performance of an abortion. The bill does not, however, include your proposal to consolidate more than 70 DOJ grant programs. Instead, the bill provides \$2.3 billion for State and local law enforcement assistance, \$1.2 billion above your request spread across a large number of grant programs. The grant programs include more than 1,500 specific earmarks. The largest is \$100 million in unrequested emergency funding for State and local law enforcement support of the 2008 Presidential nominating conventions in Denver, Colorado, and Minneapolis, Minnesota.

Legal Services Corporation

The enrolled bill provides a total of \$350 million for the Legal Services Corporation, \$39 million, or 13 percent, above the request.

National Aeronautics and Space Administration (NASA)

The bill provides a total of \$17.3 billion for NASA, which is equal to your request and \$1.0 billion above the FY 2007 level. The bill generally funds your Vision for space exploration, including providing sufficient funding for Space Station, Space Shuttle, and new exploration vehicles. However, it increases aeronautics by \$71 million (12.8 percent) above the request and reduces funds for development of commercial transportation to the Space Station by \$76 million (32 percent). The bill also contains \$192.5 million in rescissions of prior year balances. The bill contains 82 earmarks totaling \$90 million, down from \$299 million in 2005.

National Science Foundation (NSF)

The enrolled bill provides a total of \$6.0 billion for NSF, \$0.1 billion above FY 2007 and \$0.4 billion below your ACI request.

ENERGY/WATER APPROPRIATIONS (Division C)

Based on CBO scoring, H.R. 2764 provides \$30.9 billion in discretionary, non-emergency budget authority, \$0.6 billion above FY 2007 enacted, and \$0.4 billion above your FY 2008 request.

Department of Energy (DOE)

The enrolled bill provides a total of \$24.7 billion for the Department, \$1.1 billion above FY 2007 enacted, and \$0.4 billion above your FY 2008 request.

American Competitiveness Initiative. The bill provides \$4.0 billion, a reduction of \$0.4 billion from your request for this initiative to increase investment in innovation enabling research and development. \$124 million in earmarks further reduces requested R&D investment.

International Thermonuclear Experimental Reactor (ITER). The bill did not provide any of the \$150 million you requested for the U.S. contribution to the ITER fusion experiment, an initiative you announced in 2003. A cut of this magnitude at this point could be viewed as effectively terminating U.S. participation in the project, although, as signatory to ITER Joint Implementing Agreement, the international partners would still believe the United States has a \$750 million financial obligation to the project's construction phase.

Environmental Management. H.R. 2764 provides \$5.7 billion, an increase of \$0.09 billion over your request.

Yucca Mountain. H.R. 2764 includes \$380 million, a \$115 million reduction from your request, for the Yucca Mountain nuclear waste repository, which will severely threaten DOE's ability to submit a license application for the Yucca Mountain repository to the Nuclear Regulatory Commission in 2008.

Title XVII Loan Guarantee Program. The bill provides an unlimited loan limitation for 2008 and 2009, with funds becoming available only after the Department of Energy submits a plan for this program to the Appropriations Committees. The Explanatory Notes accompanying the enrolled bill would limit the loan volume to \$38.5 billion, of which \$18.5 billion would be available for nuclear power facilities.

Fossil Energy Research and Development. The legislation provides \$743 million, an increase of \$176 million for this program and includes \$51 million in earmarks. The bill funds the FutureGen clean coal program at \$74 million, a reduction of \$34 million from the request.

Strategic Petroleum Reserve. The bill includes \$25 million for design and land acquisition activities, which is \$143 million less than requested to begin to expand the Reserve.

Nuclear Energy Research and Development. H.R. 2764 provides \$970.5 million for nuclear energy programs. The bill moves the Mixed Oxide Fuel (MOX) Fabrication Facility program from the National Nuclear Security Administration to the Nuclear Energy program and provides \$281.3 million of new budget authority for the MOX project at the Savannah River Site. The bill provides \$216 million less than your request for the Global Nuclear Energy Partnership.

Electricity Delivery and Energy Reliability. The legislation provides \$139 million, an increase of \$15 million to your request, for this program. Included is \$25 million in earmarked funding.

Asia-Pacific Partnership. The bill provides \$7.5 million of your total \$15 million request for DOE's contribution to the Partnership.

Weatherization. The enrolled bill provides \$227 million for the Weatherization Assistance Program, an increase of \$83 million over your request.

Power Marketing Administrations (PMAs). The bill includes \$270 million for the PMAs, which is \$30 million above your request, mostly for construction of transmission facilities in the Western Area Power Administration.

Corps of Engineers

The bill provides \$5.6 billion for the Corps, \$721 million more than your request. The bill includes more than 1,600 earmarks, many of which are not consistent with Administration policy. It does not provide any of the \$40 million you requested for Corps emergency preparedness activities and provides \$32 million (20 percent) less than you requested for the Corps to restore the ecosystem of South Florida, including the Everglades. In addition, it includes a rider waiving the benefit-cost requirement and relaxing cost-sharing for the St. Johns Bayou/New Madrid Floodway project, Missouri, a project that would result in a substantial loss of wetlands along the Mississippi River. The bill would also prohibit the implementation of competitive sourcing actions or High Performing Organizations by the Corps.

Department of the Interior -- Bureau of Reclamation

The enrolled bill provides \$1.1 billion for the Bureau of Reclamation and the Central Utah Project, \$150 million above your request, primarily for construction of ongoing rural water projects. The bill includes 39 earmarks that provide \$49 million for water projects and studies not included in your request.

Independent Agencies/Other Issues

Tennessee Valley Authority (TVA). The enrolled bill does not provide the requested appropriation to fund the Office of Inspector General independently of the TVA Board of Directors.

Nuclear Regulatory Commission (NRC). NRC is funded at \$130 million on a net basis, \$25 million below FY 2007 enacted and \$22 million below your request. The Committee provided \$917 million in total resources to the agency, equal to the request, but increased the level of offsetting collections due to an anticipated delay in the license application for Yucca Mountain.

Regional Commissions. The Appalachian Regional Commission is funded at \$73 million, \$8 million above FY 2007 enacted and \$8 million above your request. The bill also includes \$12 million for the Delta Regional Authority, which is equal to FY 2007 enacted and \$6 million above the request. The bill provides \$22 million for the Denali Commission, \$31 million below FY 2007 enacted and \$16 million above your request.

FINANCIAL SERVICES/GENERAL GOVERNMENT APPROPRIATIONS (Division D)

Based on CBO scoring, H.R. 2764 provides \$20.6 billion in discretionary, non-emergency budget authority, \$1.1 billion above FY 2007 enacted, and \$1.1 billion below your FY 2008 request.

Department of the Treasury

The enrolled bill provides \$12 billion for the Department, \$372 million above the FY 2007 enacted level and \$140 million below your request. This resource level will allow Treasury to combat financial crimes such as terrorist financing and money laundering. The bill does not fully fund your request for the Internal Revenue Service (IRS) tax enforcement activities that are targeted at increasing revenue collections, but it does increase enforcement resources over FY 2007. In addition, the bill does not include an objectionable Senate provision that would have prevented the IRS from utilizing private debt collectors to collect taxes that would otherwise go uncollected. The bill also provides a \$65 million increase above your request for the Community Development and Financial Institutions Fund.

District of Columbia (D.C.)

The bill provides \$115 million for D.C., slightly below the FY 2008 request. This level includes full private funding for the D.C. Opportunity Scholarship program that provides low-income parents with school choice. In addition, the bill includes needed funds for the renovation and rehabilitation of D.C. public libraries. The bill also reduces the level of unrequested earmarks from the House and Senate versions.

The D.C. appropriation is often a target for social policy riders. Although the bill lifts the ban on D.C. using its local -- not Federal -- funds for needle distribution programs to illegal drug

users in D.C., it retains a longstanding provision the Administration supports that disallows the use of Federal funds to register unmarried, cohabitating couples in the District.

Executive Office of the President (EXOP)

The bill provides \$287 million in discretionary budget authority for EXOP. This is \$4 million above FY 2007 enacted and a net \$1 million below your FY 2008 request. Reductions from your request include to the Office of Administration (-\$1.1 million), the Office of Management and Budget (-\$0.4 million), and the Office of National Drug Control Policy (-\$0.2 million). In addition, your requested enterprise services rent initiative, account consolidation proposal, and expanded EXOP-wide transfer authority were not adopted in the bill.

Other Agencies

Drug Control Programs. The enrolled bill provides a total of \$421 million for the Office of National Drug Control Policy, 11 percent below your request. Although the total funding amount is lower than you requested, the bill maintains funding for the Administration's highest priority Federal drug control programs.

U.S. Postal Service. The bill provides \$109 million for the Postal Service, and does not include the requested termination of an annual \$29 million appropriation that unnecessarily reimburses the Postal Service for revenue forgone from reduced rate mail.

Small Business Administration (SBA). H.R. 2764 includes \$569 million for SBA, including requested funding levels for general administration and business loan administrative expenses. The bill contains no credit subsidy for the 7(a) Guaranteed Business Loan program, consistent with the request. However, the bill includes \$35 million in unrequested grant funding, as well as \$69 million for 190 earmarks.

Federal Communications Commission (FCC). The bill funds the FCC at the level of your request, but contains language the Administration opposed that would extend through December 31, 2008, the Universal Service Fund's current exemption from the financial controls of the Anti-Deficiency Act. Another provision would prohibit the FCC from implementing the recommendation of the Fed-State Joint Board on Universal Service to limit rural telecommunications subsidies to a single primary line.

National Archives and Records Administration (NARA). NARA is funded at \$411 million, which is \$70 million above the FY 2007 enacted level and \$32 million above your request. Funding is provided for general operations and the completion of an addition at the Richard M. Nixon Presidential library, along with construction projects at other presidential libraries.

Securities and Exchange Commission (SEC). The bill provides \$906 million for the SEC, slightly above the request. This amount will allow SEC to continue to protect investors, promote efficient capital markets, and facilitate capital formation. New initiatives in 2008 will focus on investor education, financial reporting, and the oversight of credit rating agencies.

Election Assistance Commission (EAC) and the Federal Election Commission (FEC). The enrolled bill provides \$142 million for the EAC, \$126 million above your request. The additional funds are provided for Federal grants to States to implement voting system upgrades. Funds will also be used to improve data collection related to national elections. The bill funds FEC at your requested level of \$59 million. This resource level will allow FEC to continue its work disclosing campaign finance information and enforcing campaign finance laws.

Consumer Product Safety Commission. The bill includes \$80 million in discretionary budget authority, \$17.3 million more than FY 2007 enacted, and \$16.8 million over your FY 2008 Budget request.

HOMELAND SECURITY APPROPRIATIONS (Division E)

Based on CBO scoring, H.R. 2764 provides \$34.9 billion in discretionary, non-emergency budget authority, \$3.0 billion above FY 2007 enacted, and \$0.7 billion above your FY 2008 request.

In addition, \$2.7 billion in emergency funding for border security activities is included in the bill. With the emergency funds included, the total level of net discretionary funding recommended for DHS, \$37.7 billion, exceeds the request by more than \$3.2 billion. The bill provides funding adequate to satisfy the commitments you have made for securing the borders, including funds for 3,000 additional border patrol agents, 32,000 detention beds, and resources for border technology and barriers including language that provides discretion to the Secretary regarding the number of miles of fencing along the border. Additional highlights include: \$4.1 billion for FEMA preparedness grants and training and exercise programs, a \$1.9 billion increase; \$1.4 billion for the Disaster Relief Fund; and \$115 million to enhance DHS' role in Government-wide cyber security.

The bill also includes language that: does not permit full implementation of the Western Hemisphere Travel Initiative before the June 1, 2009, deadline; provides DHS with authority to regulate the sale of Ammonium Nitrate primarily through auditing records of sale and screening registrants against the terrorist screening databases; requires Customs and Border Protection (CBP) to offer law enforcement status (pay and retirement) for CBP Officers; and modifies language that will allow States to regulate chemical facilities more stringently than the Federal Government provided that State regulations do not conflict with DHS' Chemical Facility Anti-Terrorism Standard regulations.

INTERIOR/ENVIRONMENT APPROPRIATIONS (Division F)

H.R. 2764 provides \$26.6 billion in discretionary, non-emergency budget authority, based on CBO scoring, \$0.2 billion above FY 2007 enacted, and \$0.9 billion above your FY 2008 request.

Department of the Interior (DOI)

The enrolled bill provides a total of \$10 billion for DOI, \$149 million above FY 2007 enacted, and \$355 million above the FY 2008 request. The bill supports your request for public land management operations, wildlife conservation grants, and Indian programs.

The bill fully funds the requested increase of \$100 million for the National Parks Centennial Initiative. Many of the National Park Service increases, however, are for unrequested construction and land acquisition projects, instead of the operational increases proposed.

The bill includes \$7 million for the Preserve America Initiative, \$2 million above FY 2007 enacted and \$3 million below the request.

Environmental Protection Agency (EPA)

The enrolled bill provides \$7.6 billion in funding for EPA, \$134 million below FY 2007 and \$391 million above your FY 2008 request. The Superfund account is funded at \$1.3 billion, \$29 million above the request and \$19 million above FY 2007. The Clean Water State Revolving Fund is provided \$0.7 billion, \$384 million below FY 2007 and \$12 million above your FY 2008 request. The bill also includes \$50 million for Clean Diesel grants, \$15 million above the request and \$43 million above FY 2007. The bill includes no funding for EPA's share of the Asia-Pacific Partnership initiative to create voluntary partnerships to develop and transfer cleaner technologies for energy efficiency and reduction of greenhouse gases. Your FY 2008 Budget requested \$5 million for this effort. Funding for EPA's Water Security Initiative is reduced by \$10 million, nearly half of the amount requested in your FY 2008 Budget. This will delay completion of the five water security pilot projects by at least one year.

Department of Agriculture, Forest Service

H.R. 2764 provides a total of \$4.5 billion for the USDA Forest Service Department, \$0.4 billion above your FY 2008 request. The bill supports your funding request for wildfire management, National Forest System operations, forest health and cooperative conservation grants, and forestry research.

The bill also includes \$222 million in unrequested emergency funding for wildfire suppression (USDA) and \$78 million for DOI. It also prohibits competition for work performed by the Forest Service.

Department of Health and Human Services, Indian Health Service (IHS)

The enrolled bill provides an overall funding level of \$4 billion for IHS, \$219 million above the FY 2007 enacted level and \$128 million above your Budget request.

Arts and Cultural Agencies

The bill provides \$1.3 billion for arts and cultural agencies, \$116 million above FY 2007 enacted and \$61 million above your FY 2008 request. The bill includes a new "Legacy Fund," which will provide \$15 million to the Smithsonian Institution after being matched by \$30 million in private donations, for the renovation and rehabilitation of Smithsonian facilities.

LABOR/HEALTH AND HUMANS SERVICES/EDUCATION APPROPRIATIONS (Division G)

Based on CBO scoring, H.R. 2764 provides \$144.8 billion in discretionary, non-emergency budget authority, \$0.3 billion more than FY 2007 enacted and \$3.9 billion more than your FY 2008 request.

Department of Labor (DOL)

The enrolled bill provides a total of \$11.5 billion for the Department, \$0.2 billion below FY 2007 enacted, and \$0.9 billion above your FY 2008 request. Most of the funding above the request is for job training and employment programs; for the most part, labor law enforcement programs and many administrative accounts receive significantly less than the request.

Community-based Job Training Grants. The bill provides \$25 million less than your \$150 million request for Community Based Job Training Grants, and funds this program from the Dislocated Worker National Reserve.

Reintegration of Ex-offenders. The bill accepts your proposed consolidation of the Prisoner Re-entry Initiative and Reintegration of Youthful Offenders program, providing \$35 million (88 percent) more than the request and \$6 million above the comparable 2007 level.

Job Training. The bill rejects the proposed Workforce Investment Act reforms, funds job training and employment State grants \$519 million (15 percent) above your request, and diverts resources to more than 150 earmarks. The bill also includes riders blocking the completion of Workforce Investment Act and Trade Adjustment Assistance (TAA) regulatory reforms.

Job Corps. The bill provides \$104 million, or 7 percent, more than the request, and \$48 million above the comparable 2007 level. The bill also rejects your proposal to return Job Corps to the Employment and Training Administration and mandates 4,098 more student training slots than your FY 2008 Budget.

Union Financial Integrity. The bill provides \$46 million, \$11 million, or 20 percent, less than the request for the Office of Labor-Management Standards, taking the agency back to its FY 2006 enacted level.

Mine Safety and Health Administration (MSHA). The bill provides \$340 million, \$26 million or 8 percent, more than your request, with increases primarily directed to coal mine safety and health. The bill also includes riders that require MSHA to issue regulations to

prohibit the use of belt air for underground mine ventilation and require refuge chambers in the working areas of underground mines, both by December 31, 2008.

Unemployment Insurance (UI) Program Integrity. The enrolled bill does not provide the requested \$40 million for reemployment and eligibility assessments to reduce UI improper payments, which would have generated annual savings of as much as \$205 million.

Rescissions. The bill includes two rescissions proposed in your FY 2008 Budget, including a \$250 million rescission of job training balances (\$85 million less than proposed), and a \$102 million rescission of H-1B fee balances (\$32 million more than you proposed).

Trade Adjustment Assistance (TAA). The bill funds the TAA program at the President's requested \$889 million to fully operate the program for the remainder of the fiscal year. DOL believes that this appropriation would provide a sufficient basis to continue to fully operate the program, including issuing certification of eligibility for new groups of workers after December 31. The appropriation provides adequate congressional intent so that DOL can continue to administer the program regardless if Congress passes an extension of the current law.

Department of Health and Human Services (HHS)

The enrolled bill provides a total of \$66.8 billion for the Department, \$1.1 billion above FY 2007 enacted, and \$2.5 billion above your FY 2008 request.

Pandemic Influenza. The enrolled bill provides no funding to support the third installment of your \$7.1 billion supplemental plan, submitted to Congress in November 2005, to prepare the Nation against an influenza pandemic. Your request was for \$870 million in FY 2008. While HHS does have some balances available to sustain preparations for an influenza pandemic, certain activities (such as vaccine development and the purchase of antiviral medicines) may be delayed until additional funding is available.

Commissioned Corps and Health and Medical Response (HAMR) Teams. The bill is silent regarding the funding for the Commissioned Corps Transformation and HAMR Teams. Your FY 2008 Budget included \$38.4 million to transform the Commissioned Corps and establish two HAMR teams. Assuming the Commissioned Corps is funded at the FY 2007 enacted level (\$28.5 million below your FY 2008 request), it is likely that HHS will not be able to address *The Federal Response to Hurricane Katrina: Lessons Learned* recommendation to establish the HAMR teams in FY 2008.

Medicare and Medicaid Program Integrity. H.R. 2764 does not include the \$183 million requested for enhanced program integrity efforts primarily in the Medicare Advantage and prescription drug benefit (Part D) programs.

Domestic HIV/AIDS Initiative. The bill includes \$53 million for this initiative, compared to \$93 million requested in your request. Increased testing supported by this funding at the Centers for Disease Control and Prevention of those at high-risk of infection will improve early diagnosis, enabling individuals to alter their behavior to prevent the spread of new infections.

World Trade Center Emergency Responder Health. The bill includes \$109 million for health care screening, treatment, and monitoring for emergency responders and others who developed illnesses related to their service at the World Trade Center. Within this total, \$57 million is designated as emergency funding by Congress. You requested \$25 million in your Budget. When added to available balances, HHS will have over \$200 million to support this activity in FY 2008.

Bioterrorism. The legislation provides a total of \$4.2 billion to prepare the Nation for a bioterrorism attack. The bill funds advanced development activities, which are critical to accelerate the procurement of essential medical countermeasures, at \$104 million, \$85 million below your request.

Office of the National Coordinator for Health Information Technology. The bill provides \$61 million, which is \$57 million below your FY 2008 Budget and the same level as FY 2007 to further advance the progress and momentum needed to achieve the objective of most Americans having an electronic health record by 2014, thus enhancing delivery of care.

Medicare Contracting Reform. The enrolled bill provides \$193 million for the second cycle of Medicare Contracting Reform, which is \$61 million below your request. This reduction will delay implementation of contracting reform. HHS preliminary estimates indicate that the delay will result in lost Trust Fund savings of approximately \$150-200 million and lost administrative savings of roughly \$50-100 million.

Health Resources and Services Administration (HRSA). The enrolled bill provides a total of \$7.0 billion for HRSA, which is \$1.3 billion above your FY 2008 request and 574 million above the FY 2007 enacted level.

Centers for Disease Control and Prevention (CDC). CDC is funded at \$6.2 billion, \$445 million above your request and \$249 million above the FY 2007 enacted level. The bill funds several activities above the request including the Preventive Health Block Grant, grants to States for immunizations, and CDC buildings and facilities.

National Institutes of Health (NIH). The enrolled bill provides \$29.8 billion (including \$79 million provided in the Interior/Environment appropriations bill) for NIH, \$1.1 billion above the FY 2008 request and \$848 million above FY 2007. Within this total, \$300 million is for the HHS contribution to the Global Fund to Fight HIV/AIDS, Tuberculosis, and Malaria. The bill does not include any provisions that conflict with your policy regarding human embryonic stem cell research.

Substance Abuse and Mental Health Services Administration. The bill provides a total of \$3.3 billion, \$247 million above your request and \$87 million above FY 2007. The bill includes \$13 million for new activities and reduces priorities, such as Drug Courts and Screening, Brief Intervention, and Referral to Treatment activities (\$25 million below your request). Access to Recovery is funded at \$98.2 million, \$0.5 million below FY 2007 enacted and \$0.2 million above your request.

Centers for Medicare and Medicaid Services (CMS). The enrolled bill provides \$3.2 billion for CMS, which is \$31 million below your request. The bill does not include your proposal to charge fees for the cost of conducting survey and certification revisits of health care facilities that receive Medicare reimbursement. The bill also provides an unrequested \$50 million for High Risk Insurance Pools.

Compassion Capital Fund. The bill provides \$54 million, \$10 million below the FY 2007 enacted level and \$21 million below the request. The FY 2008 Budget proposed \$75 million to fund training and technical assistance to grassroots faith- and community-based organizations (FBCOs) of which \$35 million is for Communities Empowering Youth, a capacity building grant program for FBCOs that combat youth gang activity and violence.

Community-Based Abstinence Education. The bill provides the \$111 million requested for FY 2008, \$2 million below the FY 2007 enacted level and \$26 million below the FY 2008 Budget. It also continues the long-standing definition of abstinence education, which keeps these programs focused on abstinence-only activities and requires a panel of medical experts to certify that a grantee's educational materials are medically accurate.

Mentoring Children of Prisoners. The bill continues the FY 2007 enacted level of \$49 million -- compared to the request of \$50 million -- to provide one-on-one mentoring matches for children of prisoners.

Promoting Safe and Stable Families. The bill provides \$64 million, which is \$25 million below the FY 2007 enacted and the 2008 request.

Administration for Children and Families is funded at \$14.6 billion, over \$2.2 billion above your request and \$0.7 billion above the FY 2007 enacted level. The enrolled bill provides \$2.6 billion for the Low Income Home Energy Assistance Program, \$830 million above the FY 2008 Budget and \$450 million above the FY 2007 enacted level. It includes \$7 billion for Head Start, an increase of \$211 million above the request. The bill also provides the \$10 million requested for the Home Visitation Initiative; and funds Refugee and Entrant Assistance at \$656 million and Individual Development Accounts at \$24 million.

Administration on Aging. The bills funds AoA at \$1.4 billion, which is \$100 million above the FY 2008 budget request, and \$56 million above the FY 2007 enacted level. The bill continues to fund preventive health services and the Alzheimer's disease demonstration, which were proposed for termination in the FY 2008 Budget. The bill also provides an increase to nutrition programs.

Department of Education

The enrolled bill provides a total of \$59.7 billion for the Department of Education, \$2.2 billion above FY 2007 enacted, and \$3.7 billion above your FY 2008 request.

The bill provides less than you requested for several high-priority programs and initiatives in the Department of Education. The bill provides:

- \$400 million for Reading First, a 61-percent reduction from your request of \$1.019 billion for this highly effective program;
- \$44 million for the education components of the American Competitiveness Initiative, \$353 million less than requested. The bill provides none of the funding proposed in your FY 2008 Budget for either Math Now (\$250 million) or the Adjunct Teacher Corp. (\$25 million);
- No funding for Promise and Opportunity Scholarships (\$300 million requested);
- \$36 million for Striving Readers, \$64 million less than your request;
- \$99 million for the Teacher Incentive Fund, \$100 million less than your request; and
- \$26 million for the education components of the National Security Language Initiative, \$31 million less than your request.

The enrolled bill provides more than you requested in your FY 2008 Budget for numerous programs in the Department of Education, including the following major programs:

- Title I, which is funded at \$14.136 billion, \$226 million more than requested.
- Improving Teacher Quality State Grants, which is funded at \$2.987 billion, \$200 million more than requested.
- English Language Acquisition State Grants, which is provided \$713 million, \$42 million more than requested.
- Individuals with Disabilities Education Act (IDEA) Part B Grants to States, which is funded at \$11.117 billion, \$456 million more than you requested.
- Pell Grants, which is funded at \$14.215 billion to support a discretionary Pell Grant maximum award of \$4,241. The enrolled bill includes \$992.0 billion more discretionary funding for Pell Grants than you requested, and supports a \$191 higher maximum Pell Grant award. This Pell Grant award will be augmented with mandatory funding provided in the College Cost Reduction and Access Act of 2007, which you signed last September.

The Congress also failed, this year, to couple additional funding for No Child Left Behind programs, like Title I, with the reforms included in your reauthorization proposal.

Additionally, the bill provides \$2.198 billion for 41 programs that your FY 2008 Budget proposed to terminate because they are duplicative, narrowly focused, or unable to demonstrate effectiveness. These programs include Exchanges with Historic Whaling and Trading Partners, Education Technology State Grants, and the Carol M. White Physical Education Program. The enrolled bill does, however, eliminate two programs proposed for termination in the Budget – the \$99 million Innovative Education Grants program and the \$11.5 million Star Schools program. It also provides significant reductions to a handful of programs you proposed to terminate, including Safe and Drug-Free Schools State Grants (-\$46.5 million, or 13 percent) and Even Start (-\$14.6 million, or 18 percent).

The bill includes objectionable language that would prohibit the Department from revising existing Higher Education Act regulations on accrediting agency recognition until

legislation specifically requiring such revision is enacted. It also includes objectionable language that would prohibit the Department of Education from using 2008 funding in this bill for a rigorous impact evaluation of the Upward Bound program which is already well underway.

Social Security Administration (SSA)

The enrolled bill provides \$9.918 billion for SSA's administrative budget, \$321 million more than your request. This level does not fully fund your request of \$477 million for program integrity activities, which would allow SSA to process more continuing disability reviews and redeterminations of SSI eligibility that will save an estimated \$3.6 billion over 10 years.

The bill also includes language that would prohibit benefit payments to individuals who used a Social Security number that was not their own. Additionally, the bill would prohibit the use of funds by SSA to administer Social Security benefit payments under any agreement between the United States and Mexico establishing Totalization Agreements. There is an established congressional review process for Totalization Agreements, and the Administration believes that any agreement should be evaluated under the standard process, rather than through an appropriations rider.

Corporation for National and Community Service (CNCS)

The enrolled bill provides \$872 million for CNCS, \$43 million above your request and \$13 million below the FY 2007 enacted level. The enrolled bill does not include the \$9 million in dedicated funding for the Points of Light Foundation that you requested, but does set aside \$8 million for a competition in which Points of Light, America's Promise, and Communities in Schools could participate. The bill also earmarks \$5 million for two new National Civilian Community Corps centers in Iowa and Mississippi.

Corporation for Public Broadcasting (CPB)

The enrolled bill includes \$420 million in FY 2010 advance appropriations and provides \$56 million of new budget authority in FY 2008. Along with \$400 million in previously enacted advance appropriations, total FY 2008 resources for CPB are \$106 million above your request, which proposed to rescind \$50 million in enacted appropriations and provide no additional funding for other activities.

LEGISLATIVE BRANCH APPROPRIATIONS (Division H)

Based on CBO scoring, the enrolled bill provides \$4.0 billion in discretionary, non-emergency budget authority. This is \$0.2 billion above FY 2007 enacted.

MILITARY CONSTRUCTION/VETERANS AFFAIRS APPROPRIATIONS (Division I)

Based on CBO scoring, H.R. 2764 provides \$60.2 billion in discretionary, non-emergency budget authority, \$10.2 billion above FY 2007 enacted, and \$0.5 billion below your FY 2008 request. An additional \$3.7 billion is designated as contingent emergency funding for

Veterans affairs and is only available if you request the full amount from the Congress by January 18, 2008.

Department of Defense (DOD)

Military Construction. The enrolled bill supports your military construction request. However, the bill funds approximately 200 unrequested projects totaling nearly \$1.2 billion. In order to pay for most of these unrequested projects, the bill incrementally funds projects for which you requested full funding. Your Administration, as a general rule, does not support incremental, or partial, funding of capital projects. Good budgeting requires that appropriations for the full costs of acquisitions be enacted in advance to ensure that the Government obtains the best contract and financing terms and all costs and benefits are considered when decisions are made to provide resources. When projects are funded incrementally, it is more difficult to craft contracts so as to minimize costs and effectively set budget priorities, and it ties the hands of future Congresses and Presidents. Taken together, these adjustments net to a \$400 million increase over your request.

Base Realignment and Closure (BRAC) 2005. The bill provides \$7.2 billion for the 2005 BRAC round, which is \$939 million less than your request. DOD anticipates that this reduction would delay completion of the military construction projects necessary to accommodate base realignments and move personnel back to the United States from bases overseas. As Congress did last year, OMB believes that they intend to restore this funding when they complete final action on a GWOT supplemental next year.

STATE/FOREIGN OPERATIONS APPROPRIATIONS (Division J)

H.R. 2764 provides \$32.8 billion in discretionary, non-emergency budget authority, based on CBO scoring, \$1.5 billion above FY 2007 enacted, and \$2.1 billion below your request.

Department of State and Other International Programs

The enrolled bill provides \$33.1 billion for the State Department and other international programs. This is \$1.7 billion above FY 2007, excluding supplemental appropriations, and \$1.9 billion below your request. The enrolled bill also provides \$2.4 billion in emergency spending for International programs, some of which funds items you requested in the FY 2008 Emergency Supplemental. Major program funding includes:

Millennium Challenge Corporation (MCC). The enrolled bill provides \$1.557 billion, \$195 million below FY 2007 enacted and \$1.443 billion below your FY 2008 Budget. The enrolled bill provides funding for a GAO assessment of MCC's financial controls and programmatic results.

Global AIDS. The enrolled bill provides a total of \$5.2 billion in global assistance to combat HIV/AIDS and tuberculosis, including \$4.7 billion for the 15 focus countries and the Global Fund, \$550 million above your request.

Iraq Assistance and Operations. The enrolled bill does not provide for reconstruction activities in Iraq. It does include up to \$26 million for de-mining programs and Congressionally-directed programs in Iraq. The bill also provides nearly full funding for Iraqi refugee assistance requested in the FY 2008 supplemental. The enrolled bill includes \$585 million for partial funding of diplomatic operations in Baghdad, which is \$1.7 billion below your request.

Assistance to Afghanistan. The enrolled bill fully funds your FY 2008 Budget for Afghanistan programs and embassy operations. The bill does not provide any funding for any assistance programs requested in the FY 2008 supplemental.

Assistance to West Bank. The enrolled bill fully funds your FY 2008 request for West Bank and for Palestinian refugees. The bill also partially funds your emergency supplemental request of \$155 million including \$100 million in cash transfers to the Palestinian authority, but does not provide any funding for \$25 million requested in the supplemental for security forces.

Assistance to Pakistan. The enrolled bill fully funds your request of economic assistance to Pakistan, but prevents the use of any funds for budget support to the Government of Pakistan. The bill provides your request of \$300 million for counter-terrorism and law enforcement activities directed against Al Qaeda and the Taliban with \$50 million of this amount subject to a report on counter-terrorism, democracy, and judicial system progress.

Assistance to Sudan. The bill provides your request of \$1.1 billion for peacekeeping, humanitarian assistance, and reconstruction for Darfur and other programs. In addition, the bill provides supplemental funding of about \$500 million in peacekeeping funding for Darfur.

Malaria. The enrolled bill provides \$270 million for your Malaria initiative, \$30 million less than the request. The bill also reduces USAID's base malaria programs by \$5 million.

Assistance to Colombia. The enrolled bill provides \$545.6 million in total assistance for Colombia, \$55 million below your FY 2008 request. The bill reallocates funding from eradication to non-eradication efforts and withholds a greater percentage of funds, pending Secretary of State certification, beyond that in current law. This language limits Colombia's ability to reduce cultivation and stem narcotics flow into the United States and significantly reduces assistance to Colombia's security forces necessary to continue the unified campaign against narcotics trafficking and terrorist organizations.

Diplomatic and Consular Programs (D&CP). The bill provides \$4,582 million for Diplomatic and Consular Programs, \$361 million below the FY 2008 request. H.R. 2764 also includes \$781 million for this account in the emergency supplemental including funds to support diplomatic operations in Iraq.

Asia-Pacific Partnership. The bill provides zero of your total \$30 million request for the State Department's contribution to the Partnership.

Educational and Cultural Exchanges. The enrolled bill provides \$505.4 million, \$19 million more than your request.

Embassy Security, Construction and Maintenance (ESCM). The bill provides a total of \$1.4 billion to support the Department's real property management and to provide secure, safe, and functional facilities abroad, \$162 million below your request. The bill does not fund your \$160 million emergency request to construct secure housing at U.S. Embassy Afghanistan.

Contributions for International Peacekeeping Activities. The bill provides \$468 million, of the \$723.6 million requested in the supplemental for the United Nations peacekeeping mission in Darfur. The bill also provides \$35 million in emergency funding for activities such as training the African Union forces in Darfur.

Broadcasting Board of Governors (BBG). The enrolled bill provides a total of \$675.5 million, \$7.3 million more than your request. An additional \$12.0 million in unrequested funds has been shifted to the FY 2008 Emergency Supplemental.

Foreign Military Financing. The enrolled bill provides \$4.6 billion for grants for military assistance including the amounts requested for Israel, Egypt, and Pakistan, while providing \$300 million for Jordan, \$100 million above the request. The bill cuts military assistance for Colombia below your request.

International Organizations and Programs (IOP). The enrolled bill provides \$319 million for IOP, \$30 million more than your request. At this level, the bill fully funds annual contributions to the United Nations and other international organizations

Multilateral Development Banks (MDBs). The bill provides a total of \$1.287 billion for the U.S. contributions to the Multilateral Development Banks, \$211 million below your request. This amount fully funds our annual contribution to these institutions with the exception of the Asian Development Fund whose annual commitment amount was cut by more than \$40 million. The bill does not fund your request for MDB arrears. As a result the United States will fall short of its commitment to the Multilateral Debt Relief Initiative at the International Development Association.

Debt Restructuring. The bill provides provided \$30.3 million for debt restructuring activities, a \$177 million cut from your request. The bill fully funds the Tropical Forest Conservation Act at \$20 million, but does not provide sufficient funding to complete bilateral debt reduction for the Democratic Republic of Congo.

TRANSPORTATION/HOUSING APPROPRIATIONS (Division K)

Based on CBO scoring, H.R. 2764 provides \$48.9 billion in discretionary, non-emergency budget authority and \$53.7 billion in obligation limitations. This is \$1.4 billion above FY 2007 enacted and \$0.9 billion above your request.

Department of Transportation (DOT)

H.R. 2764 provides \$65 billion in discretionary budgetary resources for DOT, \$1.1 billion above your FY 2008 request and \$2.4 billion above the FY 2007 enacted level. Of this amount, the bill provides \$11 billion in discretionary budget authority. Though the discretionary budget authority total for the Department is a decrease of \$1.1 billion from the request, the bill offsets an additional \$2 billion in spending by rescinding unavailable highway contract authority in excess of the level that the Administration proposed.

U.S.-Mexico Cross-Border Trucking Pilot. The enrolled bill retains objectionable provisions that could be interpreted by some to restrict, and potentially bar, the Administration from carrying out the cross-border trucking demonstration project established earlier this year. However, DOT has concluded, after consultation with DOJ attorneys, that since the language from the Senate appropriations bill is less restrictive than the House language, and also reenacts the safety restrictions and reporting requirements applicable to the existing program, the bill should be interpreted as permitting the ongoing demonstration program to continue [notwithstanding the sponsors' purported intent to stop the program]. Your Administration has satisfied all requirements imposed by Congress on the program, including those enacted earlier this year as part of the Iraq Supplemental, P.L. 110-28 and those reenacted in this bill. The Administration has consistently reiterated to Congress that the demonstration has the necessary safeguards in place to ensure a safe and secure program, and is now operating the program in such a manner.

Highway Trust Fund. The bill provides \$1.6 billion more than the \$39.6 billion request for the Federal Aid Highway program and is \$2.1 billion above the FY 2007 enacted level. This includes an additional \$1 billion provided by the Senate to support a discretionary program for bridges. Based on this FY 2008 spending level, it is estimated that the Highway account of the Highway Trust Fund would experience a cash shortfall of \$5 billion in FY 2009, the final year of the current surface transportation authorization act, SAFETEA-LU.

Aviation. The enrolled bill provides \$14.6 billion in budgetary resources for the Federal Aviation Administration (FAA), which is \$133 million more than FY 2007 enacted and \$567 million more than your FY 2008 request (gross of a rescission the Administration did not propose, the FAA total is \$765 million above the request). The Airport Improvement Program is funded at \$3.5 billion, the same as in FY 2007, but \$765 million above your FY 2008 request. The bill provides \$8.7 billion for FAA's operations, slightly above the request and \$200 million for NextGen, \$12 million above the request. The bill also extends current provisions of war risk insurance for one additional year.

Interstate 35W Bridge. The enrolled bill provides \$195 million to reconstruct the collapsed Interstate 35W Bridge in Minneapolis.

Amtrak. The legislation includes \$1.355 billion for Amtrak, which is \$455 million more than your request and \$61 million more than the FY 2007 level. The bill would continue support of Amtrak's nationwide passenger train network and would not incentivize the railroad to reform

or cut costs. It also includes \$30 million for a new State matching grant program that would fund investment in intercity passenger rail capital projects.

Department of Housing and Urban Development (HUD)

H.R. 2764 provides \$37.7 billion in discretionary budgetary resources for HUD, \$2.4 billion above your FY 2008 request and \$1.5 billion above the FY 2007 enacted level.

Reducing Chronic Homelessness. The enrolled bill fully supports your request of \$1.6 billion in support of the goal of ending chronic homelessness. However, Congress did not provide funding for HUD's part of your Prisoner Re-Entry Initiative.

HOME/American Dream Downpayment Initiative. The bill includes \$1.7 billion, \$50 million below the FY 2007 level, and \$263 million less than your request for the HOME Investment Partnerships Program. In addition, the bill includes \$50 million for housing counseling in HOME that your Budget requested in a separate account, so the HOME appropriation is effectively \$300 million below your request. The enrolled bill supports only \$10 million of your \$50 million request for the American Dream Downpayment Initiative, which provides crucial assistance to increase first-time homeownership.

Tenant-Based Rental Assistance. The bill provides gross funding of \$16.4 billion, but rescinds over \$700 million from the program's advance appropriation for FY 2008, which results in a net funding level of \$15.7 billion, or about \$325 million below your request. This reduction assumes that the Public Housing Authorities (PHAs) will use their available reserves to fund program needs. The bill does not include requested reforms that would provide greater flexibilities for PHAs that administer the program, including removal of the cap on the number of families PHAs can assist.

Community Development Block Grant (CDBG). The enrolled bill provides over \$800 million above your \$3 billion request for CDBG, a program that still uses an outdated formula that does not target assistance to the neediest communities. Congress has yet to pass your CDBG legislative reform proposal, which would improve needs-based targeting and allow smarter economic growth. In addition, the CDBG funds include \$206 million for congressional earmarks, a significant reduction from prior years but still above your 50-percent reduction target.

Project-Based Rental Assistance. H.R. 2764 provides nearly \$570 million more than your \$5.8 billion request and includes provisions that would limit the Secretary's authority to replace these site-specific subsidies with portable housing vouchers when appropriate.

Public Housing. The enrolled bill provides \$6.6 billion for Public Housing, which is more than \$600 million above your request. Further, the bill includes provisions that would adversely affect the implementation of HUD's efforts to improve asset management in public housing, including language that bars HUD from effectively limiting the funds that can be used by PHAs for overhead costs. The bill also provides \$100 million in funding for the HOPE VI

construction program, which you proposed to terminate and that has accomplished its original goal of addressing the needs of the Nation's 100,000 most distressed public housing units.

Federal Housing Administration. The bill supports your proposal to increase multifamily guaranteed loan limits in high-cost areas and lift the statutory cap on the number of single-family Home Equity Conversion Mortgages (HECM) that HUD can insure through the end of FY 2008. The Administration would prefer to permanently lift the HECM cap to allow HUD to continue assisting the market in providing this financial vehicle for the elderly to access the equity in their homes. The bill does not include FHA Modernization provisions that you have called on Congress to pass.

Elderly and Disabled Housing. H.R. 2764 provides \$972 million for Elderly and Disabled Housing, an increase of \$272 million over your request. This amount will continue the excessive growth in construction of new assisted units, continuing an unsustainable outyear cost trajectory for the accompanying rental assistance for these two poorly performing programs.

Housing Opportunities for Persons with AIDS. The bill fully supports your request for this program at \$300 million.

Native American Housing Block Grants. The enrolled bill provides \$630 million, which is \$3 million above your request.

Working Capital Fund. The enrolled bill includes nearly a one-third, or \$65 million, reduction below the request. This reduction could jeopardize recent improvements in HUD financial management, as well as proper program delivery, and effective administration of its core programs. Report language also places unnecessary E-Gov spending restrictions on the account.

Salaries and Expenses. The bill falls just short of your request for the Department's administrative costs and makes substantial changes to the budgetary structure of these resources, by allocating funds separately for individual HUD divisions, presumably in an effort to improve accountability. However, the bill does not provide the flexibility and technological resources needed to allow HUD to transition to this radically different system in a gradual, prudent manner.

Rescission. The bill rescinds \$1.25 billion from unobligated balances and recaptures within the Department, \$50 million less than your request.

Terminating and Reducing Lower Performing Programs. The bill does not terminate funding, as you requested, for lower performing programs such as HOPE VI, Section 108 loan guarantees, Brownfields, and Rural Housing.

Neighborhood Reinvestment Corporation (NRC)

The enrolled bill includes \$300 million for NRC, \$180 million above your request. This increase includes a one-time appropriation to greatly expand counseling assistance to help

mitigate and combat the current foreclosure crisis; no funds can be used for direct assistance to borrowers or lenders. The funding level represents a 150-percent increase over your FY 2008 Budget and will challenge the organization's current operational capacity.

Competitive Sourcing

Seven of the eleven bills in H.R. 2764 include provisions that impose restrictions on competitive sourcing (public-private competition). The Administration objected to restrictions during congressional consideration of the individual bills. While some restrictions have been carried forward from prior appropriations, new restrictions have been added that: (1) prohibit competition for work performed by the Army Corps of Engineers, the Forest Service, the Bureau of Prisons, Federal Prison Industries, and the Coast Guard National Vessel Documentation Center; (2) impose a moratorium on new competitions at the Department of Labor until 60 days after a report on its competitive sourcing activities by the Government Accountability Office; (3) preclude new competitions at any agency involving the migration of human resources services to a Federal shared service center or the private sector until 60 days after OMB reports to Congress on the migration process, including the role of OMB Circular A-76, the impact on employment and transition costs, and the development of guidance for alternative strategies; (4) prevent almost all civilian agencies from giving work to a contractor through public-private competition unless the contractor makes contributions to retirement and health benefits that are equal to or greater than what the agency contributes for its own employees; and (5) expand protest rights for Federal employees to permit actions by a person representing a majority of the affected employees in competitions conducted by any Federal agency.

Collectively, these restrictions will weaken a management tool that agencies have used since FY 2003 to create savings that are expected to grow to over \$7 billion, mostly over the next 5-7 years. Restrictions on the development of high performing organizations at the Corps and the Coast Guard's Civil Engineering Program will weaken related agency efforts to use the common-sense management tools of Circular A-76 to strengthen internal agency operations.

E-Government

Section 517 of Division B will unnecessarily delay funding for your E-Government initiatives at certain agencies, and is redundant with section 737 of Division D, which addresses E-Government funding on a government wide basis.

Section 747 of Division D will delay agency implementation of your Human Resources Line of Business initiative while Congress reviews the impacts of competitive sourcing associated with that initiative.

For Immediate Release
Office of the Press Secretary
December 26, 2007

President Bush Signs H.R. 2764 into Law

Today, I signed into law H.R. 2764, legislation that will fund the Federal Government within the reasonable and responsible spending levels I proposed -- without raising taxes and without the most objectionable policy changes considered by the Congress. This law provides a down payment for the resources our troops need, without arbitrary timelines for withdrawal. The Congress should quickly take action next year to provide the remainder of the funding needed by our troops.

I am disappointed in the way the Congress compiled this legislation, including abandoning the goal I set early this year to reduce the number and cost of earmarks by half. Instead, the Congress dropped into the bill nearly 9,800 earmarks that total more than \$10 billion. These projects are not funded through a merit-based process and provide a vehicle for wasteful Government spending.



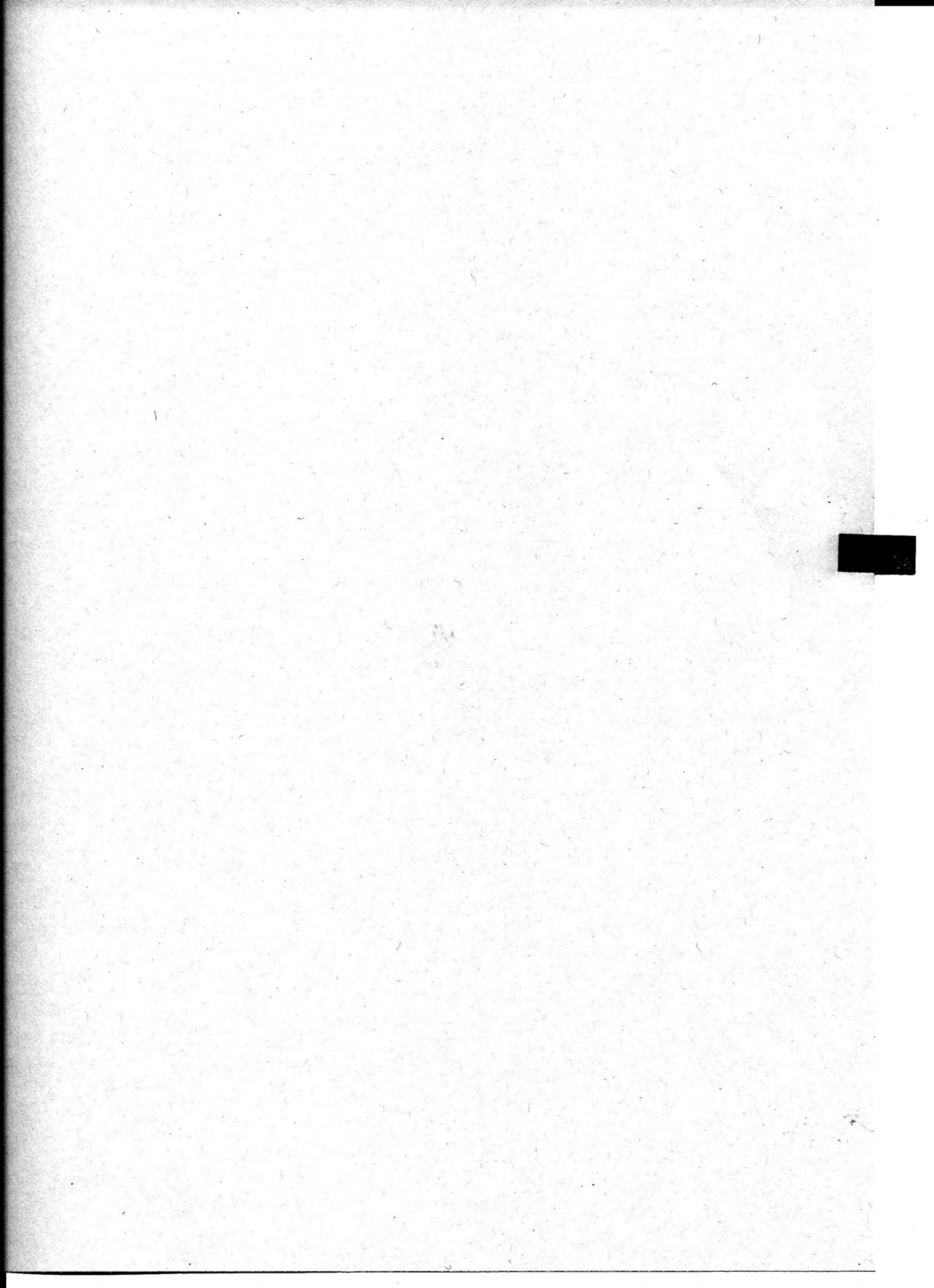
There is still more to be done to rein in Government spending. In February I will submit my budget proposal for fiscal year 2009, which will once again restrain spending, keep taxes low, and continue us on a path towards a balanced budget. I look forward to working with the Congress in the coming year to ensure taxpayer dollars are spent wisely.

Finally, this legislation contains certain provisions similar to those found in prior appropriations bills passed by the Congress that might be construed to be inconsistent with my Constitutional responsibilities. To avoid such potential infirmities, the executive branch will interpret and construe such provisions in the same manner as I have previously stated in regard to similar provisions.

GEORGE W. BUSH

THE WHITE HOUSE,

December 26, 2007.



	Rating		Rating
<p>Note (5): The characteristic(s) of disfigurement may be caused by one scar or by multiple scars; the characteristic(s) required to assign a particular evaluation need not be caused by a single scar in order to assign that evaluation.</p> <p>7801 Burn scar(s) or scar(s) due to other causes, not of the head, face, or neck, that are deep and non-linear:</p> <p>Area or areas of 144 square inches (929 sq. cm.) or greater 40</p> <p>Area or areas of at least 72 square inches (465 sq. cm.) but less than 144 square inches (929 sq. cm.) 30</p> <p>Area or areas of at least 12 square inches (77 sq. cm.) but less than 72 square inches (465 sq. cm.) 20</p> <p>Area or areas of at least 6 square inches (39 sq. cm.) but less than 12 square inches (77 sq. cm.) 10</p> <p>Note (1): A deep scar is one associated with underlying soft tissue damage.</p> <p>Note (2): If multiple scars are present, or if a single scar affects more than one extremity, assign a separate evaluation for each affected extremity, based on the total area of the qualifying scars that affect that extremity, and assign a separate evaluation for the trunk, if affected, based on the total area of the qualifying scars of the trunk. Combine the separate evaluations under § 4.25. Qualifying scars are scars that are nonlinear, deep, and are not located on the head, face, or neck.</p> <p>7802 Burn scar(s) or scar(s) due to other causes, not of the head, face, or neck, that are superficial and nonlinear:</p> <p>Area or areas of 144 square inches (929 sq. cm.) or greater 10</p> <p>Note (1): A superficial scar is one not associated with underlying soft tissue damage.</p> <p>Note (2): If multiple superficial scars are present, assign a separate evaluation for each affected extremity, based on the total area of the superficial scars of that extremity, and assign a separate evaluation for the trunk, if affected, based on the total area of the superficial scars of the trunk. Combine the separate evaluations under § 4.25.</p> <p>7804 Scar(s), unstable or painful:</p> <p>Five or more scars that are unstable or painful 30</p> <p>Three or four scars that are unstable or painful 20</p>		<p>One or two scars that are unstable or painful</p> <p>Note (1): An unstable scar is one where, for any reason, there is frequent loss of covering of skin over the scar.</p> <p>Note (2): If one or more scars are both unstable and painful, add 10 percent to the evaluation that is based on the total number of unstable or painful scars.</p> <p>Note (3): Scars evaluated under diagnostic codes 7800, 7801, 7802, or 7805 may also receive an evaluation under this diagnostic code, when applicable.</p> <p>7805 Scars, other (including linear scars) and other effects of scars evaluated under Diagnostic Codes 7800, 7801, 7802, and 7804: Evaluate any disabling effect(s) not considered in a rating provided under diagnostic codes 7800-04 under an appropriate diagnostic code.</p>	10

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[FR Doc. E7-25525 Filed 1-2-08; 8:45 am]
BILLING CODE 8320-01-P

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 4
RIN 2900-AM75

Schedule for Rating Disabilities; Evaluation of Residuals of Traumatic Brain Injury (TBI)

AGENCY: Department of Veterans Affairs.
ACTION: Proposed rule.

SUMMARY: This document proposes to amend the Department of Veterans Affairs (VA) Schedule for Rating Disabilities by revising that portion of the Schedule that addresses neurological conditions and convulsive disorders, in order to provide detailed and updated criteria for evaluating residuals of traumatic brain injury (TBI).

DATES: Comments must be received on or before February 4, 2008.

ADDRESSES: Written comments may be submitted through <http://www.Regulations.gov>; by mail or hand-delivery to the Director, Regulations Management (00REG), Department of Veterans Affairs, 810 Vermont Ave., NW., Room 1068, Washington, DC 20420; or by fax to (202) 273-9026.

Comments should indicate that they are submitted in response to RIN 2900-AM75—"Schedule for Rating

Disabilities; Evaluation of Residuals of Traumatic Brain Injury (TBI)." Copies of comments received will be available for public inspection in the Office of Regulation Policy and Management, Room 1063B, between the hours of 8 a.m. and 4:30 p.m., Monday through Friday (except holidays). Please call (202) 461-4902 (this is not a toll-free number) for an appointment. In addition, during the comment period, comments may be viewed online through the Federal Docket Management System (FDMS) at <http://www.Regulations.gov>.

FOR FURTHER INFORMATION CONTACT: Maya Ferrandino, Regulations Staff (211D), Compensation and Pension Service, Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (727) 319-5847. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: This document proposes to amend the Department of Veterans Affairs (VA) Schedule for Rating Disabilities (38 CFR part 4) by revising the material under diagnostic code 8045, Brain disease due to trauma, in 38 CFR 4.124a (neurological conditions and convulsive disorders). TBI has been called a signature injury of the conflict in Iraq, and VA is seeing a statistically larger number of veterans of the Iraq and Afghanistan conflicts with residuals of TBI than has been seen in previous conflicts. In addition, the effects of injuries stemming from blasts resulting from roadside explosions of improvised explosive devices, which have been common sources of injury in these conflicts, appear to be somewhat different from the effects of brain trauma seen from other sources of injury. VA proposes to amend the criteria for rating residuals of TBI to update them in light of current knowledge of the condition.

We propose changing the title of diagnostic code 8045 from "Brain disease due to trauma" to "Residuals of traumatic brain injury (TBI)," which reflects modern terminology for this condition.

TBI is an injury to the brain from an external force that results in immediate effects such as loss or alteration of consciousness, amnesia, and sometimes neurological impairments. These abnormalities may all be transient, but more prolonged or even permanent problems with a wide range of impairment in such areas as physical, mental, and emotional/behavioral functioning may occur. TBI is classified as mild, moderate, or severe at, or close to, the time of the original injury, and while this classification will often

correspond to the future level of functional impairment, that will not always be the case. This original designation as to severity of the original injury does not change, whatever the speed or extent of recovery, or the long-term disabling effects. Therefore, it does not affect the rating assigned under diagnostic code 8045. We propose to include the information that "mild," "moderate," and "severe" refer to a classification of TBI at, or close to, the time of injury rather than to the current level of functioning in the regulation itself to make it clear to raters that these designations that may appear in medical records refer only to the initial evaluation and not to current functioning.

We propose to provide guidance for the evaluation of the most common, but not all possible, residuals of TBI. These residuals fall into three main areas of dysfunction: Cognitive, emotional/behavioral, and physical. In addition, a cluster of largely subjective symptoms (symptoms cluster) falling into these categories may develop following TBI.

This proposed rule provides several sets of guidelines and criteria for the evaluation of TBI residuals because of the breadth of the possible effects. These include guidance on evaluating physical (neurologic) residuals, criteria for evaluating cognitive impairment, criteria for evaluating the symptoms cluster that sometimes follows TBI (sometimes referred to as post-concussion syndrome (PCS)), and guidance on evaluating emotional/behavioral dysfunction.

Evaluating Physical Dysfunction

In the current schedule, under diagnostic code 8045, purely neurological disabilities following brain trauma, such as hemiplegia, epileptiform seizures, facial nerve paralysis, etc., are rated under the diagnostic codes dealing with the specific disabilities, using a hyphenated code to indicate the rating criteria used. We propose deleting the discussion of the use of hyphenated codes because that use is explained in 38 CFR 4.27. "Use of diagnostic code numbers," and therefore need not be repeated here.

When the brain is injured, almost any function of the body can be affected, depending on the location, type, and severity of the injury. We propose to provide a list of the most common, but not all possible, physical (neurological) problems that may be seen after TBI. These problems are motor and sensory dysfunction, including pain, of the extremities and face; visual impairment; hearing loss and tinnitus; loss of sense of smell and taste; seizures; gait,

coordination, and balance problems; speech and other communication difficulties, including aphasia and related disorders, and dysarthria; neurogenic bladder; neurogenic bowel; cranial nerve dysfunctions; autonomic nerve dysfunctions; and endocrine dysfunctions. We propose to rate each condition separately evaluated under an appropriate diagnostic code, as long as the same signs and symptoms are not used to support more than one evaluation, and to combine those evaluations under the provisions of 38 CFR 4.25 (Combined ratings table). Residuals that are reported but not mentioned on this list would be evaluated under the most appropriate diagnostic code.

We are also proposing to direct raters to consider special monthly compensation for such problems as loss of use of an extremity, certain sensory impairments, bowel and bladder impairments, erectile dysfunction, the need for aid and attendance (including when assistance or supervision is needed on the basis of cognitive impairment), and being housebound.

Evaluating Emotional/Behavioral Dysfunction and Comorbid Mental Disorders

Comorbid (coexisting with another medical disorder) mental disorders are common with TBI. Most common is depression, which may occur in up to 60 percent of those with TBI, but anxiety and post-traumatic stress disorder (PTSD) also commonly occur. We propose requiring comorbid mental disorders to be evaluated under 38 CFR 4.130 (Schedule of ratings—mental disorders). Some emotional/behavioral symptoms that do not reach the level of a mental disorder, as defined in DSM-IV (the 4th edition of the Diagnostic and Statistical Manual of Mental Disorders, which is published by the American Psychiatric Association), would be evaluated under the criteria provided for the evaluation of cognitive impairment or for the evaluation of the symptoms cluster, as discussed below, because the symptoms of cognitive impairment and the symptoms cluster encompass many emotional/behavioral symptoms (Department of Veterans Affairs, Veterans Health Initiative, "Traumatic Brain Injury," 83-85 (Rodney Vanderploeg, Ph.D., ed., 2003)).

Evaluating the Symptoms Cluster Due to TBI

Following TBI, a cluster of symptoms (or syndrome) is commonly seen. The symptoms fall into emotional/behavioral, cognitive, and physical areas, and may have both neurological

and psychological components, but there are no objective neurologic findings or abnormalities on routine imaging. While in the majority of affected people these symptoms resolve in about 3 months, in a small percentage, they become permanent. In the medical literature, this symptoms cluster is sometimes referred to as post-concussion syndrome (although loss of consciousness at the time of the original injury is not a requirement), or simply as residuals of mild TBI (Veterans Health Initiative, "Traumatic Brain Injury," 23-27).

The symptoms cluster includes such symptoms as headache (migraine or tension-type), dizziness or vertigo, fatigue, malaise, sleep disturbance, cognitive impairment, difficulty concentrating, delayed reaction time, behavioral changes (such as irritability, restlessness, apathy, inappropriate social behavior, aggression, impulsivity), emotional changes (such as mood swings, anxiety, depression), tinnitus or hypersensitivity to sound, hypersensitivity to light, blurred vision, double vision, decreased sense of smell and taste, and difficulty hearing in noisy situations or with competing sounds in the absence of objective hearing loss.

In the current schedule, under diagnostic code 8045, purely subjective complaints such as headache, dizziness, insomnia, etc., recognized as symptomatic of brain trauma, are rated 10 percent and no more under diagnostic code 9304. Furthermore, this 10-percent rating is not combined with any other rating for a disability due to brain trauma, and ratings in excess of 10 percent for brain disease due to trauma under diagnostic code 9304 are not assignable in the absence of a diagnosis of multi-infarct dementia associated with brain trauma.

This guidance about evaluating subjective complaints after brain trauma is at least 45 years old and seems to reflect views that were once prevalent, that these symptoms might be due to hysteria or malingering. In recent years, abnormalities of the brain following mild TBI have been reported on the basis of the following types of special studies: Neuropathologic, neurophysiologic, neuroimaging, and neuropsychologic. Current medical thinking is that these symptoms may be due to subtle brain pathology following trauma that was undetectable on previously available studies. These symptoms may be more than 10-percent disabling. Therefore, we propose replacing the current guidance concerning the evaluation of subjective complaints after brain trauma under diagnostic code 8045 with a set of

criteria to evaluate this symptoms cluster, with evaluation levels of 20, 30, and 40 percent.

We propose to require that for evaluation under the new criteria, at least three of the symptoms listed above be present. If there are nine or more of the listed symptoms, 40 percent would be assigned; if there are five to eight of the listed symptoms, 30 percent would be assigned; and if there are three or four of the listed symptoms, 20 percent would be assigned. These levels of evaluation are consistent with the range of disability that may result from these symptoms and would promote consistent evaluations.

If, on the other hand, there is a definite diagnosis that includes one or more of these symptoms, such as migraine (which is common after TBI) or Meniere's syndrome (which has symptoms of tinnitus, vertigo, fluctuating hearing loss, and a sense of fullness in the ear), it would be separately evaluated. If there are at least 3 remaining symptoms, they would be evaluated under the criteria for evaluating the symptoms cluster.

Evaluating Cognitive Impairment

Cognitive impairment is defined as decreased memory, concentration, attention, and executive functions of the brain. Executive functions are speed of information processing, goal setting, planning, organizing, prioritizing, self-monitoring, problem solving, judgment, decision making, spontaneity, and flexibility in changing actions when they are not productive. Not all of these brain functions may be affected in a given individual with cognitive impairment, and some functions may be affected more severely than others. In a given individual, symptoms may fluctuate in severity from day to day. Cognitive impairment of varying degrees is most common and most severe following moderate or severe TBI. Therefore, primarily those who experienced a moderate or severe TBI would require evaluation under these criteria. However, an individual with mild TBI may also have these conditions.

The effects of cognitive impairment are numerous and far reaching with profound effects on many areas of functioning: mental, physical, behavioral, and emotional. Some of the major functional effects of cognitive impairment can be found at <http://grants.nih.gov/grants/guide/pa-files/PA-97-050.html>, <http://web.uccs.edu/dsimons/cognitive%20impairment%20handouts.pdf>, and http://www.guideline.gov/summary/summary.aspx?ss=15&doc_id=

3508&nbr=2734. We propose to provide criteria that take into account 11 of the common major effects of cognitive impairment. These effects or facets of cognitive impairment are work or school; memory, attention, concentration; activities of daily living (ADLs); judgment; supervision for safety; appropriate response in social situations; orientation; motor activity (with intact motor and sensory system); visual-spatial function; other neurobehavioral effects; and speech and language disorders.

There is a wide variation in the occurrence and severity of cognitive impairments. Some individuals may have impairments in some facets but not others, some individuals may have impairments in all facets, and some functions affected by cognitive impairment may be impaired more severely than others in a given individual (for example, one may have severe speech and other communication problems but no problem with activities of daily living, while another may have no problem with speech, but considerable difficulty with ADLs and other facets). Using a standard set of evaluation criteria by assigning a specific level of evaluation for a standard set of signs or symptoms would disadvantage veterans who do not have the particular signs and symptoms in the standard set chosen, but who have equally disabling signs and symptoms of cognitive impairment. On the other hand, it would be too burdensome to include criteria for all possible signs and symptoms of cognitive impairment. Therefore, we propose using the table we have developed for evaluating cognitive impairment that includes the 11 most important types or facets of impairment, titled "EVALUATION OF COGNITIVE IMPAIRMENT UNDER DIAGNOSTIC CODE 8045."

In addition, we propose providing separate criteria, representing logical increments of functioning for each facet, for assessing the severity of each of these 11 common facets of impairment following TBI. Scores of severity for each facet would range from 0 to 4, although not all facets would have all 5 levels of severity. For example, for ADLs, a score of 0 would be assigned if the individual is able to perform all activities of daily living without assistance. However, if some assistance is needed for ADLs, even part of the time, a level of 1 or 2 would be too low for such a substantial impairment. Therefore, if the individual requires assistance with activities of daily living some of the time (but less than half of the time), a score of 3 would be

assigned, and if the individual requires assistance with activities of daily living most or all of the time, a score of 4 would be assigned. For the "judgment" facet, a score of 0 would be assigned for "Normal." A score of 1 would be assigned for "Mildly impaired." A score of 2 would be assigned for "Moderately impaired." A score of 4 would be assigned for "Severely impaired." Note that there would be no score of 3 for judgment.

The rater would assign the appropriate score from 0 to 4 for each facet, based on the information about the severity of impairment for each facet that has been provided (on the disability examination report). The rater would then add only the 3 highest scores and divide that sum by 3 to determine the overall score for cognitive impairment, that is, 0, 1, 2, 3, or 4. Numbers between whole numbers would be rounded to the nearest whole number. For example, scores of 1.0, 1.1, 1.2, 1.3, and 1.4 would all be rounded to 1, while scores of 1.5, 1.6, 1.7, 1.8, and 1.9 would all be rounded to 2. The percentage evaluations available for cognitive impairment would be 0, 10, 40, 70, and 100 percent. A score of 1 would equate to an evaluation of 10 percent, a score of 2, to 40 percent, a score of 3, to 70 percent, and a score of 4, to 100 percent. As in all cases, per 38 CFR 4.31 (0 percent evaluations), an evaluation of 0 percent would be assigned if the score is below 1, after rounding.

Using the three most impaired facets of functioning balances the problems of using only one or two facets, which would result in a limited view of overall functioning, and using all 11 facets, which would cause the better areas of functioning to dilute the more severely impaired ones, and would result in an impression of better overall functioning than is actually present.

The proposed criteria are long and complex. To assist the rater, we propose providing the 11 facets, the levels of impairment, and the criteria for each level in the table, "Evaluation of Cognitive Impairment Under Diagnostic Code 8045." Because of the length of the table, we are not repeating it in this summary.

Note #1—Cognitive Impairment and Comorbid Mental Disorder

We also propose adding two notes under the cognitive impairment criteria for further clarification. Note #1 would explain the evaluation process when both cognitive impairment and one or more comorbid mental disorders are present, in which case there may be an overlap of signs and symptoms. In such cases, two evaluations, one under the

cognitive impairment criteria and another under the General Rating Formula for Mental Disorders, based on the same findings would not be assigned. If the signs and symptoms of the mental disorder(s) and of cognitive impairment cannot be clearly separated, a single evaluation either under the General Rating Formula for Mental Disorders or under the evaluation criteria for cognitive impairment, whichever provides the better assessment of overall impaired functioning due to both conditions, would be assigned. If the signs and symptoms are clearly separable, separate evaluations for the mental disorder(s) and for cognitive impairment would be assigned.

Note #2—Prohibition of Evaluation Under Cognitive Impairment Criteria and Under the Symptoms Cluster

Note #2 would point out that cognitive impairment may not be evaluated both under the cognitive impairment criteria and as part of the symptoms cluster because this would constitute pyramiding. In addition, cognitive impairment encompasses many more symptoms than are specifically listed in the rating table for evaluation of cognitive impairment, including some of the subjective symptoms in the symptoms cluster. Therefore, if evaluation is made under the cognitive impairment criteria, no evaluation would be assigned for the symptoms cluster. When cognitive impairment is present, it would be evaluated either as part of the symptoms cluster, if cognitive impairment and at least 2 of the additional cluster symptoms listed are present, or under the cognitive impairment criteria, whichever method of evaluation is more advantageous to the veteran.

Note #3—TBI That Is Unclassified as to Severity

We propose adding a third note to direct raters to evaluate under the set of criteria that is most in accord with the reported residuals, regardless of whether a classification of the severity of TBI (mild, moderate, or severe) determined at, or close to, the time of injury is available. In other words, if subjective symptoms are the primary residuals, evaluation would be made under the criteria for evaluating the symptoms cluster. If cognitive impairment alone is diagnosed, evaluation would be made instead under the criteria for evaluating cognitive impairment. In any case, physical (neurologic) residuals would be evaluated as directed under diagnostic code 8045, and comorbid

mental disorders would be evaluated as directed under § 4.130.

Applicability Date

VA proposes to make the provisions of this rule applicable to all applications for benefits received by VA on or after the effective date of this rule. A veteran whose residuals of TBI are rated under a prior version of § 4.124a, diagnostic code 8045, will be permitted to request review under the new criteria, irrespective of whether his or her disability has worsened since the last review. VA would review that veteran's disability rating to determine whether the veteran may be entitled to a higher disability rating under the provisions established by this rulemaking. The effective date of any award of an increase in disability compensation based on the new criteria would be no earlier than the effective date of the new criteria. The effective date of an award would be decided under the current regulations regarding effective dates for increases in disability compensation, 38 CFR 3.400, etc. and 38 CFR 3.114, if applicable, would be considered. We propose adding this information under diagnostic code 8045 as Note #4 to insure veterans are fully notified of the availability of the review.

We propose establishing this process for veterans potentially affected by this rulemaking in order to ensure that veterans, especially those wounded during Operation Enduring Freedom or Operation Iraqi Freedom, are compensated as fully as possible for their wounds.

Benefits Costs

Two groups of veterans may be affected by this regulation change. The first group is those veterans who will come on the rolls in the future. VA also anticipates some current TBI beneficiaries will reopen their claims. Future caseload estimates are based on historical trends of service connected accessions related to TBI by degree of disability. VA identified the potential population of reopened claims based on current beneficiaries on the rolls with a combined evaluation that included a rating for TBI. Average monthly payments for each disability rating were applied to calculate the benefits cost. The assumptions used to generate the affected population are based on historical caseload trends and are not based on DoD information, nor should they be construed to imply any future DoD policy decisions.

VA estimates the total caseload affected for years 2008–2017 as follows: 2,846, 3,546, 3,746, 3,946, 4,146, 4,343, 4,546, 4,746, 4,946, and 5,146. Benefits

costs (\$ in millions) associated with the caseload for the same time period are as follows: \$3.6, \$10.1, \$10.1, \$11.1, \$12.1, \$13.1, \$14.2, \$15.3, \$16.5, and \$17.7 for a 10-year total of \$123.8 million over 10 years.

Paperwork Reduction Act

This document contains no provisions constituting a collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3521).

Regulatory Flexibility Act

The Secretary hereby certifies that this proposed rule would not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. This proposed rule would govern disability ratings in individual cases and would not directly affect small entities. Therefore, pursuant to 5 U.S.C. 605(b), this proposed amendment is exempt from the initial and final regulatory flexibility analysis requirements of sections 603 and 604.

Executive Order 12866—Regulatory Planning and Review

Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity). The Executive Order classifies a "significant regulatory action," requiring review by the Office of Management and Budget (OMB), as any regulatory action that is likely to result in a rule that may: (1) Have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

The economic, interagency, budgetary, legal, and policy implications of this proposed rule have been examined, and it has been determined to be a significant regulatory action under Executive Order 12866

because it is likely to result in a rule that may raise novel legal or policy issues arising out of legal mandates, the President's priorities, or principles set forth in the Executive Order.

Unfunded Mandates

The Unfunded Mandates Reform Act of 1995 requires, at 2 U.S.C. 1532, that agencies prepare an assessment of anticipated costs and benefits before issuing any rule that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of \$100 million or more (adjusted annually for inflation) in any 1 year. This proposed rule would have no such effect on State, local, and tribal governments, or on the private sector.

Catalog of Federal Domestic Assistance Numbers and Titles

The Catalog of Federal Domestic Assistance program numbers and titles for this proposal are 64.104, Pension for Non-Service-Connected Disability for Veterans, and 64.109, Veterans Compensation for Service-Connected Disability.

List of Subjects in 38 CFR Part 4

Disability benefits, Pensions, Veterans.

Approved: November 16, 2007.

Gordon H. Mansfield,
Acting Secretary of Veterans Affairs.

For the reasons set out in the preamble, 38 CFR part 4, subpart B, is proposed to be amended as set forth below:

PART 4—SCHEDULE FOR RATING DISABILITIES

1. The authority citation for part 4 continues to read as follows:

Authority: 38 U.S.C. 1155; unless otherwise noted.

Subpart B—Disability Ratings

2. In § 4.124a, in the table entitled, "Organic Diseases Of The Central Nervous System", the entry for 8045 is revised in its entirety and a new table titled "Evaluation Of Cognitive Impairment Under Diagnostic Code 8045" is added after the "Organic Diseases Of The Central Nervous System" table, to read as follows:

§ 4.124a Schedule of ratings—neurological conditions and convulsive disorders.
* * * * *

ORGANIC DISEASES OF THE CENTRAL NERVOUS SYSTEM

	Rating
8045 Residuals of traumatic brain injury (TBI): There are three main areas of dysfunction that may result from TBI and require evaluation: Cognitive, emotional/behavioral, and physical effects. In addition, a cluster of largely subjective symptoms, which may include Cognitive, emotional/behavioral, and physical symptoms, may develop that may also require evaluation. "Mild," "moderate," and "severe" refer to a classification of TBI at, or close to, the time of injury rather than to the current level of functioning. This classification does not affect the rating assigned under diagnostic code 8045. Evaluate cognitive impairment under the criteria in the table titled "Evaluation Of Cognitive Impairment Under Diagnostic Code 8045." Evaluate the symptoms cluster that sometimes follows TBI under the set of criteria for evaluating the symptoms cluster due to TBI provided as part of the rating criteria under diagnostic code 8045. Evaluate emotional/behavioral dysfunction under § 4.130 (Schedule of ratings—mental disorders) when there is a diagnosis of a mental disorder. When there is no diagnosis of a mental disorder, evaluate symptoms under the criteria in the table titled "Evaluation Of Cognitive Impairment Under Diagnostic Code 8045" or under the criteria for evaluation of the symptoms cluster due to TBI. Evaluate physical (neurological) dysfunction based on the following list, under an appropriate diagnostic code, as applicable.	

Motor and sensory dysfunction, including pain, of the extremities and face; visual impairment; hearing loss and tinnitus; loss of sense of smell and taste; seizures; gait, coordination, and balance problems; speech and other communication difficulties, including aphasia and related disorders, and dysarthria; neurogenic bladder; neurogenic bowel; cranial nerve dysfunctions; autonomic nerve dysfunctions; and endocrine dysfunctions.

These lists do not encompass all possible residuals of TBI. For residuals not listed here that are reported on an examination, evaluate under the most appropriate diagnostic code. Evaluate each condition separately, as long as the same signs and symptoms are not used to support more than one evaluation, and combine the evaluations for each separately rated condition under § 4.25. Consider special monthly compensation for such problems as loss of use of an extremity, certain sensory impairments, bowel and bladder impairments, erectile dysfunction, the need for aid and attendance (including when assistance or supervision is needed on the basis of cognitive impairment), and being housebound.

Evaluation of Symptoms Cluster due to TBI

A cluster of symptoms, physical, cognitive, and emotional/behavioral, often occurs following TBI. There are usually no objective neurologic findings or abnormalities on routine imaging. While in the majority of affected people this cluster of symptoms resolves in about 3 months, in a small percentage, the symptoms become permanent. In the medical literature, this symptoms cluster may be referred to as post-concussion syndrome, or simply as residuals of mild TBI. For evaluating such residuals of TBI under the criteria below, at least three of the following symptoms must be present: Headache (migraine or tension-type), dizziness or vertigo, fatigue, malaise, sleep disturbance, cognitive impairment, difficulty concentrating, delayed reaction time, behavioral changes (such as irritability, restlessness, apathy, inappropriate social behavior, aggression, impulsivity), emotional changes (such as mood swings, anxiety, depression), tinnitus or hypersensitivity to sound, hypersensitivity to light, blurred vision, double vision, decreased sense of smell and taste, and difficulty hearing in noisy situations or with competing sounds in the absence of objective hearing loss.

If there is a definite diagnosis of a condition that includes one or more of these symptoms, such as migraine headache or Meniere's disease, evaluate that condition separately under the appropriate diagnostic code and evaluate the remaining symptoms based on the following criteria, as long as there are at least three symptoms remaining.	
With nine or more of the listed symptoms	40
With five to eight of the listed symptoms	30

With three or four of the listed symptoms	20
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Evaluation of Cognitive Impairment

Cognitive impairment is defined as decreased memory, concentration, attention, and executive functions of the brain. Executive functions are speed of information processing, goal setting, planning, organizing, prioritizing, self-monitoring, problem solving, judgment, decision making, spontaneity, and flexibility in changing actions when they are not productive. Not all of these brain functions may be affected in a given individual with cognitive impairment, and some functions may be affected more severely than others. In a given individual, symptoms may fluctuate in severity from day to day.

These types of losses can have profound effects on many areas of functioning: mental, physical, behavioral, and emotional. Cognitive impairment of varying degrees is common after TBI. The table titled "EVALUATION OF COGNITIVE IMPAIRMENT UNDER DIAGNOSTIC CODE 8045" contains 11 common facets of cognitive impairment with levels of impairment for each ranging from 0 to 4, with 4 representing the most severe level. Not all facets have criteria for every level from 0 to 4. Add the 3 highest numbers from 0 to 4 assigned to facets of cognitive impairment, divide that sum by 3, and round to the nearest whole

number (for example, 1.0, 1.1, 1.2, 1.3, and 1.4 are rounded to 1, while 1.5, 1.6, 1.7, 1.8, and 1.9 are rounded to 2). Once the whole number from 0 to 4 has been calculated, assign the percentage evaluation as follows: 0 = 0%; 1 = 10%; 2 = 40%; 3 = 70%; and 4 = 100%.

Note (1): When both cognitive impairment and one or more comorbid mental disorders are present, there may be an overlap of signs and symptoms. In such cases, do not assign two evaluations, one under the cognitive impairment criteria and another under the General Rating Formula for Mental Disorders, based on the same findings. If the signs and symptoms of the mental disorder(s) and of cognitive impairment cannot be clearly separated, assign a single evaluation either under the General Rating Formula for Mental Disorders or under the evaluation criteria for cognitive impairment, whichever provides the better assessment of overall impaired functioning due to both conditions. However, if the signs and symptoms are clearly separable, assign separate evaluations for the mental disorder(s) and for cognitive impairment.

Note (2): Do not assign separate evaluations for cognitive impairment and for the symptoms cluster due to TBI; rather, assign one or the other, whichever results in a higher evaluation. However, separate evaluations may be assigned for cognitive impairment or for the symptoms cluster, and for other physical (neurological) abnormalities or comorbid mental disorders if the same signs and symptoms are not used to support more than one evaluation.

Note (3): Whether or not a classification of the severity of TBI (mild, moderate, or severe) determined at, or close to, the time of injury is available, evaluate under the set of criteria that is most in accord with the reported residuals. If a cluster of subjective symptoms is the primary residual, evaluate under the criteria for symptoms cluster due to TBI. If cognitive impairment is diagnosed, evaluate under the criteria for cognitive impairment if it is the only residual, or under either the criteria for cognitive impairment or under the symptoms cluster if there are at least 2 other residual subjective symptoms. In any case, evaluate physical (neurologic) residuals and comorbid mental disorders as directed under diagnostic code 6045.

Note (4): A veteran whose residuals of TBI are rated under a version of § 4.124a, diagnostic code 8045, in effect prior to [insert date 30 days after date of publication of the final rule in the Federal Register], can request review under diagnostic code 8045, irrespective of whether his or her disability has worsened since the last review. VA will review that veteran's disability rating to determine whether the veteran may be entitled to a higher disability rating under diagnostic code 8045. A request for review pursuant to this rulemaking will be treated as a claim for an increased rating for purposes of determining the effective date of an increased rating awarded as a result of such review; however, in no case will the award be effective before [insert date 30 days after date of publication of the final rule in the Federal Register]. For the purposes of determining the effective date of an increased rating awarded as a result of such review, VA will apply the provisions of 38 CFR 3.114, if applicable.

* * * * *

EVALUATION OF COGNITIVE IMPAIRMENT UNDER DIAGNOSTIC CODE 8045

Facets of cognitive impairment	Level of impairment	Criteria
Work or school	0	Able to work or attend school at a level equivalent to that prior to injury with no special accommodation, and without difficulty.
	1	Able to work or attend school at a level equivalent to that prior to injury with no special accommodation, and with only minor difficulty, mainly at times of increased duties or demands.
	2	Able to work or attend school, but requires some accommodation (for example, may need special environment, special equipment, or closer supervision).
	3	Able to work or attend school, but only in a situation with decreased demands compared to pre-injury employment or school or in a sheltered workplace.
Memory, attention, concentration	4	Unable to work or attend school.
	0	No complaints of memory loss and no objective evidence of memory loss.
	1	Mildly impaired. Any combination of memory loss (although memory tests on exam are normal), occasional difficulty following a conversation, occasional difficulty recalling recent conversations, occasional difficulty remembering names of new acquaintances, occasional difficulty finding words, misplaces items.
	2	Any combination of mild impairment of memory (which must be objectively shown), mildly impaired attention, mildly impaired concentration, difficulty following complex instructions, easily distractible, poor retention of written material, difficulty multi-tasking, problems planning, problems organizing, difficulty completing tasks.
ADLs (activities of daily living) ...	3	Any combination of moderately impaired memory, attention, concentration, or executive functions.
	4	Any combination of severely impaired memory, attention, concentration, or executive functions.
	0	Able to perform all activities of daily living without assistance.
Judgment	3	Requires assistance with activities of daily living some of the time (but less than half of the time).
	4	Requires assistance with activities of daily living most or all of the time.
	0	Normal.

EVALUATION OF COGNITIVE IMPAIRMENT UNDER DIAGNOSTIC CODE 8045—Continued

Facets of cognitive impairment	Level of impairment	Criteria
Supervision for safety	1 Mildly impaired. 2 Moderately impaired. 4 Severely impaired. 0 Does not need supervision for safety, even in risky situations.	2 Rarely or occasionally needs supervision for safety, but only for risky activities. 3 Often requires supervision for safety (but less than half of the time). 4 Requires supervision for safety most or all of the time.
Appropriate response in social situations.	0 Appropriate response in social situations always.	1 Appropriate response in social situations almost always. 2 Inappropriate response in social situations much of the time. 3 Inappropriate response in social situations most or all of the time.
Orientation	0 Always oriented to person, time, and place. 2 Oriented to person and time; occasional or rare disorientation to place. 3 Sometimes disoriented to time or place.	4 Often or always disoriented, especially to time or place. 0 Motor activity normal.
Motor activity (with intact motor and sensory system).	0 Motor activity normal.	1 Motor activity normal most of the time. May be slowed at times. 2 Motor activity mildly decreased due to apraxia (inability to perform previously learned motor activities, despite normal motor function), or with moderate slowing. 3 Motor activity moderately decreased due to apraxia. 4 Motor activity severely decreased due to apraxia.
Visual-spatial function	0 Normal.	1 Rare indication of slight impairment, such as getting lost in unfamiliar surroundings. 2 Mildly impaired. May get lost in unfamiliar surroundings, occasional difficulty recognizing faces. 3 Moderately impaired. May get lost even in familiar surroundings, frequent difficulty recognizing faces. 4 Severely impaired. May be unable to touch or name own body parts when asked by the examiner, identify the relative position in space of two different objects, copy sentences, read maps, or find way from one room to another.
Other neurobehavioral effects	0 None of these effects. 1 One or two of these effects. 2 Three to five of these effects. 3 Six or more of these effects.	Symptoms: Physically aggressive, verbally aggressive, impulsive, uninhibited, sleep problems, apathetic, inflexible, fatigability, mood swings, lack of motivation, impaired awareness of disability.
Speech and language disorders	0 Able to communicate by spoken and written language, and to comprehend spoken and written language.	1 Impaired articulation for some words, but speech is understandable, or comprehension of either spoken language, written language, or both, is only occasionally impaired. 2 Inability to communicate either by spoken language, written language, or both, more than occasionally but less than half of the time, or to comprehend spoken language, written language, or both, more than occasionally but less than half of the time. 3 Inability to communicate either by spoken language, written language, or both, at least half of the time but not all of the time, or to comprehend spoken language, written language, or both, at least half of the time but not all of the time. 4 Complete inability to communicate either by spoken language, written language, or both, or to comprehend spoken language, written language, or both.

the fund is not in excess of 10 percent of the total value of all of the fund's investments.

(4) *Parent corporation.* Parent corporation has the meaning given such term by section 424(e).

(5) *Publicly traded*—(i) *In general.* A security is publicly traded if it is readily tradable on an established securities market.

(ii) *Established securities market.* For purposes of this paragraph (f)(5), a security is traded on an established securities market if—

(A) The security is traded on a national securities exchange that is registered under section 6 of the Securities and Exchange Act of 1934 (15 U.S.C. 78f); or

(B) The security is traded on a foreign national securities exchange that is officially recognized, sanctioned, or supervised by a governmental authority.

(iii) *Readily tradable.* For purposes of this paragraph (f)(5), except as provided by the Commissioner in revenue rulings, notices, or other guidance published in the Internal Revenue Bulletin, a security is readily tradable if—

(A) The security is traded on a securities exchange that is described in paragraph (f)(5)(ii)(A) of this section; or

(B) The security is traded on a securities exchange that is described in paragraph (f)(5)(ii)(B) of this section and the security is deemed by the Securities and Exchange Commission (SEC) as having a "ready market" under SEC Rule 15c3-1 (17 CFR 240.15c3-1).

(g) *Effective date and transition rules*—(1) *Statutory effective date*—(i) *General rule.* Except as otherwise provided in this paragraph (g), section 401(a)(35) is effective for plan years beginning after December 31, 2006.

(ii) *Collectively bargained plans*—(A) *Delayed effective date.* In the case of a plan maintained pursuant to one or more collective bargaining agreements between employee representatives and one or more employers ratified on or before August 17, 2006, section 401(a)(35) is effective for plan years beginning after the earlier of

- (i) the later of—
- (i) December 31, 2007; or
- (ii) the date on which the last such

collective bargaining agreement terminates (determined without regard to any extension thereof); or

- (2) December 31, 2008.

(B) *Definition of collectively bargained plans.* For purposes of this paragraph (g)(1)(ii), in the case of a plan for which one or more collective bargaining agreements apply to some, but not all, of the plan participants, the plan is considered a collectively bargained plan if at least 25 percent of the participants in the plan are members

of collective bargaining units for which the contributions under the plan are specified under a collective bargaining agreement.

(iii) *Special rule for certain employer securities held in an ESOP.* Section 901(c)(3)(A) and (B) of the Pension Protection Act of 2006, Public Law 109-280, 120 Stat. 780 (PPA '06), provides a special effective date for an employee stock ownership plan that holds a class of preferred stock with a guaranteed minimum value, as described in that section.

(2) *Statutory transition rules*—(i) *General rule.* Pursuant to section 401(a)(35)(H), in the case of the portion of an account to which paragraph (c) of this section applies and that consists of employer securities acquired in a plan year beginning before January 1, 2007, the requirements of paragraph (c) of this section only apply to the applicable percentage of such securities.

(ii) *Applicable percentage*—(A) *Phase-in percentage.* For purposes of this paragraph (g)(2), the applicable percentage is determined as follows—

Plan year to which paragraph (c) of this section applies:	The applicable percentage is:
1st	33
2nd	66
3rd and following	100

(B) *Special rule.* For a plan described in paragraph (g)(1)(iii) of this section for which the special effective date under section 901(c)(3) of PPA '06 applies, the applicable percentage under this paragraph (g)(2)(ii) is determined without regard to the delayed effective date in section 901(c)(3)(A) and (B) of PPA '06.

(iii) *Nonapplication for participants age 55 with three years of service.* Paragraph (g)(2)(i) of this section does not apply to an individual who is a participant who attained age 55 and had completed at least three years of service (as defined in paragraph (c)(3) of this section) before the first day of the first plan year beginning after December 31, 2005.

(iv) *Separate application by class of securities.* This paragraph (g)(2) applies separately with respect to each class of securities.

(3) *Regulatory effective date.* This section is effective for plan years beginning on or after January 1, 2009.

Linda E. Stiff,
Deputy Commissioner for Services and Enforcement.

[FR Doc. E7-25533 Filed 1-2-08; 8:45 am]
BILLING CODE 4830-01-P

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 4

RIN 2900-AM55

Schedule for Rating Disabilities; Evaluation of Scars

AGENCY: Department of Veterans Affairs.
ACTION: Proposed rule.

SUMMARY: This document proposes to amend the Department of Veterans Affairs (VA) Schedule for Rating Disabilities by revising that portion of the Schedule that addresses the Skin, so that it more clearly reflects our policies concerning the evaluation of scars.

DATES: Comments must be received on or before February 4, 2008.

ADDRESSES: Written comments may be submitted through www.Regulations.gov; by mail or hand-delivery to the Director, Regulations Management (00REG), Department of Veterans Affairs, 810 Vermont Ave., NW., Room 1068, Washington, DC 20420; or by fax to (202) 273-9026.

Comments should indicate that they are submitted in response to RIN 2900-AM55 "Schedule for Rating Disabilities; Evaluation of Scars." Copies of comments received will be available for public inspection in the Office of Regulation Policy and Management, Room 1063B, between the hours of 8 a.m. and 4:30 p.m. Monday through Friday (except holidays). Please call (202) 461-4902 for an appointment. (This is not a toll-free number.) In addition, during the comment period, comments may be viewed online through the Federal Docket Management System (FDMS) at www.Regulations.gov.

FOR FURTHER INFORMATION CONTACT: Maya Ferrandino, Regulations Staff (211D), Compensation and Pension Service, Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (727) 319-5847. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: This document proposes to amend the Department of Veterans Affairs (VA) Schedule for Rating Disabilities (38 CFR part 4) by revising the portions of § 4.118, the Skin, that address scars. A prior proposed rulemaking addressing the evaluation of scars was published in the Federal Register (67 FR 65915) on October 29, 2002, but it was subsequently withdrawn as VA determined that the proposed amendments did not accomplish the stated purpose or intended effect. The

withdrawal was published at 71 FR 78391 on December 29, 2006.

Scars resulting from burns potentially involve a wide range of locations, extent and severity. This rule would clarify that VA's diagnostic codes and means for evaluating scars, set forth under § 4.118, also encompass burn scars by incorporating "burn scars" into the title of the diagnostic codes most appropriate for evaluating them. At the same time, it would revise diagnostic codes 7800, 7801, 7802, 7804, and 7805, and remove diagnostic code 7803, to update and clarify the rating schedule.

Diagnostic Code 7800

Diagnostic code 7800 addresses disfigurement of the head, face, or neck, and provides criteria for evaluation based on eight possible characteristics of disfigurement and the extent of any gross distortion or asymmetry of facial features. We propose to change the title of diagnostic code 7800 from "Disfigurement of the head, face, or neck" to "Burn scar(s); scar(s) due to other causes; or other disfigurement of the head, face, or neck" to more clearly indicate that scarring, including burn scarring, may be the cause of disfigurement.

There are currently three notes under diagnostic code 7800, and we propose to add two more. New note #4 directs that disabling effects other than disfigurement that are associated with individual scar(s) of the head, face, or neck, such as pain, instability, and residuals of associated muscle or nerve injury, be evaluated under the appropriate diagnostic code(s) and combined under § 4.25. This note would provide clear guidance to raters for assessing disability other than disfigurement that is related to scars of the head, face, and neck.

We propose to add new note #5 to explain that the number of characteristics of disfigurement required to reach a particular evaluation level need not be present in a single scar in order to assign that level. The purpose of this proposed change is to ensure clarity in the method of application of the eight characteristics of disfigurement.

Diagnostic Code 7801

We propose to change the title of diagnostic code 7801 from "Scars, other than head, face, or neck, that are deep or that cause limited motion" to "Burn scar(s) or scar(s) due to other causes, not of the head, face, or neck, that are deep and nonlinear." First, this change indicates that this is the appropriate diagnostic code for the evaluation of burn scars that are deep, as well as for

nonburn scars that are deep. Second, the addition of "that are nonlinear" further clarifies what types of scars require evaluation under this diagnostic code. Because evaluation under diagnostic code 7801 is based on the surface area of scar(s), with the minimum compensable level requiring an area of at least 6 square inches (39 square centimeters); linear scars, which may have considerable length but only minimal width, could virtually never reach even the minimum evaluation under this diagnostic code. Therefore, it is not an appropriate diagnostic code to use for their evaluation. Linear scars, which would include, for example, most surgical scars, would be evaluated under diagnostic code 7804, as well as 7805, if applicable.

Third, the removal of reference to scars that limit motion reflects other changes proposed by this rule. Currently a scar that limits motion is assigned a rating under diagnostic code 7801, but the rating is based solely on the area of the scar and thus may not accurately reflect the degree of limitation of motion. As proposed by this rule, diagnostic code 7805 would make clear that veterans may receive a rating for the limitation of motion, or other functional effects of scars, under the diagnostic codes specifically governing such effects on the relevant body part, and that such a rating may be assigned in addition to any rating under diagnostic code 7801 or 7802 based on the area of the scar. We believe this practice would more accurately reflect the true level of disability where a scar limits motion. Accordingly, there is no need to refer to limitation of motion in diagnostic code 7801.

The evaluation criteria for diagnostic code 7801 are based on the area(s) of scars that fall under this diagnostic code and are currently: Area or areas exceeding 144 square inches (929 sq. cm.) for 40 percent, area or areas exceeding 72 square inches (465 sq. cm.) for 30 percent, area or areas exceeding 12 square inches (77 sq. cm.) for 20 percent, and area or areas exceeding 6 square inches (39 sq. cm.) for 10 percent. We propose to make a nonsubstantive change to these evaluation criteria to eliminate any possible confusion in the current criteria and to provide clear guidance on evaluating scars that fall between the sizes indicated at various percentage levels, for example a scar that exceeds 72 square inches but does not reach 144 square inches in area. This amendment would change the criteria to: Area or areas of at least 6 square inches (39 sq. cm.) but less than 12 square inches (77 sq. cm.) for 10 percent, area or areas of

at least 12 square inches (77 sq. cm.) but less than 72 square inches (465 sq. cm.) for 20 percent, area or areas of at least 72 square inches (465 sq. cm.) but less than 144 square inches (929 sq. cm.) for 30 percent, and area or areas of 144 square inches (929 sq. cm.) or greater for 40 percent.

We propose to redesignate current Note (2) as Note (1). We propose to revise current Note (1) under diagnostic code 7801 (which is renumbered as note (2)) to make clearer the guidance on evaluating multiple scars under this diagnostic code and to assure that it reflects current policy. The current note says: "Scars in widely separated areas, as on two or more extremities or on anterior and posterior surfaces of extremities or trunk, will be separately rated and combined in accordance with § 4.25 of this part." We propose to revise this note to clarify that if multiple scars are present, VA will assign a separate evaluation for each affected extremity, based on the total area of the qualifying scars of that extremity, and assign a separate evaluation for the trunk, if affected, based on the total area of the qualifying scars of the trunk. Note (2) would also direct that the separate evaluations be combined under § 4.25. Qualifying scars are deep scars that are not located on the head, face, or neck.

Multiple scars on different parts of the body (i.e., each extremity and the trunk), such as a scar on each arm or separate scars on the right leg and torso, would be evaluated separately based on the surface area of the scar located on each affected body part. Similarly, multiple scars on one part of the body, such as two scars on the right arm, would be evaluated based on the surface area of the scars on that part of the body. In this manner, a veteran with two scars on one arm would receive a single rating but a veteran with one scar on each arm would receive two ratings, but both evaluations would reflect the area of the scar(s). We recognize that a veteran with one affected body part may be compensated at a slightly lower rate than a veteran with two affected body parts, depending on the size of the areas of scarring. However, this difference reflects the somewhat greater difficulty in obtaining and maintaining employment that is caused by two scars that are not located near each other as compared to two scars proximate to each other.

Note (2), as revised, would also acknowledge that a scar may run into two separate areas (for example a scar of the trunk that runs across the shoulder onto the left arm). This one scar would be treated as two separate scars to ensure that the ratings reflect the effects

on distinct areas of the body. For example, we would separately evaluate the surface area of the portion of the scar located on the extremity and the surface area of the portion of the scar located on the trunk, and then combine those ratings under 38 CFR 4.25.

This revised note would remove any possible ambiguity regarding the appropriate rating for a scar that affects the trunk and one or more extremities, a scar that affects two or more extremities, and multiple scars. In addition, it would clarify that each extremity and the trunk represent the only body areas for which we may assign ratings. In other words, it would clarify the possible ambiguity present in the current regulation as to whether these areas of the body are merely examples of scarred body parts eligible for a disability rating.

Further, although the current note addresses the anterior and posterior surfaces of the trunk as widely separated areas, we propose that the trunk be considered as a single area. This would ensure that the area of all deep scars of the trunk are taken into account in the evaluation. Scars of the trunk of considerable area may extend from one surface of the trunk to another, crossing the sides of the trunk, and as such the anterior and posterior surfaces of the trunk are not widely separate areas. Under this note #2, a maximum of 40 percent could be assigned for each of the five areas, including the trunk. This proposed note is clearer and easier to apply than the current note, represents an accurate view of our current policy, and provides appropriate levels of evaluation for these types of scars.

Diagnostic Code 7802

We propose to change the title of this diagnostic code from "Scars, other than head, face, or neck, that are superficial and that do not cause limited motion" to "Burn scar(s) or scar(s) due to other causes, not of the head, face, or neck, that are superficial and nonlinear." As with diagnostic code 7801, we propose to add burn scar(s) to the title to indicate that this is the appropriate diagnostic code for the evaluation of superficial burn scars and other superficial scars that are nonlinear. As under diagnostic code 7801, evaluation under diagnostic code 7802 is based on area, and it is therefore not an appropriate diagnostic code for the evaluation of linear scars.

We propose to revise Note (1) in a similar manner to the revision of Note (1) under diagnostic code 7801, in order to make the guidance on evaluating multiple scars under this diagnostic

code clearer and to ensure that it reflects current policy.

Diagnostic Codes 7803 and 7804

Diagnostic code 7803 is now titled "Scars, superficial, unstable," and provides a single evaluation level of 10 percent for such scars. It also includes two notes, one defining an unstable scar and the other defining a superficial scar.

Diagnostic code 7804 is now titled "Scars, superficial, painful on examination" and provides a single evaluation level of 10 percent for such scars.

We propose deleting diagnostic code 7803 and amending diagnostic code 7804 so that it will govern the evaluation of both unstable and painful scars. Because a deep scar can also be unstable, painful, or both, we propose removing "superficial" from the title of diagnostic code 7804, so that it will apply to both deep and superficial scars. The new title of diagnostic code 7804 would be: "Scar(s), unstable or painful". We propose removing the "on examination" language in the new title because VA's disability ratings are based on relevant medical evidence; as such, to include "on examination" in the title is redundant.

We propose providing evaluation criteria that encompass both unstable and painful scars and apply to one or more scars. We propose assigning a 10 percent evaluation if there are one or two scars that are unstable or painful; a 20 percent evaluation if there are three or four scars that are unstable or painful; and a 30 percent evaluation if there are five or more scars that are unstable or painful. Furthermore, we propose adding a note #2 explaining that if one or more scars are both unstable and painful, 10 percent will be added to the evaluation based on the total number of unstable or painful scars. The existing criteria provide no specific guidance on evaluating multiple painful or unstable scars, and we propose providing new criteria that reflect our policies concerning the evaluation of multiple superficial scars that are unstable, painful, or both. In our judgment, these criteria are equitable, in that if five painful scars are present on a single extremity, for example, they would receive the same evaluation (30 percent) as would five painful scars, if one were on each extremity, and one on the trunk. Unlike the physical effects of a deep or superficial scar, which may be limited to a particular part of the body, pain tends to affect the person as a whole; therefore, in cases of multiple scars, this diagnostic code does not distinguish scars based on where they are located

but rather considers their cumulative effect.

Finally, we propose adding note #3, which indicates that scars evaluated under diagnostic codes 7800, 7801, 7802, or 7805 may also receive an evaluation under diagnostic code 7804, when applicable. This would clarify which types of scars may be evaluated under diagnostic code 7804 as well as under another diagnostic code.

We propose deleting note #1 to diagnostic code 7804, which defines a superficial scar, because we propose to make this diagnostic code applicable to both deep and superficial scars, and there will therefore no longer be a need to define a superficial scar under this diagnostic code. We propose replacing it with new note #1, which defines an unstable scar (using the same definition as in Note (1) under current diagnostic code 7803).

We also propose deleting Note (2) to diagnostic code 7804, concerning the evaluation of a scar on the tip of a finger or toe. The note is unnecessary because a scar on the tip of a finger or toe is evaluated under the same criteria as any other scar. In other words, a fingertip is part of the arm extremity and a toe is part of the leg extremity. We propose replacing that note with new note #2, discussed above.

Diagnostic Code 7805

Current diagnostic code 7805 has been most commonly used to evaluate well-healed, asymptomatic, linear surgical or wound scars. This diagnostic code includes a direction to rate on limitation of function of affected part. We propose revising the provision in order to clarify its intended applicability, but substantively it continues to serve the same purpose.

We propose that diagnostic code 7805 now be titled, "Scars, other (including linear scars) and other effects of scars evaluated under Diagnostic Codes 7800, 7801, 7802, and 7804", in order to emphasize that a single scar may receive, for example, a rating under both diagnostic codes 7801 and 7805. The purpose of the rating under diagnostic code 7805 is to ensure that we evaluate the disabling effects of a scar other than those reflected in an evaluation under the criteria set forth in diagnostic codes 7800-04. Most often, this diagnostic code is used to evaluate healed scars that are linear, are not tender or unstable, and are not of head, face, or neck, but may cause functional limitation to the affected body part, for example, a healed appendectomy scar or a scar related to gall bladder removal. An evaluation under this diagnostic code would therefore consist of a

hyphenated diagnostic code, with diagnostic code 7805 being the primary, and the affected body part being secondary, with the rating percentage based on the body part.

Applicability Date

VA proposes to make the provisions of this rule applicable to all applications for benefits received by VA on or after the effective date of this rule. A veteran who VA rated under diagnostic codes 7800, 7801, 7802, 7803, 7804, or 7805 of § 4.118, as in effect prior to the effective date of this rule, will be permitted to request review under these clarified criteria, irrespective of whether his or her disability has worsened since the last review. VA would review that veteran's disability rating to determine whether the veteran may be entitled to a higher disability rating under the provisions established by this rulemaking. The effective date of any award of an increase in disability compensation based on the clarifications in this rule would not be earlier than the effective date of the new criteria, but will otherwise be assigned under the current regulations regarding effective dates for increases in disability compensation. 38 CFR 3.400, etc. We propose adding this provision in the regulation to ensure veterans are fully notified of the availability of the review.

We propose establishing this process for veterans potentially affected by this rulemaking in order to ensure that veterans, especially those wounded during Operation Enduring Freedom or Operation Iraqi Freedom, are compensated as fully as possible for their wounds.

Paperwork Reduction Act

This document contains no provisions constituting a collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3521).

Regulatory Flexibility Act

The Secretary hereby certifies that this proposed rule would not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601-612. This amendment would not significantly impact any small entities. Therefore, pursuant to 5 U.S.C. 605(b), this amendment is exempt from the initial and final regulatory flexibility analysis requirements of sections 603 and 604.

Executive Order 12866—Regulatory Planning and Review

Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and,

when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity). The Executive Order classifies a "significant regulatory action," requiring review by the Office of Management and Budget, as any regulatory action that is likely to result in a rule that may: (1) Have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

The economic, interagency, budgetary, legal, and policy implications of this proposed rule have been examined and it has been determined to be a significant regulatory action under Executive Order 12866.

Unfunded Mandates

The Unfunded Mandates Reform Act of 1995 requires, at 2 U.S.C. 1532, that agencies prepare an assessment of anticipated costs and benefits before issuing any rule that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of \$100 million or more (adjusted annually for inflation) in any year. This proposed rule would have no such effect on State, local, and tribal governments, or on the private sector.

Catalog of Federal Domestic Assistance Numbers and Titles

The Catalog of Federal Domestic Assistance program numbers and titles for this proposal are 64.104, Pension for Non-Service-Connected Disability for Veterans, and 64.109, Veterans Compensation for Service-Connected Disability.

List of Subjects in 38 CFR Part 4

Disability benefits, Pensions, Veterans.

Approved: November 16, 2007.

Gordon H. Mansfield,

Acting Secretary of Veterans Affairs.

For the reasons set out in the preamble, 38 CFR part 4, subpart B, is

proposed to be amended as set forth below:

PART 4—SCHEDULE FOR RATING DISABILITIES

Subpart B—Disability Ratings

1. The authority citation for part 4 continues to read as follows:

Authority: 38 U.S.C. 1155, unless otherwise noted.

2. Section 4.118 is amended by:

a. Adding an introductory paragraph to § 4.118.

b. Revising the heading to diagnostic code 7800 and adding new notes (4) and (5).

c. Revising diagnostic codes 7801, 7802, 7804, and 7805.

d. Removing diagnostic code 7803.

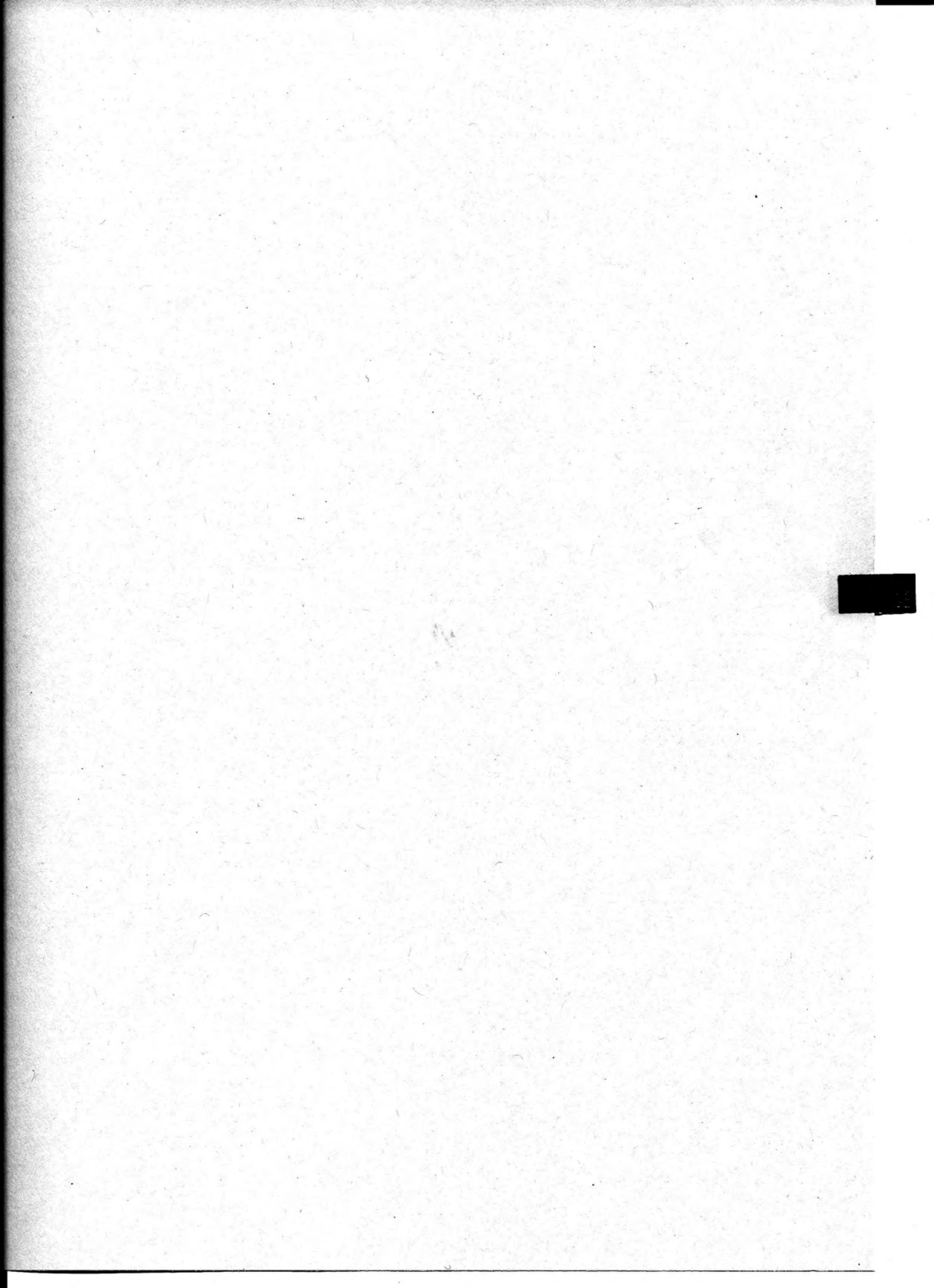
The additions and revisions read as follows:

§ 4.118 Schedule of ratings—skin.

A veteran who VA rated under diagnostic codes 7800, 7801, 7802, 7803, 7804, or 7805, before [date 30 days after date of publication of the final rule in the Federal Register], can request review under diagnostic code 7800, 7801, 7802, 7804, and 7805, irrespective of whether his or her disability has increased since the last review. VA will review that veteran's disability rating to determine whether the veteran may be entitled to a higher disability rating under diagnostic code 7800, 7801, 7802, 7804, and 7805. A request for review pursuant to this rulemaking will be treated as a claim for an increased rating for purposes of determining the effective date of an increased rating awarded as a result of such review; however, in no case will the award be effective before [date 30 days after date of publication of the final rule in the Federal Register].

	Rating
7800 Burn scar(s); scar(s) due to other causes; or other disfigurement of the head, face, or neck: Note (4): Separately evaluate disabling effects other than disfigurement that are associated with individual scar(s) of the head, face, or neck, such as pain, instability, and residuals of associated muscle or nerve injury, under the appropriate diagnostic code(s) and apply § 4.25 to combine the evaluation(s) with the evaluation assigned under this diagnostic code.	

	Rating		Rating
<p>Note (5): The characteristic(s) of disfigurement may be caused by one scar or by multiple scars; the characteristic(s) required to assign a particular evaluation need not be caused by a single scar in order to assign that evaluation.</p> <p>7801 Burn scar(s) or scar(s) due to other causes, not of the head, face, or neck, that are deep and nonlinear:</p> <p>Area or areas of 144 square inches (929 sq. cm.) or greater</p> <p>Area or areas of at least 72 square inches (465 sq. cm.) but less than 144 square inches (929 sq. cm.)</p> <p>Area or areas of at least 12 square inches (77 sq. cm.) but less than 72 square inches (465 sq. cm.)</p> <p>Area or areas of at least 6 square inches (39 sq. cm.) but less than 12 square inches (77 sq. cm.)</p> <p>Note (1): A deep scar is one associated with underlying soft tissue damage.</p> <p>Note (2): If multiple scars are present, or if a single scar affects more than one extremity, assign a separate evaluation for each affected extremity, based on the total area of the qualifying scars that affect that extremity, and assign a separate evaluation for the trunk, if affected, based on the total area of the qualifying scars of the trunk. Combine the separate evaluations under § 4.25. Qualifying scars are scars that are nonlinear, deep, and are not located on the head, face, or neck.</p> <p>7802 Burn scar(s) or scar(s) due to other causes, not of the head, face, or neck, that are superficial and nonlinear:</p> <p>Area or areas of 144 square inches (929 sq. cm.) or greater</p> <p>Note (1): A superficial scar is one not associated with underlying soft tissue damage.</p> <p>Note (2): If multiple superficial scars are present, assign a separate evaluation for each affected extremity, based on the total area of the superficial scars of that extremity, and assign a separate evaluation for the trunk, if affected, based on the total area of the superficial scars of the trunk. Combine the separate evaluations under § 4.25.</p> <p>7804 Scar(s), unstable or painful:</p> <p>Five or more scars that are unstable or painful</p> <p>Three or four scars that are unstable or painful</p>	<p>10</p> <p>40</p> <p>30</p> <p>20</p> <p>10</p> <p>10</p> <p>30</p> <p>20</p>	<p>One or two scars that are unstable or painful</p> <p>Note (1): An unstable scar is one where, for any reason, there is frequent loss of covering of skin over the scar.</p> <p>Note (2): If one or more scars are both unstable and painful, add 10 percent to the evaluation that is based on the total number of unstable or painful scars.</p> <p>Note (3): Scars evaluated under diagnostic codes 7800, 7801, 7802, or 7805 may also receive an evaluation under this diagnostic code, when applicable.</p> <p>7805 Scars, other (including linear scars) and other effects of scars evaluated under Diagnostic Codes 7800, 7801, 7802, and 7804:</p> <p>Evaluate any disabling effect(s) not considered in a rating provided under diagnostic codes 7800-04 under an appropriate diagnostic code.</p> <p>* * * * *</p> <p>[FR Doc. E7-25525 Filed 1-2-08; 8:45 am]</p> <p>BILLING CODE 8320-01-P</p> <p>DEPARTMENT OF VETERANS AFFAIRS</p> <p>38 CFR Part 4</p> <p>RIN 2900-AM75</p> <p>Schedule for Rating Disabilities; Evaluation of Residuals of Traumatic Brain Injury (TBI)</p> <p>AGENCY: Department of Veterans Affairs.</p> <p>ACTION: Proposed rule.</p> <p>SUMMARY: This document proposes to amend the Department of Veterans Affairs (VA) Schedule for Rating Disabilities by revising that portion of the Schedule that addresses neurological conditions and convulsive disorders, in order to provide detailed and updated criteria for evaluating residuals of traumatic brain injury (TBI).</p> <p>DATES: Comments must be received on or before February 4, 2008.</p> <p>ADDRESSES: Written comments may be submitted through http://www.Regulations.gov; by mail or hand-delivery to the Director, Regulations Management (00REG), Department of Veterans Affairs, 810 Vermont Ave., NW., Room 1068, Washington, DC 20420; or by fax to (202) 273-9026.</p> <p>Comments should indicate that they are submitted in response to RIN 2900-AM75—Schedule for Rating</p>	<p>10</p> <p>Disabilities; Evaluation of Residuals of Traumatic Brain Injury (TBI). Copies of comments received will be available for public inspection in the Office of Regulation Policy and Management, Room 1063B, between the hours of 8 a.m. and 4:30 p.m., Monday through Friday (except holidays). Please call (202) 461-4902 (this is not a toll-free number) for an appointment. In addition, during the comment period, comments may be viewed online through the Federal Docket Management System (FDMS) at http://www.Regulations.gov.</p> <p>FOR FURTHER INFORMATION CONTACT: Maya Ferrandino, Regulations Staff (211D), Compensation and Pension Service, Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420. (727) 319-5847. (This is not a toll-free number.)</p> <p>SUPPLEMENTARY INFORMATION: This document proposes to amend the Department of Veterans Affairs (VA) Schedule for Rating Disabilities (38 CFR part 4) by revising the material under diagnostic code 8045, Brain disease due to trauma, in 38 CFR 4.124a (neurological conditions and convulsive disorders). TBI has been called a signature injury of the conflict in Iraq, and VA is seeing a statistically larger number of veterans of the Iraq and Afghanistan conflicts with residuals of TBI than has been seen in previous conflicts. In addition, the effects of injuries stemming from blasts resulting from roadside explosions of improvised explosive devices, which have been common sources of injury in these conflicts, appear to be somewhat different from the effects of brain trauma seen from other sources of injury. VA proposes to amend the criteria for rating residuals of TBI to update them in light of current knowledge of the condition.</p> <p>We propose changing the title of diagnostic code 8045 from "Brain disease due to trauma" to "Residuals of traumatic brain injury (TBI)," which reflects modern terminology for this condition.</p> <p>TBI is an injury to the brain from an external force that results in immediate effects such as loss or alteration of consciousness, amnesia, and sometimes neurological impairments. These abnormalities may all be transient, but more prolonged or even permanent problems with a wide range of impairment in such areas as physical, mental, and emotional/behavioral functioning may occur. TBI is classified as mild, moderate, or severe at, or close to, the time of the original injury, and while this classification will often</p>



Five Years of VA Health Care for Combat Veterans

February 26, 2008

Peake: Honoring Commitment to Newest Combat Veterans

WASHINGTON – Military veterans who served in combat since Nov. 11, 1998, including veterans of Iraq and Afghanistan, are now eligible for five years of free medical care for most conditions from the Department of Veterans Affairs (VA). This measure increases a two-year limit that has been in effect nearly a decade.

“By their service and their sacrifice, America’s newest combat veterans have earned this special eligibility period for VA’s world-class health care,” said Secretary of Veterans Affairs Dr. James B. Peake.

The five-year deadline has no effect upon veterans with medical conditions related to their military service. Veterans may apply at any time after their discharge from the military -- even decades later -- for medical care for service-connected health problems.

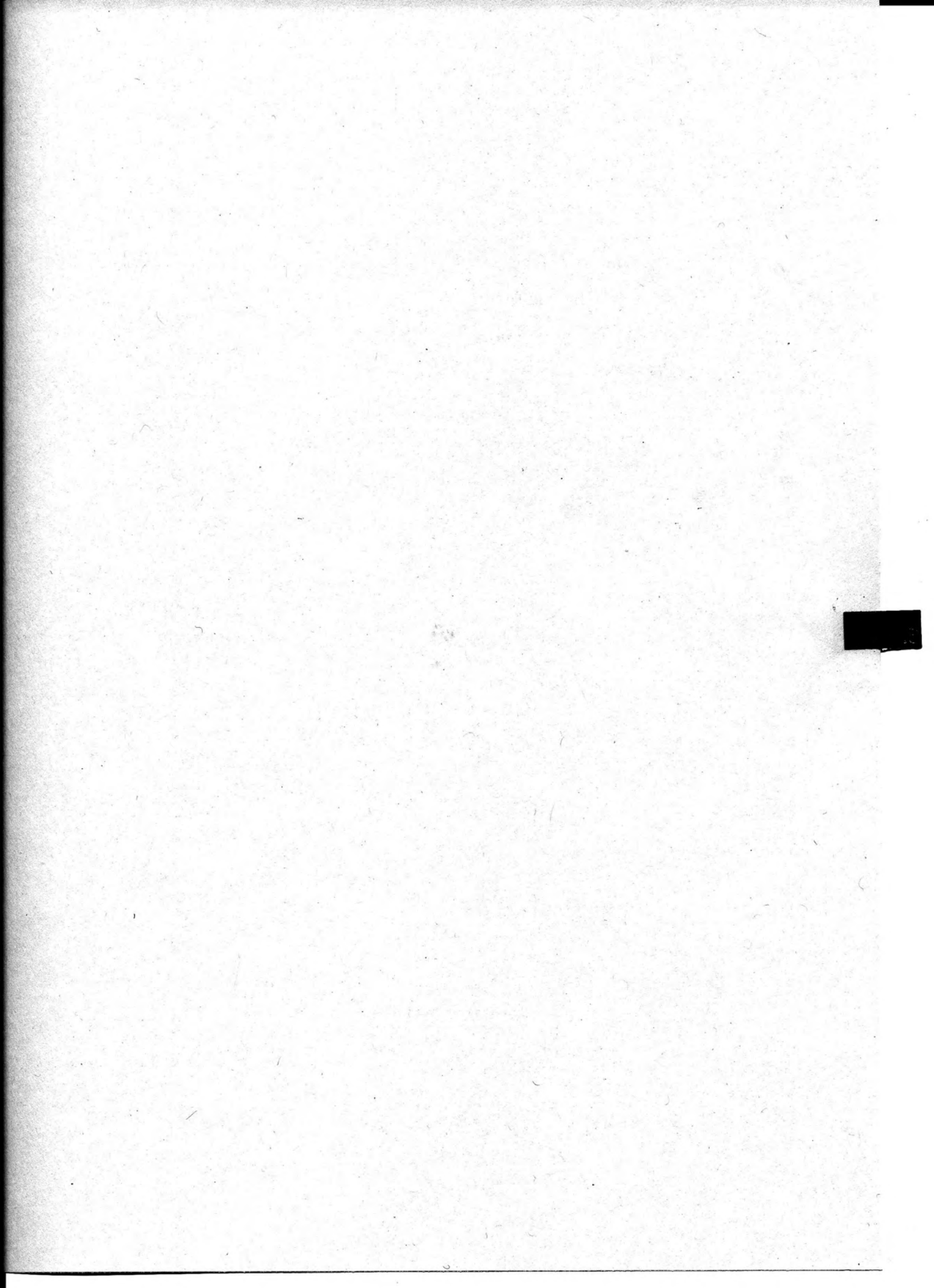
The new provision, part of the National Defense Authorization Act of 2008 signed by President Bush on Jan. 28, 2008, applies to care in a VA hospital, outpatient clinic or nursing home. It also extends VA dental benefits -- previously limited to 90 days after discharge for most veterans -- to 180 days.

Combat veterans who were discharged between Nov. 11, 1998 and Jan. 16, 2003, and who never took advantage of VA’s health care system, have until Jan. 27, 2011 to qualify for free VA health care.

The five-year window is also open to activated Reservists and members of the National Guard, if they served in a theater of combat operations after Nov. 11, 1998 and were discharged under other than dishonorable conditions.

Veterans who take advantage of this five-year window to receive VA health care can continue to receive care after five years, although they may have to pay copayments for medical problems unrelated to their military service. Copayments range from \$8 for a 30-day supply of prescription medicine to \$1,024 for the first 90 days of inpatient care each year.

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VA Awards Contract for Disability Benefits Studies

January 30, 2008

Virginia Company Awarded Contract

WASHINGTON — The Department of Veterans Affairs (VA) has awarded a \$3.2 million contract to Economic Systems Inc. of Falls Church, Va., to develop information relating to possible changes in the composition of disability payments to disabled veterans.

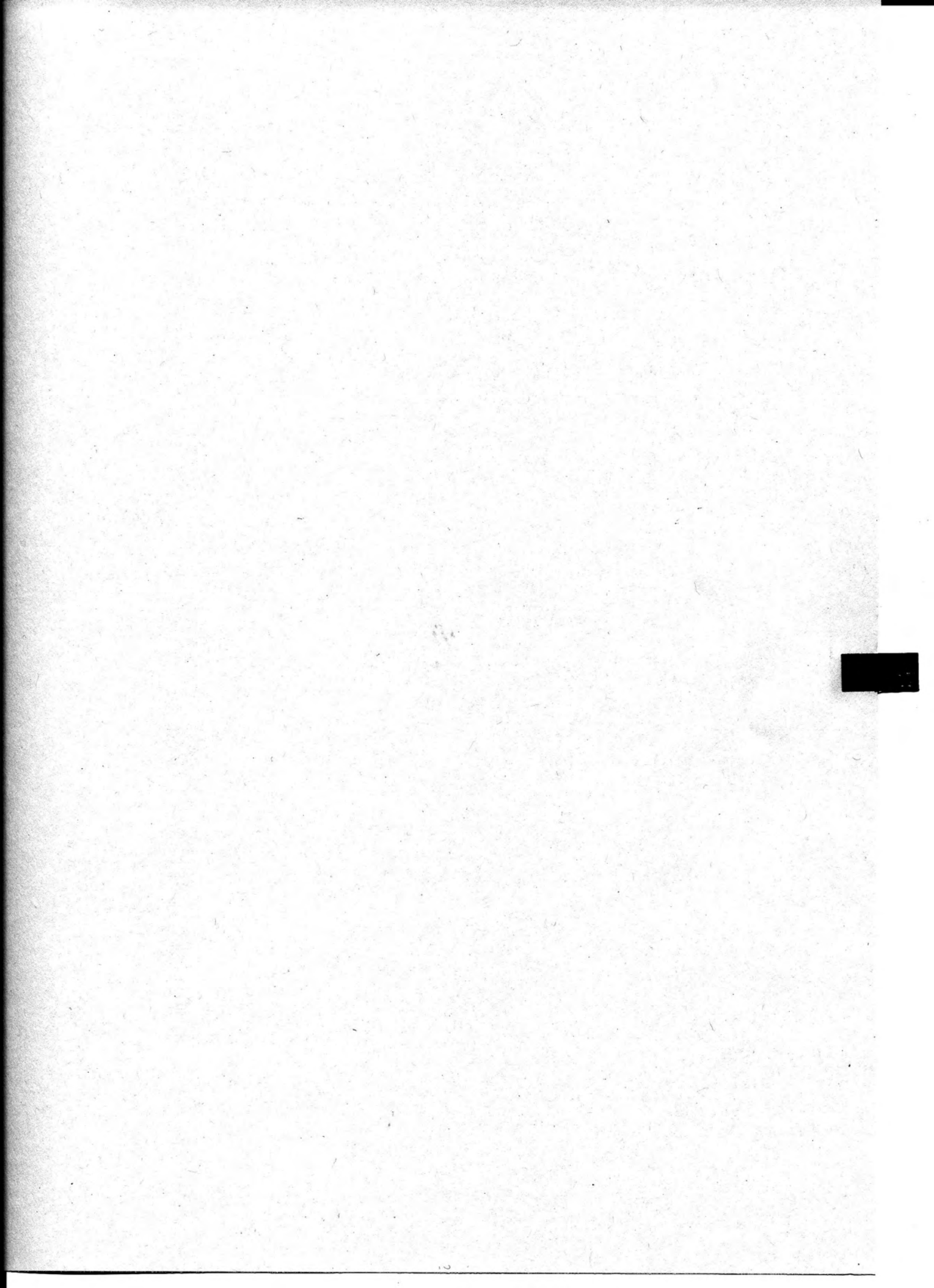
“This contract is further evidence of VA’s commitment to review the full range of benefits and programs to ensure today’s disabled veterans receive the help they have earned,” said Secretary of Veterans Affairs Dr. James B. Peake.

The contract is based upon recommendations of the Dole-Shalala Commission, which issued its final report in July 2007, and the October 2007 final report of the Veterans Disability Benefits Commission.

The contractor will provide its findings in August. Economic Systems Inc. will address three basic research questions in two studies. One study will examine the nature and feasibility of making “long-term transition payments” to service members separated from the military due to disability while those veterans undergo rehabilitation.

A second study will provide information on the appropriate levels of compensation necessary to compensate for any loss in earnings capacity caused by service-incurred or service-aggravated conditions. It will also provide information on potential “quality of life” payments called for by both studies.

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FY '09 VA Budget Request Highlights

February 4, 2008

Honoring the nation's commitment to care for the newest generation of combat veterans and service members from other conflicts and eras, Secretary of Veterans Affairs Dr. James B. Peake announced today President Bush is seeking a budget of \$93.7 billion in fiscal year 2009 for the Department of Veterans Affairs (VA), with health care and disability compensation for veterans targeted for most of the spending.

Medical Care

- The President's 2009 request includes total budgetary resources of \$41.2 billion for VA medical care, an increase of \$2.3 billion over the 2008 budget. VA's total medical care request is comprised of funding for medical services (\$34.08 billion), medical facilities (\$4.66 billion), and resources from medical care collections (\$2.47 billion).
- The budget will provide resources to treat nearly 5.8 million patients, including about 3.9 million veterans who are VA's highest priority patients—veterans returning from service in Operation Iraqi Freedom (OIF) and Operation Enduring Freedom (OEF), veterans with service-connected disabilities, those with lower incomes, and veterans with special health care needs.
- VA will treat about 333,000 OIF/OEF veterans in 2009, a 14 percent increase over the estimated 2008 figure. Medical care funding for these patients will climb to nearly \$1.3 billion in 2009, or 21 percent more than in 2008.
- The budget will provide resources for VA to virtually eliminate the patient waiting list by the end of 2009.
- VA will be able to continue to provide timely, accessible, and high-quality health care that sets the national standard of excellence for the health care industry. For the 8th consecutive year, customer satisfaction with VA's health care system in 2007 was higher than the private sector. Patients at VA medical centers recorded a satisfaction level of 83 out of possible 100 points, or 6 points higher than the private-sector health care industry.

- Resources for mental health care will reach \$3.9 billion in 2009. This is \$319 million (or 9 percent) above the 2008 level and will strengthen efforts to ensure VA provides equitable access throughout the nation for veterans with mental health disorders.
- VA is requesting \$762 million in 2009 for non-institutional long-term care, an increase of 28 percent over 2008. This will allow veterans to receive extended care services in the most clinically appropriate setting and in the comfort and familiar settings of their homes. The number of patients receiving this type of care, as measured by the average daily census, is expected to reach 61,000, or 38 percent higher than the estimated level for 2008.
- Resources in 2009 for the Civilian Health and Medical Program of the VA (CHAMPVA) will total just over \$1 billion. CHAMPVA allows VA to provide health benefits for the dependents and survivors of veterans who are, or were at time of death, 100 percent permanently and totally disabled from a service-connected disability, or who died from a service-connected condition.
- VA's medical care request includes nearly \$1.5 billion to support the increasing workload associated with the purchase and repair of prosthetics and sensory aids to improve veterans' quality of life, including those returning from combat in Iraq and Afghanistan. This is 10 percent above the funding level in 2008.
- VA's 2009 budget includes \$83 million (or 19 percent more than in 2008) for facility activations where needed to purchase equipment and supplies for newly constructed and leased buildings as VA completes projects from the Capital Asset Realignment for Enhanced Services (CARES) program.
- The budget also provides funding for investments in VA's capital infrastructure including the continued development of new hospitals in Orlando, Fla. (\$120 million) and Denver (\$20 million), and beginning three new projects to enhance mental health and polytrauma care at the Palo Alto, Calif. (\$38 million), Bay Pines, Fla. (\$17 million) and Tampa, Fla. (\$21 million) medical centers.
- The Department will expand its telehealth program which is a critical component to improve access to health care for veterans living in rural and remote areas.

Medical Research

- VA is requesting \$442 million to support the medical and prosthetic research program, which would fund nearly 2,000 high-priority research projects expanding knowledge in areas critical to veterans' health care needs, most notably research in mental illness (\$53 million), aging (\$45 million), health services delivery improvement (\$39 million), cancer (\$37 million), and heart disease (\$33 million).
- One of VA's highest priorities in 2009 will be to continue an aggressive research program to improve the lives of veterans returning from service in OIF and OEF. The 2009 budget provides \$252 million devoted to research projects focused specifically on veterans returning from service in Iraq and Afghanistan.

Benefits

- Disability compensation payments will be made to 234,000 more service-disabled veterans and their survivors in 2009 than were made in 2007. Total disability compensation payments will increase by \$6 billion.
- Vocational rehabilitation and employment benefits for service-disabled veterans will increase by \$14 million in 2009.
- Resources requested in the budget will allow VA to improve the timeliness with which compensation and pension claims are processed -- average days to process these claims will be 145 days, a 21 percent improvement in timeliness over 2007. The number of claims processed will grow to over 940,000, an increase of 14 percent from 2007.
- The number of pending claims for compensation and pension benefits will fall to 298,000 by the end of 2009, or 24 percent below 2007.
- Timeliness will improve for original education claims from 32 days in 2007 to 19 days in 2009. The time it takes to process supplemental education claims will also improve, from 13 days in 2007 to 10 days in 2009.
- In 2009, VA and the Department of Defense will complete the pilot of a new disability evaluation system for wounded warriors at major medical facilities in the Washington, D.C., area. This initiative is designed to eliminate the duplicative and often confusing elements of the current disability process of the two departments. The pilot will include

one medical examination according to VA protocols and a single disability rating determined by VA.

- The budget proposal includes \$35.9 million to provide specially adapted housing grants to severely disabled veterans and service members, providing a barrier-free living environment that affords them a level of independent living they may not otherwise enjoy.

Memorial Affairs

- The President's 2009 budget request for VA includes \$181 million in operations and maintenance funding for the National Cemetery Administration, which is 71 percent above the resources available to the department's memorial affairs program when the President took office.
- Resources are included in the 2009 budget request to allow VA to continue daily operations and to begin interment activities at six new national cemeteries -- Bakersfield, Calif.; Birmingham, Ala.; Columbia-Greenville, S.C.; Jacksonville, Fla.; Sarasota, Fla.; and southeastern Pennsylvania.
- Major construction funding of \$105 million will support the Department's burial program in 2009, including resources for gravesite expansion and cemetery improvement projects at three national cemeteries -- New York (Calverton, \$29 million); Massachusetts (\$20.5 million); and Puerto Rico (\$33.9 million).
- VA will expand access to its burial program by increasing the percent of veterans served by a national or state veterans cemetery within 75 miles of their residence to 88 percent in 2009. That's a 4.6 percentage point increase above the performance level at the close of 2007.
- VA expects to perform 111,000 interments in 2009 – 11 percent more than the interments performed in 2007.
- VA will continue to increase the percent of respondents who rate the quality of service provided by national cemeteries as excellent to 98 percent in 2009 – 4 percentage points higher than the level of performance reached in 2007.

Information Technology

- The President's 2009 budget provides more than \$2.4 billion for the Department's IT program. This is \$389 million (19 percent) above the 2008 budget, and reflects the realignment of all IT operations and functions under the control of the Chief Information Officer.
- The IT consolidation has given VA the opportunity to look at all aspects of the "State of VA IT" and to support efforts to provide improved, standardized IT services, leading to consistency and dependability across the Department. In some cases, this will involve shoring up areas which have suffered from neglect in the past.
- IT is critical to the timely, accessible delivery of high-quality benefits and services to veterans and their families. It is vital that VA receives a significant infusion of new resources to implement new systems and upgrades to existing systems, which have a direct impact on the medical care of veterans, the quality and safety of that care, and the underpinning IT infrastructure that makes health care delivery possible.
- The 2009 budget request contains \$93 million in support of the Department's cyber security program to continue the commitment to make VA the gold standard in data security within the Federal government.
- VA is seeking \$284 million in 2009 for development and implementation of the Veterans Health Information Systems and Technology Architecture (HealthVet-VistA) program. This includes a health data repository, a patient scheduling system, and a reengineered pharmacy application. These applications are directly tied to programs which are intended to enhance or replace existing programs already serving patients.
- The budget proposal includes \$23.8 million in 2009 to complete the transition of compensation and pension payment processing from the current system to VETsNET, enhancing claims processing efficiency and accuracy, strengthening payment integrity and fraud prevention, and positioning VA to develop future claims processing efficiencies via our Paperless Claim Processing Initiative; an important component of the recommendations presented in the Dole-Shalala Commission report to support the nation's wounded warriors.

BUSH ADMINISTRATION SEEKS \$38.5 BILLION HUD BUDGET IN 2009

Additional \$1 billion requested for housing counseling, affordable housing & homeless

WASHINGTON â€“ The Bush Administrationâ€™s Fiscal Year 2009 Budget seeks \$38.5 billion for the U.S. Department of Housing and Urban Development, which represents a \$3.2 billion or nine percent increase over the Presidentâ€™s proposed budget for FY 2008 and \$1 billion more than HUDâ€™s current budget authority. In revealing details of next yearâ€™s proposed spending blueprint, HUD Secretary Alphonso Jackson noted the 2009 Budget includes significant increases for housing counseling, homeless assistance and affordable housing programs.

â€œThis budget demonstrates President Bushâ€™s commitment to protecting homeownership by helping families facing foreclosure, while recognizing the need for more affordable rental housing,â€ said Jackson. â€œThe President is also making certain that HUDâ€™s budget once again includes record funding to support homeless individuals and families.â€

The 2009 Budget seeks a record \$1.636 billion to support thousands of local homeless programs; \$2 billion to promote local affordable housing development; and \$29.4 billion for rental assistance for low-income families.

PROTECTING HOMEOWNERSHIP

While homeownership rates continue at near historic levels, many lower income families are facing the prospect of foreclosure as their subprime adjustable-rate mortgages reset. To combat this challenge, the President seeks \$65 million for housing counseling, a \$15 million increase over 2008.

In June 2002, President Bush challenged the nation to close the minority homeownership gap by increasing the number of minority homeowners by 5.5 million by the end of this decade. Since the President issued his challenge, 3.74 million minority families have joined the ranks of homeowners, putting the nation on schedule to reach the Presidentâ€™s goal. The FY 2009 Budget includes increases to several programs that advance the Presidentâ€™s goal of creating and preserving an ownership society:

- **The Federal Housing Administration (FHA)** â€“ FHA is undergoing a historic transformation to give homebuyers who do not qualify for prime financing a better alternative to high-cost, high-risk loan products. Many of these types of non-traditional mortgages triggered high foreclosure rates that the nation is currently experiencing. The House and Senate overwhelmingly agree with the Administrationâ€™s proposal to modernize the FHA and are currently working on a reconciled bill for the Presidentâ€™s signature.
- **HOME Investment Partnerships (HOME) Program** â€“ HOME is the largest federal block grant program dedicated to creating affordable housing for low-income families. The Administration is proposing \$2 billion for the HOME program in FY 2009, an increase of \$263 million from FY 2008 enacted. Each HOME dollar allocated to a local jurisdiction traditionally leverages more than three dollars from other public and private sources.

- **Housing Counseling** – The proposed Budget requests \$65 million, \$15 million increase over current levels, to support 2,300 housing counseling agencies across the country. In fact, the President has increased funding for housing counseling by 150 percent since taking office in 2001. These programs offer a wide array of counseling services to prepare families to buy their first home, to avoid predatory lending practices, and assist current homeowners facing default. Housing counseling is the most cost-effective way to educate renters and homeowners to make informed financial decisions and avoid high-risk, high-cost loans that place them at greater risk of foreclosure.
- **Self-Help Homeownership Opportunity Program (SHOP)** – By supporting self-help homeownership programs like Habitat for Humanity and others, HUD’s SHOP program helps families to realize the American Dream of homeownership through so-called sweat equity grants. Those who benefit from SHOP funds must contribute at least 100 hours of their own labor to help construct or rehabilitate their new home. The Budget seeks \$39 million for SHOP in FY 2009, an increase of \$12.5 million over the current appropriation.

RENTAL ASSISTANCE FOR LOW-INCOME HOUSING

The FY 2009 Budget proposes a total of \$16 billion in funding for tenant-based rental assistance including HUD’s Housing Choice Voucher Program, \$336.3 million more than 2008. In addition, HUD’s budget seeks \$7.4 billion in Section 8 Project-Based rental assistance including a \$400 million advanced appropriation to ensure timely payments to owners and represents nearly \$1.2 billion more than last year’s request. Combined, the total proposed funding for the Department’s rental assistance and public housing capital and operating funds total \$29.4 billion – funding that will help an estimated 4.8 million American families to afford a decent home.

HOUSING FOR THE HOMELESS & PERSONS LIVING WITH HIV/AIDS

- **Continuum of Care** – Once again, the President is proposing a record level of funding to house and serve homeless persons and families. The FY 2009 Budget seeks \$1.636 billion through HUD’s Continuum of Care and Emergency Shelter Grant programs. This request represents \$50 million more than the current appropriation. Since 2001, HUD has awarded \$10 billion in homeless assistance nationwide. This funding will support more than 6,000 local housing and service programs that provide emergency, transitional, and permanent supportive housing to more than 160,000 persons.
- **Veterans Affairs Supportive Housing Program (VASH)** – provides permanent housing subsidies and case management services to homeless veterans with mental disorders and substance addictions. The U.S. Department of Veterans Affairs (VA) screens homeless veterans for program eligibility and provides case management services to enrollees. HUD allocates rental subsidies from its Housing Choice Voucher program to the VA, which then distributes them to the enrollees. The FY 2009 Budget request for \$75 million will add an additional 9,800 vouchers to the program; this continues the Department’s commitment to our nation’s veterans and will double the number of available vouchers. Thus, if the FY09 Budget is enacted, approximately 20,000 veterans will be participating in the program. The VASH program serves a segment of the

homeless subpopulation also targeted by the Administration's initiatives to reduce the number of chronically homeless Americans.

- **Housing Opportunities for Persons with AIDS (HOPWA)** – The FY 2009 Budget seeks \$300 million to support stable housing, improved access to health care, and more supportive services for low-income persons living with HIV/AIDS – an increase of \$14 million over FY 2007. Through formula grants to States and local communities, as well as competitively awarded grants, these resources will provide critically needed housing assistance to 67,000 persons and families.

FAIR HOUSING

One of HUD's core missions is to increase access to affordable housing free from discrimination. As the Department continues to make progress to close the minority homeownership gap, it is critical that HUD's fair housing program bring about greater equality in housing by protecting the right of families and individuals to live where they choose.

For FY 2009, the Budget includes \$51 million to support enforcement, education and outreach efforts to ensure that Americans are not denied housing based on their race, religion, sex, family status or disability. This requested amount is \$1 million higher than the current appropriated level and supports HUD's ongoing efforts to combat discrimination across the nation, particularly against persons with disabilities. Protecting the fair housing rights of persons with disabilities continues to be a Departmental priority.

COMMUNITY DEVELOPMENT

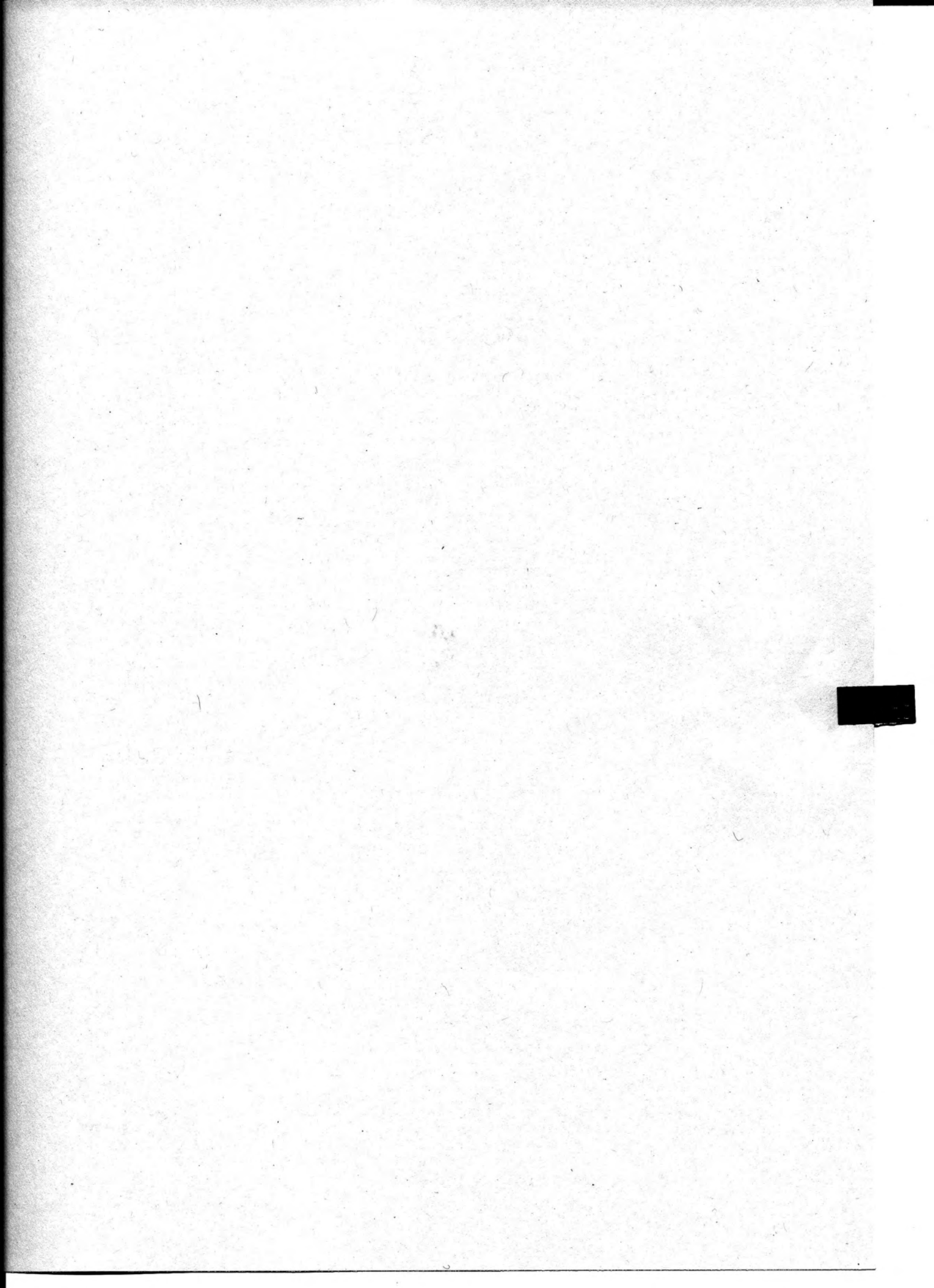
The FY 2009 Budget proposes to fund the Community Development Block Grant (CDBG) Program at \$3 billion. The program's underlying formulas have remained essentially the same since 1978 while the nation's demographics have changed significantly. It is increasingly clear that an outdated formula that once measured the needs of urban America no longer reflects the modern needs of today's cities, larger urban counties and States. The FY 2009 proposal is in line with the President's commitment to target resources to areas of greatest need.

Meanwhile, the Department will continue to pursue formula fairness by appealing to Congress to approve a new allocation formula that will more effectively target CDBG funding to areas of highest need, which is often not the case currently. In addition, HUD will work to boost performance measurements within CDBG to ensure these critically needed dollars produce the results the program was designed to achieve.

NOTE: To read HUD's FY 2009 Budget Summary, visit HUD's website.

NOTE: to read a Statement by Secretary Jackson, visit www.hud.gov/news/speeches/2008-02-04.cfm.

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**HUD DEPUTY SECRETARY BERNARDI, VA SECRETARY PEAKE AND
MAYOR BLOOMBERG ANNOUNCE HUD AND VA TO PROVIDE
PERMANENT HOUSING FOR AN ESTIMATED 10,000 HOMELESS
VETERANS**

\$75 million program to reduce the number of homeless vets nationwide

\$9.4 million awarded to New York City to permanently house more than 1,000 homeless veterans and fulfill recommendations of joint NYC/VA Task Force on ending veteran homelessness

NEW YORK – U.S. Department of Veterans Affairs Secretary James B. Peake and U.S. Housing and Urban Development Deputy Secretary Roy A. Bernardi today announced \$75 million to provide permanent supportive housing for an estimated 10,000 homeless veterans nationwide. Bernardi and Peake made the announcement with Mayor Michael R. Bloomberg at a newly renovated housing program for homeless veterans in Queens, and emphasized the Federal and local government's partnership to house and support America's homeless veteran population.

New York City will receive approximately \$9.4 million to permanently house more than 1,000 homeless veterans. Their program will be administered by the New York City Housing Authority and the Department of Homeless Services.

"We are deeply grateful for the service and sacrifice by our nation's veterans and we must make every effort to help them as they struggle to avoid a life on the streets," said Bernardi. "This program is one opportunity to say, 'Thank You' and to make certain that we serve them as they once served us."

"Today, VA, HUD and New York City are strengthening our long-standing partnership on homelessness to achieve a simple vision -- that no one who has served and fought for their country should have to live on the streets," said Peake. "We hope to build upon this effort soon with another step providing more case managers to support a marked increase in permanent housing units."

"Ending veteran homelessness is an ambitious goal that is more in reach thanks to this historic federal commitment to provide housing for veterans," said Mayor Bloomberg. "Our partnership with the VA has already provided homes for hundreds of veterans over the past year and the housing slots being allocated to New York City today will bring new hope to more than 1,000 homeless veterans in our City. It sends a powerful message to the men and women currently fighting for our country overseas – that we do not take their service for granted."

HUD's Veterans Affairs Supportive Housing Program (HUD-VASH) will provide local public housing agencies with approximately 10,000 rental assistance vouchers specifically targeted to assist homeless veterans in their area (see attached chart for a local breakdown of homeless

veterans to be assisted). In addition, the VA and HUD will link local public housing agencies with VA Medical Centers to provide supportive services and case management to eligible homeless veterans.

HUD will allocate the housing vouchers to local public housing agencies (PHAs) across the country that are specifically targeted to homeless veterans based on a variety of factors, including the number of reported homeless veterans and the proximity of a local VA Medical Center with the capacity to provide case management. New York City and the greater Los Angeles area received the greatest number of vouchers using this criterion.

HUD will provide housing assistance through its Section 8 Housing Choice Voucher (HCV) program which allows participants to rent privately owned housing. The VA will offer eligible homeless veterans clinical and supportive services through its medical centers across the U.S and Puerto Rico. Last year, the VA provided health care to more than 100,000 homeless veterans and other services to over 60,000 veterans in its specialized homeless programs. The Bush Administration's proposed FY 2009 Budget seeks to double the amount of funding announced today to provide an additional \$75 million to support the housing and service needs of an additional 10,000 homeless veterans across America.

Local communities or "Continuums of Care" that receive HUD homeless assistance will work with local VA Medical Centers to identify eligible participants. The VA will then screen homeless veterans to determine their eligibility. Those eligible vets will receive treatment and regular case management to retain the voucher. VA Medical Center case managers will also work closely with local housing agencies to help participants find suitable housing. Participating PHAs will also determine income eligibility in accordance to HUD regulations for the HCV program.

New York City's Department of Homeless Services will use the 1,000 vouchers, supplemental veterans treatment and case management services announced today to help achieve permanent and sustained housing status for all homeless veterans. In December 2006, the VA and the City of New York reached an historic agreement to address ending veteran homelessness in New York City. Under the agreement, the City vowed to place 100 veterans into permanent housing in 100 days, surpassing the goal with 135 veterans moving during that period, and subsequently succeeded in placing more than 400 veterans into homes of their own in 2007. The VA and the City also convened a joint Task Force that created a strategic plan to end veteran homelessness in New York City. Among the Task Force recommendations were the creation of a jointly operated VA/NYC multi-service center to serve as a one-stop site to access services for homeless veterans, scheduled to open in the Summer of 2008; the creation of a veteran-only SAFE HAVEN as an alternative to the shelter system to open in the Summer/Fall 2008 and veteran-specific, short-term housing site for those working towards permanent housing.

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HUD is the nation's housing agency committed to increasing homeownership, particularly among minorities; creating affordable housing opportunities for low-income Americans; and supporting the homeless, elderly, people with disabilities and people living with AIDS. The Department also promotes economic and community development and enforces the nation's fair housing laws. More information about HUD and its programs is available on the Internet at www.hud.gov and espanol.hud.gov.

Secretary James B. Peake, M.D. serves as the chair the U.S. Interagency Council on Homelessness, the federal coordinating body addressing issues of homelessness. Recently, VA announced a reduction of homeless veterans from more than 195,000 to about 154,000. Today, VA supports more than 15,000 beds in transitional housing facilities or in VA residential treatment programs nationwide and recently announced \$37 million to fund at least 2,250 new transitional housing beds by giving grants to local providers this year. The Department is the largest federal provider of direct assistance to the homeless, including outreach and case management, treatment, rehabilitation, transitional residential care, therapeutic work and assistance with permanent housing. As part of its homelessness programs, VA also supports special programs for the treatment and rehabilitation of those suffering from mental illness and addictive disorders.

For more information, visit VA's grant and per diem program Web page at www.va.gov/homeless/page.cfm?pg=3 or contact VA's grant and per diem program office toll free at 1-877-332-0334, or e-mail VA at homelessvets@mail.va.gov.

State	VA Medical Center Location*	Estimated # of homeless veterans to be assisted
Alaska	Anchorage	35
Alabama	Birmingham	105
	Tuscaloosa	35
	Tuskegee	35
Arkansas	Little Rock	105
	Fayetteville	35
Arizona	Tucson	70
	Phoenix	105
	Prescott	35
California	San Francisco	105
	Greater Los Angeles	840
	Loma Linda	35
	Central CA Health Care System	35
	Palo Alto	70

	Northern CA Health Care System	35
	San Diego	105
	Long Beach	70
Colorado	Denver	175
	So. Colorado	35
Connecticut	West Haven	70
District of Columbia	Washington, DC	140
Delaware	Wilmington	35
Florida	Tampa	105
	Orlando	70
	W. Palm Beach	105
	Bay Pines	105
	Gainesville	140
	Gulf Coast Health Care System	35
	Miami	105
Georgia	Augusta	35
	Atlanta	350
	Dublin	35
Hawaii	Honolulu	70
Iowa	Central Iowa	35
	Iowa City	35
Idaho	Boise	20
	Chicago WS	105
	Hines	70
	N. Chicago	35
Indiana	Indianapolis	70
	N. Indiana	35
Kansas	Topeka	35
	Wichita	35
	Leavenworth	105
Kentucky	Louisville	70
	Lexington	35
Louisiana	Shreveport	35
	New Orleans	140
	Alexandria	35
Massachusetts	Boston	105
	Northampton	70
	Bedford	70
Maryland	Perry Point	70
	Baltimore	105
Maine	Togus	35
Michigan	Ann Arbor Health Care System	70

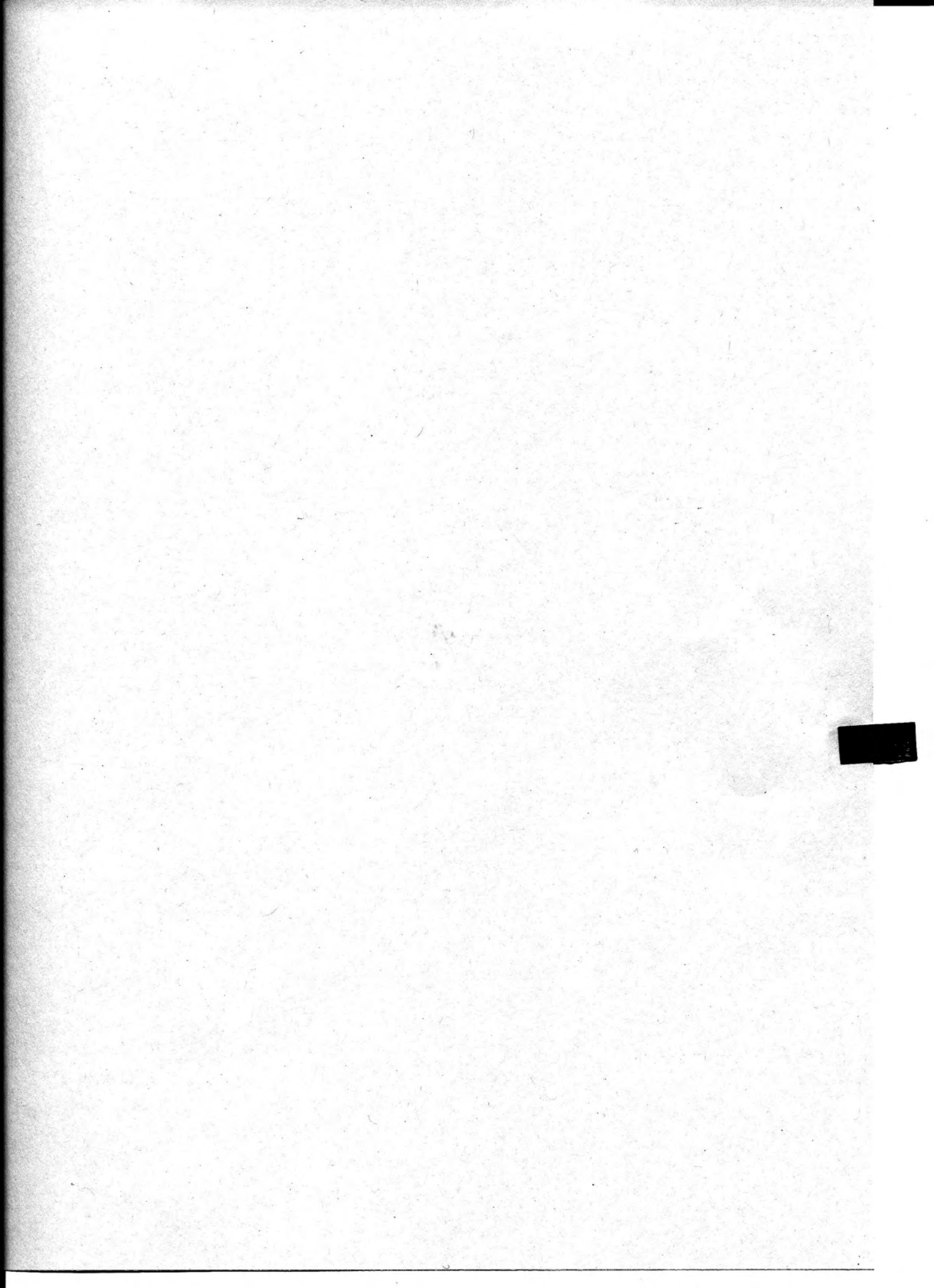
	Saginaw	35
	Battle Creek	35
	Detroit	105
Minnesota	Minneapolis	70
Missouri	Kansas City	70
	St. Louis	35
	Columbia	35
Mississippi	Jackson	35
Montana	Montana Health Care System	35
North Carolina	Asheville	35
	Durham	35
	Salisbury	35
North Dakota	Fargo	35
Nebraska	Omaha	35
	Gr. Nebraska	35
New Hampshire	Manchester	35
New Jersey	East Orange	35
	Lyons	35
	New Mexico Health Care System	35
New Mexico	Sierra Nevada Health Care System	70
Nevada	Southern Nevada Health Care System	105
New York	Syracuse	35
	Bronx	385
	Brooklyn	455
	New York	175
	Albany	35
	Canandaigua	35
	Buffalo	35
	Montrose	105
	Northport	35
	Columbus Outpatient Clinic	35
Ohio	Cleveland	105
	Cincinnati	70
	Dayton	35
	Chillicothe	35
Oklahoma	Oklahoma City	35
	Muskogee	35
Oregon	Portland	70
	Roseburg	35
	White City	35

Pennsylvania	Pittsburgh	70
	Philadelphia	105
	Butler	35
	Coatesville	105
	Erie	35
	Wilkes-Barre	35
	Lebanon	70
Puerto Rico	San Juan	20
Rhode Island	Providence	35
South Carolina	Charleston	70
	Columbia	70
South Dakota	Hot Springs	35
	Ft. Meade	35
Tennessee	Memphis	105
	Mountain Home	70
	Nashville	70
Texas	San Antonio	70
	Central Texas Health Care System	105
	El Paso Outpatient Clinic	35
	Houston	385
	Dallas	105
	Salt Lake City	35
	Hampton	140
Virginia	Richmond	35
	Salem	35
Vermont	White River Junction	20
Washington	Seattle	105
	American Lake	35
	Spokane	35
	Walla Walla	70
	Milwaukee	70
Wisconsin	Tomah	35
	Huntington	35
West Virginia	Clarksburg	35
	Martinsburg	35
Wyoming	Cheyenne	35
	Sheridan	35

TOTAL

10,105

* VA Medical Centers' coverage areas often extend beyond the metropolitan areas in which they are located.



THE WHITE HOUSE

WASHINGTON

April 24, 2008

INFORMATION

MEMORANDUM FOR THE PRESIDENT

THROUGH: KARL ZINSMIESTER

FROM: STACIE MAASS

SUBJECT: UPDATE ON ADMINISTRATION'S ACTIVITY RELATED TO POST
TRAMATIC STRESS DISORDER (PTSD) AND TRAUMATIC BRAIN
INJURY (TBI)

Purpose: To update you on recent Administration actions to address PTSD and TBI for returning service members.

Dole-Shalala Recommendations Related to PTSD and TBI

You created the President's Commission on Care for America's Returning Wounded Warriors in March 2007 to conduct a comprehensive review of the services America is providing our returning wounded warriors. The Commission, co-chaired by Senator Bob Dole and former Health and Human Services Secretary Donna Shalala, released its findings in July. Since then, the Administration has implemented a number of the recommendations administratively, and late last year you signed the National Defense Authorization Act, which included a number of legislative changes recommended by the Commission.

The following are the Commission's recommendations and your Administration's recent actions related to PTSD and TBI.

RECOMMENDATION: Establish Recovery Coordinators to help guide seriously wounded service members through their recuperation.

UPDATE: The first Recovery Coordinators have been hired, trained and are working with patients since January, 2008. As of April, 67 wounded, ill or injured (WII) service members or veterans enrolled in the Federal Recovery Care Program (FRCP). There are currently 7 Federal Recovery Coordinators (FRCs) and by the end of May we will have our full initial complement of 10 FRCs at 4 Military Treatment Facilities throughout the country. DOD is assessing the need to scale up this program.

RECOMMENDATION: Establish a new National Center of Excellence for Post-Traumatic Stress Disorder (PTSD) and Traumatic Brain Injury.

UPDATE: DOD, in cooperation with VA, has established a National Center of Excellence in the D.C. area, which will see and treat patients as well as be a national center for research.

RECOMMENDATION: VA should provide care for any veteran who has been deployed in Afghanistan and Iraq who has PTSD.

UPDATE: The National Defense Authorization Act (NDAA) for FY 2008 expanded the window for cost free services for war-related disorders from 2 to 5 years, which should encompass the period of time when most veterans suffering from PTSD begin to acknowledge their need for care, based on experience from past war eras. Veterans do not have to prove service connection to be eligible for this care. In FY 2008, six new PTSD and PTSD Operation Enduring Freedom/ Operation Iraqi Freedom (OEF/OIF) programs were funded by VA's Office of Mental Health Services. The VA's Office of Primary Care is initiating a series of approximately 90 Post Deployment Health Clinics (PDHCs) modeled after the successful Seattle PDHS designed to rapidly assess and initiate treatment for OEF/OIF veterans.

RECOMMENDATION: DOD and VA must rapidly improve prevention, diagnosis and treatment of both PTSD and TBI and help reduce the stigma of PTSD.

UPDATE: DOD screens all deploying service members for PTSD – pre and post deployment. In addition, DOD performs a second post-deployment reassessment screening 3-6 months after the service member has returned, while the service member is readjusting to his/ her home and community. The VA is also screening all OEF/OIF veterans seen in VA healthcare facilities for mild and moderate TBI (previously patients were only screened for severe).

DOD and VA are providing comprehensive training in PTSD and TBI for military leaders, VA and DOD medical personnel, family members, and caregivers. They are disseminating TBI and PTSD clinical practice guidelines to all involved providers, and where no guidelines exist, DOD and VA are working with national experts to develop them. VA Mental Health teams and PTSD teams provide on-site and collaborative mental health services for veterans thereby enhancing service delivery and decreasing stigma by serving veterans in a primary care environment.

Other Activities Related to PTSD and TBI

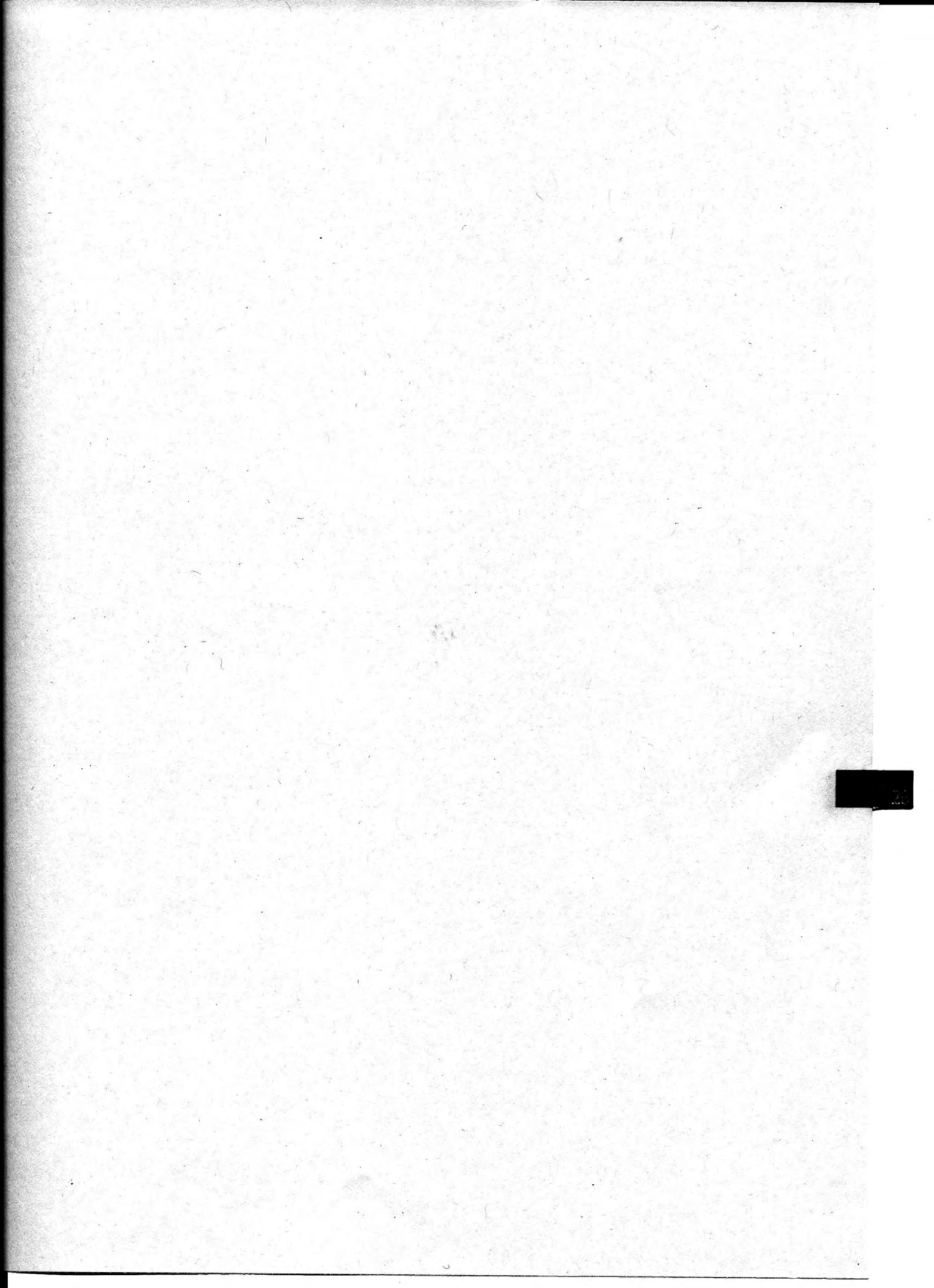
VA has expanded resources for patients with multiple complex injuries. To further meet the specialized medical care needs of returning combat veterans, VA has expanded its four polytrauma rehabilitation centers in Minneapolis, Palo Alto, Richmond, and Tampa to encompass additional specialties to treat patients for multiple complex injuries. A fifth polytrauma center has been approved in San Antonio, and is currently under design for construction. This polytrauma system of care has been expanded to 21 polytrauma network sites and clinic support teams around the country that can provide state-of-the-art treatment to injured veterans at facilities closer to their homes.

VA is updating the disability rating schedule for TBI. VA proposed regulations to update the disability schedule for appropriate compensation for Traumatic Brain Injury and burns. It was published in the Federal Register on January 3, 2008 and will be finalized later this year.

VA is initiating a study in FY 2008 entitled *Neuropsychological and Mental Health Outcomes of Operation Iraqi Freedom (OIF): A Longitudinal Cohort Study* to examine war-related mental health dysfunction. The study will collect long-term follow-up data 3-5 years after military personnel return from their initial deployment to Iraq. The study will also determine the prevalence and course of PTSD among OIF veterans and assess the persistence of previously observed neuropsychological changes (in attention, verbal learning, visual memory, and reaction time) following war-zone participation. TBI will be examined as a possible risk factor for PTSD.

The Agencies are recruiting and retaining experts. Both the VA and DOD are taking steps to ensure that those professionals are available to treat service members and veterans. For example, the Army has implemented the Critical Skills Retention Bonus (CSRB) for Clinical Psychologists, loan repayment programs for some clinical psychologists and social workers, and created incentives for the retention of psychiatrists. The NDAA provides for recruitment and retention programs, and the Department of Defense is implementing those programs.

You are preparing to sign the Traumatic Brain Injury Act. Congress has passed legislation that would authorize funding for TBI research through HHS and the National Institutes of Health, and it will be presented for your signature on Monday April 28.





EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

THE DEPUTY DIRECTOR

June 30, 2008

MEMORANDUM FOR THE PRESIDENT

SUBJECT: Enrolled Bill H.R. 2642 -- Supplemental Appropriations Act, 2008

Sponsors: Representative Obey (D), Wisconsin
Senator Byrd (D), West Virginia

Last Day for Action

July 9, 2008 -- Wednesday

Purpose

H.R. 2642 provides FY 2008 supplemental and FY 2009 appropriations for the Global War on Terror (GWOT), flood disaster relief and recovery, and other purposes.

Agency Recommendations

Office of Management and Budget	Approval
Department of Defense	Approval
Department of State	Approval
National Security Council	Approval
Department of Veterans Affairs	Approval
Department of Justice	Approval
Department of Homeland Security	Approval
Corps of Engineers	Approval
Office of Gulf Coast Recovery	Approval
Department of Labor	Approval
Department of Agriculture	Approval
Department of Commerce	Approval
Department of Health and Human Services	Approval
Other affected departments and agencies	Approval (Assumed)

Funding Summary

H.R. 2642 provides \$110.7 billion in net emergency discretionary budget authority in FY 2008 for the following major programs:

- GWOT -- \$106.9 billion for activities generally in support of GWOT, including \$100.1 billion for the Department of Defense's military operations, \$6.1 billion for international functions, approximately \$0.8 billion for other agencies, such as the Departments of Veterans Affairs, Justice, and Homeland Security.
- Floods, Hurricanes, and Other Natural Disasters -- \$2.8 billion including \$2.7 billion in response to recent flooding in the Midwest.
- Domestic Matters -- \$1.0 billion, including \$210 million for the 2010 Decennial Census, \$178 million for the Federal Prison System, \$150 million for the National Institutes of Health, and \$150 million for the Food and Drug Administration.

The bill includes \$75.8 billion in FY 2009 emergency discretionary budget authority for the following major programs:

- GWOT -- \$70.1 billion for activities generally in support of GWOT including \$65.8 billion for the Department of Defense's military activities, \$4.1 billion for international functions and \$0.2 billion for other agencies, including \$0.1 billion for the Coast Guard.
- Floods, Hurricanes, and Other Natural Disasters -- \$5.7 billion for the Corps of Engineers.

With the exception of funding for Midwest floods, which was informally requested and agreed to by your Administration, all of this spending fits within the discretionary limits you requested for these programs. The Congress also added funding for veterans benefits totaling \$62.8 billion over ten years and unemployment insurance benefits totaling \$8.2 billion over ten years, according to the Congressional Budget Office.

Earmarks

The bill contains 3 earmarks worth \$146.4 million, all of which are contained in bill language. Of these, the Department of Defense received two earmarks worth \$73.4 million for military facilities, and the Department of Housing and Urban Development received one earmark worth \$73 million to fund permanent supportive housing in Louisiana. Because these earmarks are contained in bill language, rather than report language, they are not subject to the provisions of your Executive Order issued January 29, 2008.

Legislative Summary

The House voted on three separate amendments to H.R. 2642 on May 15, 2008. The chamber failed to pass a war funding amendment by a vote of 141-149; passed an Iraq policy amendment by a vote of 227-196, which contained objectionable provisions including a timeline for withdrawal; and passed funding for military construction, veterans, international affairs, a few domestic items, and other security-related matters by a vote of 256-166. The latter amendment included an expanded veterans GI educational benefit (Post 9/11 Veterans Educational Assistance Act of 2008) that was offset by a tax surcharge on millionaires, and a 26-week extension of Unemployment benefits that weakened current law work requirements.

The Senate offered three amendments on May 22, 2008. The chamber passed a war funding amendment by a vote of 70-26; failed to pass an amendment that included both the Iraq policy and funding by a vote of 34-63; and passed an amendment for military construction, veterans, international affairs, and other security-related matter by a vote of 75-22, which also contained approximately \$10 billion in funding above your request for domestic items, included the same GI educational benefit without the tax surcharge offset, and the same extension of Unemployment benefits.

The bill was then sent back to the House where it passed with two separate votes on June 19, 2008. The first vote, which was to concur with the Senate amendment on the war funding, passed by a vote of 268-155. The second vote, which was a substitute amendment to the Senate-passed funding for military construction, veterans, international affairs, and other security-related matters, passed by a vote of 416-12. Through negotiations with the Congress, the Administration succeeded in bringing the total funding in the bill back to your \$108.1 billion request level. This amendment made adjustments by reducing the war funding passed in the first amendment and limiting the domestic additions. Additionally, the House included a provision to allow veterans to transfer their GI educational benefits to family members proposed in your State of the Union Address, did not include the objectionable tax increase as an offset for the GI benefits, and included the extension of Unemployment benefits that was modified through negotiations with the Congress to include a requirement for 20 weeks of work history before collecting the extended benefit, which was limited to 13 weeks.

The Senate concurred with the House amendment on domestic policy and spending, which passed on June 26, 2008 by a vote of 92-6. The Senate did not have to vote on the war funding amendment since it already passed the Senate on May 22, 2008 and was not modified by the House.

Department of Defense (DOD) Matters

The enrolled bill provides \$100.1 billion in FY 2008 and \$65.8 billion in FY 2009 for DOD and Intelligence Community (IC) activities in support of GWOT. The bill provides \$2 billion less than your FY 2008 request and fully funds your FY 2009 request. However, the distribution of funding differs from your request in many areas.

- In FY 2008, the enrolled bill reduces your requests for procurement, operations and maintenance, and classified activities. It adds funds for military personnel, Base Realignment and Closure (BRAC), and healthcare, including funds for new hospitals.
- In FY 2009, the enrolled bill underfunds your request for military personnel, procurement, and working capital funds. It also provides only partial funding for efforts to train and expand the Afghan and Iraq security forces.

Details by account are below:

Military Personnel Costs. The enrolled bill includes pay for mobilized reserve forces and incremental pay for active duty personnel.

- FY 2008: The bill provides \$18.1 billion, \$1.3 billion above your request. It adds funds requested informally by DOD subsequent to your request for enhanced recruiting and retention initiatives to accelerate growth of the size of the Army and the Marine Corps.
- FY 2009: The bill reduces your request of \$3.8 billion by \$2.6 billion, with most of the reduction affecting the Army's military personnel account. The Administration will need to backfill this reduction in a future funding request.

Operation and Maintenance. The enrolled bill covers the anticipated incremental costs of military ground, air, and sea operations, including transportation, spare parts, equipment, supplies, repair, maintenance, basing, health services, food, and water. It also fully funds the increased price of fuel for all Defense operations.

- FY 2008: The bill provides your request of \$31.4 billion, but makes numerous small reductions to offset additional funding for repairing Army and Marine Corps barracks, as well as to improve childcare centers and community services on military bases in the United States. It matches your request for Iraq Security Forces funding and adds \$50 million above your request to cover additional trainers for the Afghan Security Forces. The bill fully funds and authorizes your request for the Commander's Emergency Response Program, a tool for emergency relief and reconstruction that has proven essential to our counterinsurgency operations in Iraq and Afghanistan.
- FY 2009: The bill adds \$4 billion to your request of \$50.9 billion, but provides only half of the amount that you requested for training the Afghan and Iraq Security Forces. This reduction could slow ongoing efforts to build self-sufficient security forces capable of taking the lead in counterinsurgency efforts.

Military Procurement. The enrolled bill provides less funding than you requested for procurement of ammunition, weapons, vehicles, aircraft, and other equipment used by our military personnel in the War on Terror.

- FY 2008: The bill reduces your request of \$44.4 billion by \$5.8 billion of which \$4.1 billion of this reduction is in Army procurement and was informally proposed by DOD in March 2008. The bill provides an additional \$760 million above your request for National Guard and Reserve equipment. It also provides \$2.7 billion more than your request for Air Force aircraft procurement. Instead of directing these additional funds toward acquisition of additional unmanned aerial vehicles (UAVs),

which the Secretary of Defense has made a top priority, the bill allocates the additional procurement funds for acquisition of unrequested aircraft, including 15 C-17s.

- FY 2009: The bill provides \$8.1 billion, \$375 million less than your request. However, it funds several programs added by the Congress and markedly reduces funding for several key programs in your request, most notably, the Joint Improvised Explosive Device Defeat Organization (\$970 million lower than requested); UAV procurement (\$1.2 billion lower than requested); and sustainment of Mine Resistant Ambush Protected vehicles (\$910 million lower than requested). The bill also does not provide any funds for the Rapid Acquisition Fund.

Defense Working Capital Funds. The enrolled bill provides \$1.7 billion in FY 2008, which is \$735 million more than your request due to the escalating cost of fuel, to be used mostly to cover the increased costs. In FY 2009, however, the bill provides no funding despite the Administration's \$2.2 billion request.

Defense Health. The bill exceeds the Administration's full requests for FY 2008 and FY 2009 by \$852 million and \$1 billion, respectively. Roughly \$1.4 billion in FY 2008 will go toward sustainment, restoration, and modernization of existing medical facilities, as well as funding psychological health research and the development of disability evaluation systems. Of the \$1.1 billion in FY 2009 funds, \$300 million will go toward care for servicemembers with traumatic brain injury and psychological issues. The remaining funds are for information management, education, training, and consolidated healthcare support.

Classified Activities. The enrolled bill funds approximately 94 percent of your full FY 2008 request for classified programs. Though Congress made some reductions to selected programs, the overall funding level will allow the Intelligence Community to carry out essential missions and high priority activities in support of the War on Terror. For FY 2009, the enrolled bill funds 82 percent of your request and will sustain classified activities in support of the War on Terror well into the fiscal year.

Military Construction, Veterans Affairs, International Affairs, and Other Security Matters

Department of Justice

The enrolled bill provides \$189 million in emergency discretionary budget authority for the Department of Justice, \$43 million more than the request. Major funding programs include:

Federal Bureau of Investigation (FBI). The bill provides \$106 million for the FBI, \$5 million above the request. This funding will support counterterrorism and counterproliferation activities, as well as equipment, terrorism intelligence gathering efforts, and law enforcement training in Iraq and Afghanistan. Unrequested funding is provided to investigate fraud in Iraq and Afghanistan. The bill also provides \$83 million in GWOT bridge funding for FY 2009 to keep pace with DOD war efforts.

Drug Enforcement. The enrolled bill provides \$30 million for the Drug Enforcement Administration, \$22 million above the request for intelligence and narco-terrorism activities, financial investigations, and a helicopter to support the Foreign Advisory Support Team operations.

United States Marshals Service. The enrolled bill includes \$29 million for the Service, \$14 million above the request for increased court and witness security in Afghanistan, personnel equipment and training, and assistance with the extradition of international criminals. Unrequested funding is provided for requirements of the Adam Walsh Act.

Military Construction and Veterans Affairs

Military Construction. The enrolled bill provides \$4.2 billion in FY 2008 for military construction projects in the United States, as well as in Iraq and Afghanistan -- \$1.8 billion more than your request. The bill fully funds the Administration's FY 2008 base budget request for BRAC. Additionally, it funds construction of family housing in the United States; training courses for IED defeat activities; an internment facility at Bagram Airbase in Afghanistan; and a Juvenile Theater Internment Facility and Reintegration Center in Iraq. Funding is also provided for new military hospitals at Fort Benning and Fort Riley, as well as additions to the existing hospital at Camp Lejeune. Additional funds are for construction of smaller clinics and specialized treatment facilities across the United States.

Department of Veterans Affairs. The enrolled bill provides \$516 million in unrequested funds. It includes \$100 million for additional staff and \$20 million for information technology investments to implement the post-9/11 GI Bill benefit. It also provides \$396 million to fully fund construction of two Level 1 polytrauma rehabilitation centers for which you requested planning funds in your FY 2009 Budget.

International Affairs

You requested \$6.9 billion in the FY 2008 supplemental of which \$1.5 billion was funded in the FY 2008 omnibus appropriations bill. The enrolled bill provides an additional \$6 billion for FY 2008, \$590 million above your request, of which \$500 million of the increase is for emergency food aid. The enrolled bill also provides \$4.1 billion in FY 2009 supplemental funding, \$75 million above your request.

Merida Initiative. You requested \$550 million in the FY 2008 supplemental for this initiative. The enrolled bill provides a combined \$465 million for FY 2008 and FY 2009, \$85 million below your request. The bill provides \$400 million for Mexico, \$352 million for FY 2008 and \$48 million for FY 2009. The bill also includes \$60 million for Central America in FY 2008, \$10 million above your request, plus \$5 million in unrequested funds for Caribbean States. The bill restricts 15 percent of funds provided for Mexico and Central America subject to certain reporting requirements by the Secretary of State.

Food Aid and Food Security. The enrolled bill provides \$850 million in P.L. 480 Title II funds for FY 2008, \$500 million above your request. For FY 2009, the bill funds your request of

\$395 million. The bill also provides \$200 million in FY 2009 Development Assistance to address the international food crisis, \$50 million above your request.

International Disaster Assistance. The enrolled bill provides \$220 million in unrequested FY 2008 funds for urgent humanitarian needs, including in Burma, Bangladesh, China, and countries severely affected by the global food crisis. An additional \$20 million is provided for the World Food Program from rescinded prior-year Andean Counterdrug Initiative funds. The bill provides \$200 million in FY 2009 for urgent humanitarian requirements, including Iraq and Afghanistan.

Iraq Assistance. The enrolled bill provides \$614 million for FY 2008, \$372 less than your request, to support stabilization programs, the transition to Iraqi self-reliance, and rule of law programs. The bill rescinds \$50 million in prior-year Iraq Relief and Reconstruction Funds. The bill also provides \$293 million for assistance to Iraq for FY 2009, \$106 million below your request.

Iraq Operations. The enrolled bill provides \$1.2 billion for State and USAID operating expenses in Iraq for FY 2008, \$389 million less than your request. The enrolled bill also provides \$646 million for operations in Iraq for FY 2009, \$345 million less than your request. When combined, this funding level will be sufficient to support operations until Spring 2009. Included in these is \$2.5 million of unrequested funds for operations of the Special Inspector General for Iraq Reconstruction (SIGIR) in FY 2008 and \$36.5 million for SIGIR in FY 2009, \$21.5 million more than your request.

Iraq Restrictions. The enrolled bill requires the Secretary of State to report to the Congress that Iraq is matching "dollar-for-dollar" State and USAID assistance programs before those funds can be used. The bill also prohibits the Department of State from spending Provincial Reconstruction Team (PRT) funds until the Secretary of State provides to the Congress a report detailing the Administration's strategy for winding-down PRTs. Finally, the bill withholds some rule of law program funds until the Secretary of State reports on Iraqi anti-corruption efforts and known Iraqi leaders engaged in corruption.

Afghanistan. The enrolled bill provides \$1.2 billion for Afghanistan in FY 2008, \$36 million more than your request, for reconstruction, counter-narcotics, and diplomatic operations, including \$2 million in FY 2008 to fund the Special Inspector General for Afghanistan Reconstruction (SIGAR). The bill also provides \$790 million in FY 2009 for reconstruction, counter-narcotics, and diplomatic operations, including \$5 million for SIGAR. This represents a reduction of \$314 million from your FY 2009 request.

Pakistan. The enrolled bill does not include \$60 million you requested in FY 2008 to support Pakistan's Federally Administered Tribal Areas Development plan, but does provide \$150 million for economic assistance to Pakistan in FY 2009, \$80 million above the request. The bill also does not provide \$100 million that you requested in FY 2009 for security assistance to support the Pakistan Frontier Corps.

Jordan. The enrolled bill includes \$250 million of unrequested funds for economic and security assistance to Jordan in FY 2008 and, provides \$200 million for Jordan in FY 2009, \$100 million above your request.

Sudan. The enrolled bill supports your request for Darfur peacekeeping by providing \$334 million for the UN Mission in Darfur and funds your request of \$70 million to support the 2009 elections in Sudan. The bill also provides \$25 million in unrequested bilateral peacekeeping assistance for Darfur in FY 2009 and \$10 million in unrequested International Narcotics Control and Law Enforcement (INCLE) funding for policing in Darfur, to be paid for by an equivalent rescission of prior-year INCLE funds.

Refugees. The enrolled bill funds your FY 2008 request of \$30 million for Iraq refugees and provides an additional \$316 million for global refugee aid. The bill funds your FY 2009 request of \$191 million for Iraq and Afghanistan refugees and provides an additional \$159 million for assistance programs worldwide.

North Korea. The enrolled bill provides the requested \$53 million in FY 2008 and \$15 million in FY 2009 for energy-related assistance to North Korea to support Phase II agreements of the Six-Party Talks, if North Korea lives up to its commitments to disable its nuclear reactor. The bill also contains a provision that waives the current Glenn Amendment statutory language prohibiting agencies other than the Department of State from funding non-proliferation activities in North Korea.

Lebanon. The enrolled bill provides \$32.5 million in security assistance for Lebanon in FY 2009, \$17.5 million below your request.

Millennium Challenge Corporation (MCC). The enrolled bill rescinds \$58 million in prior-year unobligated balances from MCC to fund assistance to Jordan. While MCC will have to curtail some spending, the rescission will allow full funding for planned Compacts this year.

Unrequested Funds. The enrolled bill provides funding for items not included in your request, such as \$170 million in FY 2009 for Israel; \$115 million in FY 2008 and \$73 million in FY 2009 for State/USAID Civilian Stabilization Initiatives and workforce development; \$25 million in FY 2008 and \$50 million in FY 2009 for Bangladesh; and \$75 million in FY 2009 for avian influenza.

Domestic Matters

Department of Health and Human Services, Food and Drug Administration (FDA). The enrolled bill includes \$150 million for FDA to improve the safety of imported and domestic food and medical products and to modernize the agency's information technology infrastructure.

Department of Commerce, Bureau of the Census. The bill provides \$210 million for increased costs associated with a key information technology contract and other related activities for the upcoming 2010 Census. In April, the Administration proposed that the Department be given enhanced transfer authority to move funds within the Department to cover the increased

FY 2008 Census Bureau funding needs. The funding provided by the bill will be used to repay \$50 million in transfers to Census from other Commerce accounts already executed under existing authority, and support key activities to ensure an accurate, on-time 2010 Census.

Department of Justice, Federal Bureau of Prisons. The enrolled bill includes \$178 million in unrequested funding to support prison operations for the Federal Bureau of Prisons. The Administration has identified \$240 million in existing Department resources primarily from State and local law enforcement assistance programs for transfer to the Bureau of Prisons in FY 2008.

National Aeronautics and Space Administration (NASA). The bill provides \$62.5 million in unrequested funding for NASA science, aeronautics, and exploration activities.

National Science Foundation (NSF). The bill provides \$62.5 million for NSF, with \$22.5 million allocated to basic research grants and \$40 million allocated to two specific science and math teacher recruitment and training programs. While \$17.5 million of the funding provided was originally requested as part of the American Competitiveness Initiative (ACI), NSF basic research remains almost \$300 million below your 2008 ACI request.

Department of Energy (DOE). The bill provides \$62.5 million in additional funding for the Office of Science and \$62.5 million in additional funding for cleanup activities at various DOE sites. The enrolled bill raises the Office of Science's funding under the ACI, but \$487 million of your 2008 DOE ACI request is still not funded. The Environmental Management funding, which is not part of any science initiative, puts the program \$102 million above your FY 2008 request (including \$40 million provided in the FY 2008 omnibus).

Department of Health and Human Services, National Institutes of Health (NIH). The bill provides \$150 million in unrequested funding to the NIH to support additional scientific research.

Natural Disaster Relief and Recovery

Federal Emergency Management Agency (FEMA). The bill provides \$897 million in funding for FEMA's Disaster Relief Fund (DRF). The DRF balance of approximately \$4 billion is available to address the ongoing disaster recovery efforts. This funding allows FEMA to provide immediate on-the-scene assistance to State's impacted by Presidentially-declared disasters and to fund on-going recovery costs from previous disasters.

Department of Agriculture (USDA). The bill includes \$390.4 million in funding for USDA's Emergency Watershed Program (EWP) and \$89.4 million for the Emergency Conservation Program (ECP). EWP provides funding to local governments for debris clean-up and restoration activities following a natural disaster, while ECP provides funding and technical assistance for farmers and ranchers to rehabilitate damaged farmland. The Congress did not tie the funds to any particular disaster (such as the Midwest floods), instead making them generally available. Of the amounts made available, the Administration had informally requested \$260 million for EWP and \$40 million for ECP. The additional amounts provided by the Congress --

including \$130 million in EWP and \$49 million in ECP -- provide ample funding to address the existing "backlog" of pending requests in these programs that predate the recent Midwest floods.

Department of Commerce. The bill provides \$100 million for the Economic Development Administration. This funding would support long-term economic recovery through grants for the rebuilding of public facilities and infrastructure in areas where the President declared a major disaster due to a natural disaster, including the Midwest flood region.

Corps of Engineers. The enrolled bill provides \$5.8 billion in FY 2009 to carry out your request for hurricane protection activities for the greater New Orleans area, as well as an additional \$604 million in response to recent natural disasters, including the Midwest floods.

Small Business Administration (SBA). The bill includes \$267 million to provide SBA disaster loans to homeowners, renters, and businesses impacted by the Midwest floods and other areas affected by natural disasters. This funding includes \$165 million in credit subsidy and \$102 million for administrative expenses. While the expected loan volume is still being estimated, the funds provided support up to \$1 billion in subsidized direct loans.

Department of Housing and Urban Development (HUD). The bill provides \$73 million for HUD's permanent supportive housing programs (including \$50 million for Shelter Plus Care for the homeless, and \$20 million for Project-Based Vouchers) to support Louisiana's Road Home Program to develop 3,000 units of affordable housing for low-income and disabled households. The bill also provides \$300 million for the Community Development Block Grant program for disaster relief, long-term recovery, and restoration of infrastructure needs in areas where the President declared a major disaster due to a natural disaster, including the Midwest flood area.

Emergency Unemployment Compensation

The bill would provide up to 13 weeks of extended unemployment benefits nationwide to workers who have exhausted their regular State-financed unemployment benefits. Up to 26 weeks of regular benefits are available in most States. Extended benefits would be limited to those exhaustees who had worked full time for at least 20 weeks in the base period used by the States to determine benefit eligibility. These extended benefits would be available immediately, and the program would continue through March 31, 2009.

Based on Congressional Budget Office estimates, the program would increase direct spending by \$11.455 billion through 2018 and increase unemployment tax revenues by \$3.287 billion over the same period, for a net effect of \$8.168 billion.

Using the assumptions from the 2009 President's Budget, the Department of Labor (DOL) has estimated increased direct spending of \$9.33 billion through 2018 and revenue increases of \$6.23 billion, for a net effect of \$3.10 billion. Under the Mid-Session economic assumptions and technical reestimates, DOL estimates increased direct spending of \$9.14 billion, and increased unemployment revenues of \$9.13 billion, for a net cost of \$0.01 billion. The

difference from CBO's estimate is largely attributable to different unemployment rate assumptions and revenue responses.

Veterans Educational Assistance

Post-9/11 Veterans Educational Assistance Act of 2008. The enrolled bill provides expanded education benefits to veterans and servicemembers with post-9/11 service and includes most of the Administration's proposals. The size of the benefit is based on the length of the beneficiary's post-9/11 service. The maximum benefit will cover the full cost of tuition and fees for a four-year degree at the highest price university or college in the state where the beneficiary resides. The bill also includes the transferability proposal from your State of the Union Address whereby servicemembers with six years of post-9/11 service who commit to serve an additional four years may transfer their unused benefit to their spouses and children.

Accountability and Transparency in Government Contracting

Federal Contracts and Grants. Section 6102 of the enrolled bill requires changes to the Government-wide Federal Acquisition Regulation within 180 days of the law's enactment to require timely notification by Federal contractors of violations of Federal criminal law or overpayments, including under contracts performed overseas or for commercial items. Section 6202 of the enrolled bill requires the OMB Director to issue regulations requiring entities to disclose the names and total compensation of the five most highly compensated officers if more than 80 percent of their annual gross revenue came from Federal awards, including contracts and grants worth more than \$25 million in the preceding fiscal year, and the public does not have access to information about compensation of employee executives through reports filed under the Securities Exchange Act or the Internal Revenue Code.

Medicaid Provisions

Medicaid Costs. H.R. 2642 extends moratoria on four Medicaid regulations (payment reform, Medicaid Graduate Medical Education, rehabilitative services, and school-based transportation and administrative services) until April 1, 2009 and establishes a new moratorium until April 1, 2009 on two other Medicaid regulations: case management and provider taxes. It also establishes a series of studies and reports to the Congress reviewing the regulations prior to the expiration of the moratoria and appropriates \$5 million for a report provided by an independent contractor, commissioned by the Department of Health and Human Services (HHS) that studies the six regulations and their effects on States and beneficiaries. The HHS actuaries estimate the cost of the moratoria to be \$175 million in FY 2008 and \$1.49 billion from FY 2008-2012.

The bill also provides \$25 million to HHS' Office of Inspector General (OIG) in FY 2009 and authorizes the same amount annually beginning in FY 2010 to reduce fraud and abuse. The OIG is required to submit an annual report to the Congress.

Additionally, the bill establishes a Medicaid Improvement Fund available to the Secretary to improve the management of the Medicaid program, including contract and

contractor oversight and evaluation of demonstration projects. In FY 2014, \$100 million would be available to the Fund, and \$150 million would be available from FY 2015 through FY 2018.

Medicaid Savings. H.R. 2642 offsets the moratoria on Medicaid regulations described above by requiring all 50 States and Washington, D.C., to participate in an asset verification program by FY 2013 and requires States currently in a demonstration to implement such a program by the end of FY 2009. The Administration does not oppose the asset verification proposal itself, but does oppose attaching it to the moratoria on Medicaid regulations. The HHS actuaries estimate the provision will save no money in FY 2008 and will save \$686 million from FY 2008-2012.

On net, HHS actuaries estimate that these provisions will cost \$175 million in FY 2008 and \$834 million from FY 2008-2012.

Medicare. The enrolled bill would reduce the Physicians Assistance and Quality Improvement fund from \$4.96 billion in 2013 to \$4.76 billion (a difference of \$290 million), but add \$290 million to the fund in 2014. The bill also establishes a Medicare Improvement Fund to make improvements in Parts A and B of the Medicare program. The enrolled bill would make available \$2.22 billion in FY 2014 to HHS for this fund.

Constitutional Concerns

The enrolled bill includes provisions that purport to infringe upon the President's constitutional authorities, interfere with the President's ability to conduct diplomatic, military, and intelligence activities or supervise the unitary executive branch effectively, or violate the constitutional principle of separation of powers. The enrolled bill also includes provisions that purport to require or authorize disclosure of information to Congress that would conflict with the Constitution's commitment to the President of authority to supervise the unitary executive branch, and to define and control access to the Nation's national security secrets as recognized by the Supreme Court in *Department of the Navy v. Egan* (1988). The enrolled bill also includes provisions that purport to require execution of the law in consultation with or approval of committees of Congress. Finally, the bill includes references to an explanatory statement for the bill, which has not yet been published.

Recommendation

On balance, H.R. 2642 provides adequate overall funding for your requested programs. Furthermore, through successful negotiations with the Congress several objectionable items were deleted from the final version of the bill. Therefore, I join with the heads of the affected Departments and agencies in recommending that you sign the bill.

Sincerely,

A handwritten signature in dark ink, appearing to read "Stephen S. McMillin". The signature is written in a cursive style with some loops and flourishes.

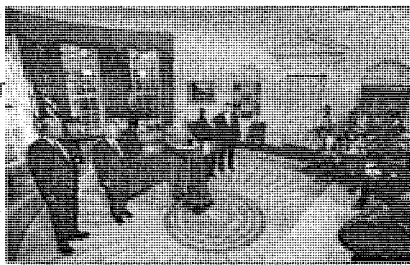
Stephen S. McMillin

President Bush Signs H.R. 2642, the Supplemental Appropriations Act, 2008

Oval Office
9:48 A.M. EDT

THE PRESIDENT: Good morning. A few moments ago I signed legislation that funds our troops who are in harm's way. Our nation has no greater responsibility than supporting our men and women in uniform -- especially since we're at war. This is a responsibility all of us in Washington share -- not as Republicans or Democrats, but as Americans. And I want to thank leaders of the House and Senate for getting this bill to my office.

America remains a nation at war. There are enemies who intend to harm us. Standing in their way are brave men and women, who put on the uniform, who raise their right hand, and took an oath to defend our freedom. They volunteered to deploy in distant lands, far from their families, far from their homes, and far from comfort of America. And every day, they risk their lives to defeat our adversaries and to keep our country safe.



We owe these brave Americans our gratitude. We owe them our unflinching support. And the best way to demonstrate that support is to give them the resources they need to do their jobs and to prevail. The bill I sign today does exactly that. It provides necessary funds to support our troops as they conduct military operations in Iraq, in Afghanistan, and in other theaters in the war on terror.

I appreciate that Republicans and Democrats in Congress agreed to provide these vital funds without tying the hands of our commanders, and without an artificial timetable of withdrawal from Iraq. Our troops have driven the terrorists and extremists from many strongholds in Iraq; today violence is at the lowest level since March of 2004. As a result of this progress, some of our troops are coming home as result of our policy called "return on success." We welcome them home. And with this legislation we send a clear message to all that are serving [sic] on the front line that our nation continues to support them.

We also owe a debt of gratitude to our nation's military families. They endure sleepless nights, and the daily struggle of caring for children while a loved one is serving far from home. We have a responsibility to provide for them. So I'm pleased that the bill I sign today includes an expansion of the GI Bill. This legislation will make it easier for our troops to transfer unused education benefits to their spouses and children. It will help us to recruit and reward the best military on the face of the Earth. It will help us to meet our responsibilities to those who support our troops every day -- America's great military families.

The bill also includes agreed-upon funding for other critical national priorities. This bill includes \$465 million for the Merida Initiative -- a partnership with Mexico and nations in Central America to crack down on violent drug trafficking gangs. The bill includes nearly \$2.7 billion to help ensure that any state facing a disaster like the recent flooding and tornadoes in the Midwest has

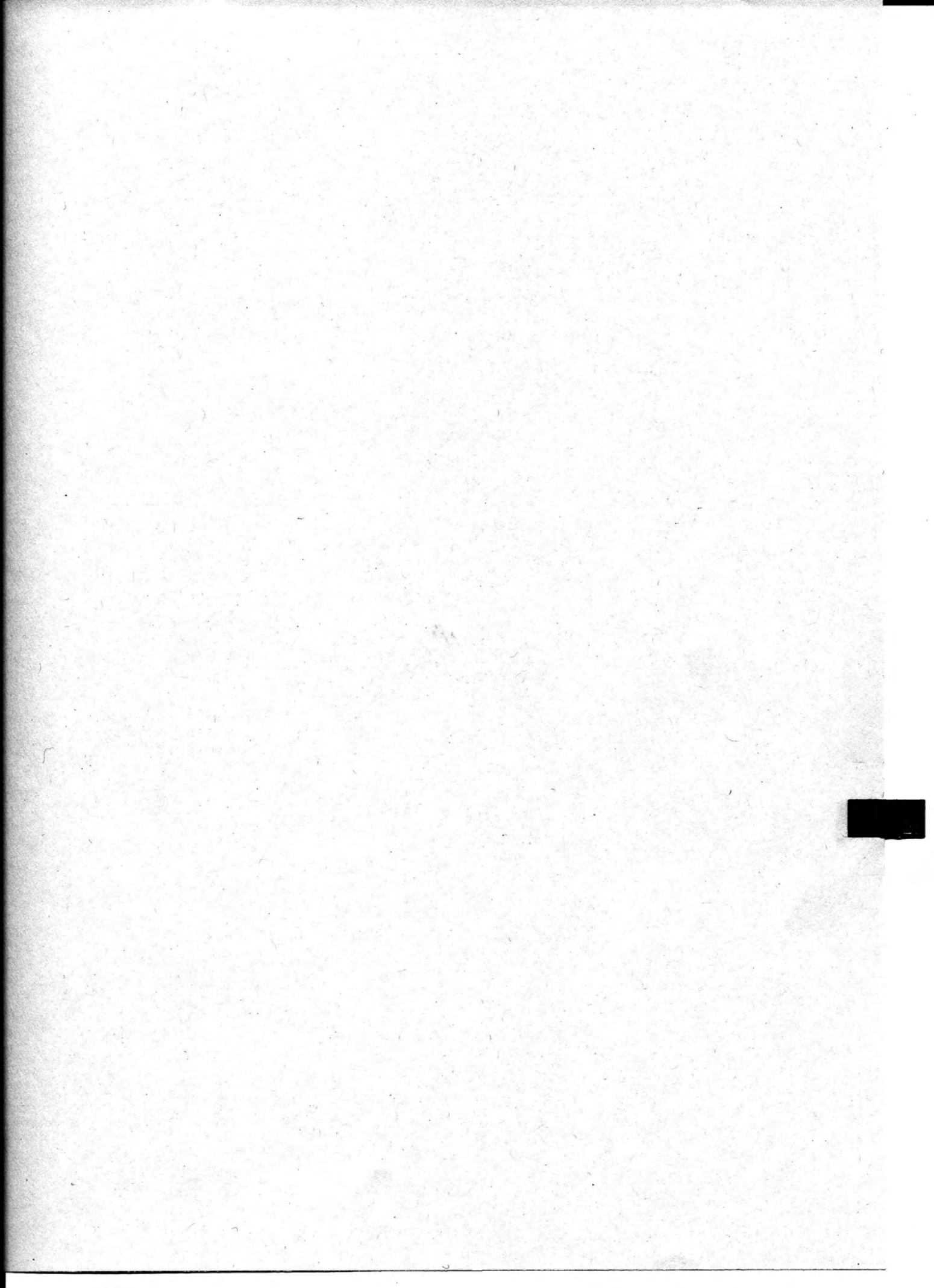
access to needed resources. This bill includes a measured expansion of unemployment insurance benefits with a reasonable work requirement. And this bill holds overall discretionary spending within the sensible limits that I requested.

The bill is a result of close collaboration between my administration and members of both parties on Capitol Hill. I appreciate the hard work of my Cabinet -- especially the leaders of Defense and State, and Veterans Affairs, the Office of National Drug Control Policy, as well as OMB. I want to thank House and Senate leadership and leaders of the House and Senate Appropriations Committees. I am particularly grateful to Congressmen Boehner, Hoyer, Obey, and Lewis. And I want to thank members who worked hard for the GI Bill expansion -- especially Senators Webb and Warner, Graham, Burr, and McCain.

This bill shows the American people that even in an election year, Republicans and Democrats can come together to stand behind our troops and their families.

Thank you for coming.

END 9:53 A.M. EDT



VA Raising Home Loan Ceilings in Many Areas

August 21, 2008

Improved Benefits Aid Disabled Veterans in Adapting Homes

WASHINGTON – The Department of Veterans Affairs (VA) will use a locality-based approach in raising ceilings on its no-downpayment home loans from the current \$417,000 to as much as \$729,000.

The increases are effective immediately under legislation recently enacted with President Bush signing the Housing and Economic Recovery Act of 2008.

That law also improved VA's Specially Adapted Housing Program. It raises primary grants from \$50,000 to \$60,000 toward constructing a new home or modifying an existing home to meet adaptive needs of veterans or active duty servicemembers with certain service-connected disabilities.

One new feature is a provision in the law that will assist burn victims. It will allow veterans with certain service-connected disabilities resulting from severe burns to receive the adaptive housing grants. The new law also makes future increases in ceilings on the Specially Adapted Housing Program automatic.

The increased limits in the general home loan program for all veterans' home purchases or construction will be based on local housing costs, tied to the similar locality adjustments of the Federal Home Loan Mortgage Corp., Freddie Mac.

VA home loans are available for veterans to purchase or construct single-family homes, and to purchase condominiums or cooperative apartments. There are about 2.3 million existing VA home loans, more than 90 percent made with no down payment.

More information about VA home loans and adaptive grants is available from VA at 877-827-3702 or www.homeloans.va.gov.

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