111TH CONGRESS
1st Session
HOUSE OF REPRESENTATIVES
REPORT
111–171

VETERANS HEALTH CARE BUDGET REFORM AND TRANSPARENCY ACT OF 2009

JUNE 19, 2009.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. FILNER, from the Committee on Veterans' Affairs, submitted the following

R E P O R T

together with

ADDITIONAL VIEWS

[To accompany H.R. 1016]

[Including cost estimate of the Congressional Budget Office]

The Committee on Veterans' Affairs, to whom was referred the bill (H.R. 1016) to amend title 38, United States Code, to provide advance appropriations authority for certain medical care accounts of the Department of Veterans Affairs, and for other purposes, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

CONTENTS

79–006

AMENDMENT

The amendments are as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Veterans Health Care Budget Reform and Transparency Act of 2009".

SEC. 2. SENSE OF CONGRESS.

It is the sense of Congress that the provision of health care services to veterans could be more effectively and efficiently planned and managed if funding was provided for the management and provision of such services in the form of advance appropriations.

SEC. 3. PRESIDENTS' BUDGET SUBMISSIONS.

Section 1105(a) of title 31, United States Code, is amended by adding at the end the following new paragraph:

"(36) information on estimates of appropriations for the fiscal year following the fiscal year for which the budget is submitted for the following accounts of the Department of Veterans Affairs:

"(A) Medical Services.
"(B) Medical Support and Compliance.
"(C) Medical Facilities.
"(D) Information Technology Systems.
"(E) Medical and Prosthetic Research.".

SEC. 4. ADVANCE APPROPRIATIONS FOR CERTAIN ACCOUNTS OF THE DEPARTMENT OF VETERANS AFFAIRS.

(a) ADVANCE APPROPRIATIONS FOR CERTAIN ACCOUNTS.—

(1) IN GENERAL.—Chapter 1 of title 38, United States Code, is amended by inserting after section 116 the following new section:

"§ 117. Advance appropriations for certain accounts

"(a) IN GENERAL.—For each fiscal year, beginning with fiscal year 2011, discretionary new budget authority provided in an appropriations Act for the appropriations accounts of the Department specified in subsection (c) shall—

"(1) be made available for that fiscal year; and

"(2) include, for each such appropriations account, advance discretionary new budget authority that first becomes available for the first fiscal year after the budget year.

"(b) ESTIMATES REQUIRED.—The Secretary shall include in documents submitted to Congress in support of the President's budget submitted pursuant to section 1105 of title 31, United States Code, detailed estimates of the funds necessary for the accounts of the Department specified in subsection (c) or the fiscal year following the fiscal year for which the budget is submitted.

"(c) ACCOUNTS SPECIFIED.—The accounts specified in this subsection are the following accounts of the Department of Veterans Affairs:

"(1) Medical Services.
"(2) Medical Support and Compliance.
"(3) Medical Facilities.
"(4) Information Technology Systems.
"(5) Medical and Prosthetic Research.

"(d) ANNUAL REPORT.—Not later than July 31 of each year, the Secretary shall submit to Congress an annual report on the sufficiency of the Department's resources for the next fiscal year beginning after the date of the submittal of the report for the provision of medical care. Such report shall also include estimates of the workload and demand data for that fiscal year.".

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 113 the following new line:

"117. Advance appropriations for certain accounts.".

SEC. 5. COMPTROLLER GENERAL STUDY ON ADEQUACY AND ACCURACY OF BASELINE MODEL PROJECTIONS OF THE DEPARTMENT OF VETERANS AFFAIRS FOR HEALTH CARE EXPENDITURES.

(a) STUDY OF ADEQUACY AND ACCURACY OF BASE LINE MODEL PROJECTIONS.—The Comptroller General shall conduct a study of the adequacy and accuracy of the budget projections made by the Enrollee Health Care Projection Model (in this section referred to as the "Model"), its equivalent, or other methodologies utilized for the purpose of estimating and projecting health care expenditures of the Department of Veterans Affairs with respect to the fiscal year involved and the subsequent four fiscal years.

(b) REPORTS.—

(1) IN GENERAL.—Not later than the date of each year in 2011, 2012, and 2013, on which the President submits the budget request for the next fiscal year under section 1105 of title 31, United States Code, the Comptroller General shall submit to the appropriate committees of Congress and to the Secretary of Veterans Affairs a report.

(2) ELEMENTS.—Each report under this paragraph shall include, for the fiscal year concerning the year for which the budget is submitted, the following:

(A) A statement whether the amount requested in the budget of the President for expenditures of the Department for health care in such fiscal year is consistent with anticipated expenditures of the Department for health care in such fiscal year as determined utilizing the Model.

(B) The basis for such statement.

(C) Such additional information as the Comptroller General determines appropriate.

(3) AVAILABILITY TO THE PUBLIC.—Each report submitted under this subsection shall be made available to the public by the Comptroller General.

(4) APPROPRIATE COMMITTEES OF CONGRESS DEFINED.—In this subsection, the term "appropriate committees of Congress" means—

(A) the Committees on Veterans' Affairs, Appropriations, and the Budget of the Senate; and

(B) the Committees on Veterans' Affairs, Appropriations, and the Budget of the House of Representatives.

SEC. 6. REPORT TO CONGRESS.

Not later than 90 days after the date of the enactment of this Act, the Secretary of Veterans Affairs, shall submit to the Committees on Veterans' Affairs, Appropriations, and the Budget of the Senate and House of Representatives a report on the requirements of this Act and the amendments made by this Act. Such report shall include—

(1) the Secretary's plans for improving the capability of the Department of Veterans Affairs to better and more accurately estimate future health care costs and demands; and

(2) a description of impediments, statutory or otherwise, to providing future year estimates and advance appropriations for the Medical Services, Medical Support and Compliance, Medical Facilities, Information Technology Systems, and Medical and Prosthetic Research accounts of the Department.

Amend the title so as to read:

A bill to amend title 38, United States Code, to provide advance appropriations authority for certain accounts of the Department of Veterans Affairs, and for other purposes.

PURPOSE AND SUMMARY

H.R. 1016 was introduced on February 12, 2009, by Representative Bob Filner of California, Chairman of the Committee on Veterans' Affairs. This legislation would provide advance appropriations authority for certain Department of Veterans Affairs (VA) accounts. H.R. 1016, as amended, would require the Administration and the VA to provide budget estimates in support of advance appropriations. H.R. 1016 would require the Government Accountability Office to study the adequacy and accuracy of the VA's health care projection model and would require the VA to provide an initial report to Congress regarding any impediments to providing future year estimates and the VA's plans to improve its ca-

pability to better and more accurately estimate future health care costs and demands as well as an annual report to Congress regarding the sufficiency of resources in the upcoming fiscal year for the provision of health care services for veterans.

BACKGROUND AND NEED FOR LEGISLATION

The VA, through the Veterans Health Administration (VHA), operates the largest integrated direct health care system in the nation.[1] The VA health care system is also the largest Federal health care program funded through discretionary spending.[2] The President requested, for FY 2010, $44.5 billion in appropriations for VA medical care. For comparison purposes, the Administration requested $3.6 billion for the Indian Health Service which is also a discretionary program. The largest Federal health care program, Medicare, which is funded with mandatory spending, was provided $450 billion in budget authority in the FY 2010 budget resolution. For FY 2010, the Administration requested a total VA budget of $109 billion comprised of $53 billion in discretionary funding and $56 billion in mandatory funding.

The Congressional Research Service (CRS) describes the appropriations process generally:

> An appropriations act is a law passed by Congress that provides federal agencies legal authority to incur obligations and the Treasury Department authority to make payments for designated purposes. The power of appropriation derives from the Constitution, which in Article I, Section 9, provides that "[n]o money shall be drawn from the Treasury but in consequence of appropriations made by law." The power to appropriate is exclusively a legislative power; it functions as a limitation on the executive branch. An agency may not spend more than the amount appropriated to it, and it may use available funds only for the purposes and according to the conditions provided by Congress.
>
> The Constitution does not require annual appropriations, but since the First Congress the practice has been to make appropriations for a single fiscal year. Appropriations must be used (obligated) in the fiscal year for which they are provided, unless the law provides that they shall be available for a longer period of time. All provisions in an appropriations act, such as limitations on the use of funds, expire at the end of the fiscal year, unless the language of the act extends their period of effectiveness.[3]

Currently, VA medical care funding is provided through three appropriations accounts in annual appropriations measures: Medical Services, Medical Support and Compliance (formerly the Medical Administration account), and Medical Facilities. Prior to Public Law 108–199 (118 Stat. 3), the Consolidated Appropriations Act of

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[1] CRS Report "Veterans' Medical Care: FY 2009 Appropriations" October 24, 2008, RL34598.

[2] Federal spending is generally characterized as discretionary or mandatory. According to the CRS "[d]iscretionary spending is controlled through the appropriations process. Appropriations legislation is considered each fiscal year and provides funding for numerous programs such as national defense, education, and homeland security. Direct spending, alternately, is provided for in legislation outside of appropriations acts. Direct spending programs are typically established in permanent law and continue in effect until such time as revised or terminated by another law." CRS Report "The Budget Resolution and Spending Legislation" June 9, 2009, R40472.

[3] CRS Report "Introduction to the Federal Budget Process" November 20, 2008, 98–721.

2004, medical care was funded through a Medical Care account.[4] The VHA is funded through these three accounts and the Medical and Prosthetic Research account. In addition, the Information Technology Systems account provides funding for VHA information technology systems.

The VA budget has been in place at the start of the fiscal year only four times in the last 20 years (fiscal years 1989, 1995, 1997, and 2009).[5] Veterans' groups have grown increasingly alarmed over the years at the impact this delay may be having upon the provision of health care for veterans and the ability of the VA to properly plan and manage its resources. The FY 2010 Independent Budget stated that:

> Although significant strides have been made to increase the level of VA health-care funding during the past several years, the inability of Congress and the Administration to agree upon and enact veterans' health-care appropriations legislation on time continues to hamper and threaten VA health care. When VA does not receive its funding in a timely manner, it is forced to ration health care. Much-needed medical staff cannot be hired, medical equipment cannot be procured, waiting times for veterans increase, and the quality of care suffers.
>
> Only through a comprehensive reform of the budget and appropriations process, such as advance appropriations, will Congress be able to ensure the long-term viability and quality of VA's health-care system.[6]

In a statement submitted for the record at the April 29, 2009 hearing, a coalition of former VA officials wrote:

> We know well the challenge of managing the Nation's largest integrated health care delivery system when, year after year, we did not know what level of funding we would receive or when it would arrive. Having been granted the privilege of serving on the front lines of health care for America's veterans has given us close-up perspective of the agonizing results of uncertain budgets and continuing resolutions and the anxieties they inflict upon the delivery of health care. Among the recurring problems: drug and medical equipment purchases are stalled; hiring of health care professionals and other staff are delayed or deferred; repairs and replacement work to fix and modernize facilities are put on hold; and veterans medical appointments are pushed back.
>
> [.]
>
> We urge the Committee and Congress to use your authority to adopt this simple budgeting tool to help ensure that VA has the resources to continue meeting the health care needs of veterans. We urge you to pass, and the President to sign, legisla-

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[4] The Conference Report accompanying H.R. 2673 (H.Rept. 108–401) stated that "the conferees have agreed to fund VHA through a new account structure comprised of four accounts: medical services, medical administration, medical facilities, and medical and prosthetic research."

[5] CRS Report "Advance Appropriations for Veterans" Health Care: Issues and Options for Congress" April 28, 2008, R40489

[6] The Independent Budget for the Department of Veterans Affairs for Fiscal Year 2010 (annual budget request co-authored by AMVETS, Disabled American Veterans, Paralyzed Veterans of America, and Veterans of Foreign Wars), at 43.

tion to provide advance appropriations for veterans' health care.[7]

In order to advocate for changing the manner in which the VA health care budget is provided, nine veterans' groups formed The Partnership for Veterans Health Care Budget Reform. These nine groups include The American Legion, AMVETS, Blinded Veterans Association, Disabled American Veterans, Jewish War Veterans, Military Order of the Purple Heart, Paralyzed Veterans of America, Veterans of Foreign Wars, and Vietnam Veterans of America. According to the Partnership's website,[8] these groups "have all urged Congress for more than a decade to reform the system of funding VA health care so that it is sufficient, timely and predictable. This reform is necessary to ensuring that today's and tomorrow's veterans always have access to the quality medical care they need, have earned, and deserve." The Partnership's stated goal is to ensure that VA medical care is provided with "sufficient, timely, and predictable funding."[9]

Veterans' groups have argued that providing VA medical care funding through advance appropriations would better enable the VA to plan in that it would know what levels of funding are in place at the beginning of the fiscal year. The Congressional Research Service describes advance appropriations in the following manner:

> An *advance appropriation* means appropriation of new budget authority that becomes available one or more fiscal years beyond the fiscal year for which the appropriations act was passed (that is beyond the budget year). For example, if the following language appeared in an appropriations act for FY2010, it would provide an advance appropriation for FY2011: "For medical services, $30,854,000,000 to become available on October 1, 2010 (the start of the FY2011)." Under the current scoring guidelines, new budget authority for an advance appropriation is scored in the fiscal year in which the funds become available for obligation. In this example, you would record the budget authority in FY2011. [Footnote omitted].[10]

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[7] Statement of Coalition of Former VA Officials (comprised of the following former VA officials: Anthony J. Principi, Secretary (2001–2004); Hershel W. Gober, Deputy Secretary (1993–2001); Gordon H. Mansfield, Deputy Secretary (2005–2008); Kenneth Kizer, MD, MPH, Under Secretary for Health (1994–1999); Thomas L. Garthwaite, MD, Under Secretary for Health (1999–2002); Robert H. Roswell, MD, Under Secretary for Health (2002–2004); Jonathan B. Perlin, MD, PHD, Under Secretary for Health (2004–2006); Frances M. Murphy, MD, MPH, Deputy Under Secretary for Health; Laura J. Miller, MPA, MPH, Deputy Under Secretary for Health; C. Wayne Hawkins, Deputy Under Secretary for Health; J. Arthur Klein, Director of Budget and Forecasting Service, VHA; Kenneth J. Clark, VISN 22 Director (CA, NV); Larry Deal, VISN 7 Director (AL, GA, SC); James J. Farsetta, FACHE, VISN 3 Director (NJ, NYC); Dennis M. Lewis, FACHE, VISN 20 Director (WA, OR, ID, AK); Robert E. Lynch, MD, VISN 16 Director (AR, LA, MS, OK); Fred Malphurs, VISN 2 Director (NY); James J. Nocks, MD, MSHA, VISN 5 Director (DC, MD, WV); Clyde Parkis, FACHE, VISN 10 Director (OH); James W. Dudley, VA Medical Center Director, Richmond, VA; John R. Fears, VA Medical Center Director, Phoenix, AZ; Joseph M. Manley, VA Medical Center Director, Spokane, WA; Robert A. Perreault, VA Medical Center Director, Charleston, SC; Wayne C. Tippets, MHA, VA Medical Center Director, Boise, ID; and Timothy B. Williams, VA Medical Center Director, Seattle, WA).

[8] http://fundingforvets.org/about.html

[9] Testimony of Carl Blake, National Legislative Director, Paralyzed Veterans of America, April 29, 2009. Blake stated: "The Veterans Health Care Budget Reform and Transparency Act would ensure that the goals of the Partnership—sufficient, timely, and predictable funding—are met. Historically, advance appropriations have been used to make a program function more effectively, better align with funding cycles of program recipients, or provide insulation from annual partisan political maneuvering. By moving to advance appropriations, veterans' health care programs would accrue all three of these benefits."

[10] CRS Report "Advance Appropriations for Veterans' Health Care: Issues and Options for Congress" April 28, 2008, R40489

The VA forecasts health care demand and costs through its Enrollee Health Care Projection Model.

> The Enrollee Health Care Projection Model, or VA Model, is a comprehensive enrollment, utilization, and expenditure projection model. It was originally developed in 1998 in partnership with Milliman, Inc., the largest actuarial firm in the country. Through the past 11 years of periodic updates and continuous refinement, VA and Milliman have developed a strong partnership that has resulted in a powerful modeling tool. VA guides the overall development of the VA Model and ensures that it meets the needs of stakeholders. VA program staff provide expertise on the unique needs of Veterans, patterns of practice in the VA health-care system, and how the system is expected to evolve over the next 20 years. Milliman brings specialized expertise, access to extensive amounts of health-care utilization data VA, and excellent research to the overall modeling effort.[11]

The RAND Corporation conducted a study on the VA's EHCPM and published a report entitled "Review and Evaluation of the VA Enrollee Health Care Projection Model."[12] Katherine M. Harris, the study's director, testified at the April 29, 2009, hearing that:

> The RAND evaluation found that the EHCPM supports VA's short-term budget planning and monitoring in a stable policy and practice environment. The model identifies factors that drive specific types of spending or spending for specific types of enrollees and can adjust those factors as needed. Model results can also help the VA to develop more informed strategies for managing expenditures. In addition, the current model allows the VA to monitor budget execution and performance relative to pre-established benchmarks. Assuming there are no short-term "shocks" to the system, only the accuracy and timeliness of VA data systems—not the model's structure—limit the EHCPM's utility for short-term budget planning and monitoring.
>
> However, for longer-term strategic planning and policy analysis, the model could yield misleading results because the model structure does not account for two things: key drivers of future demand for VA care and the costs of delivering it. Using the model to inform scenarios beyond the current policy and budgetary environment requires information about a wide range of factors, including the VA's future cost structure, how rapidly the VA can expand its capacity to meet demand, factors driving enrollment, and the relationships among enrollee health status, VA treatment capacity, and enrollees' preferences for treatment in VA facilities versus other facilities. In many cases, required information does not exist or was not available to model developers. In the absence of such information, model forecasts rely on a number of unrealistic assumptions. Thus, substantial modifications to model subcomponents and enhancements of supporting data inputs would likely be

[11] Statement of the Honorable Eric K. Shinseki, Secretary, Department of Veterans Affairs, hearing on Funding the U.S. Department of Veterans Affairs of the Future, Committee on Veterans' Affairs, April 29, 2009.

[12] RAND Center for Military Health Policy Research, 2008.

required before the EHCPM could effectively support longer-range planning.

Veterans' groups have also commented favorably on the VA model. Carl Blake, National Legislative Director of the Paralyzed Veterans of America, testifying on behalf of the Partnership stated that "[t]he final results produced by the Model provide the most comprehensive, robust and accurate estimate of what it will cost VA in future years to provide current services authorized in law to the veterans expected to seek those services."

As introduced, H.R. 1016 included the three VA medical care accounts for advance appropriations. At the April 29, 2009, Committee hearing, CRS testified regarding a possible concern with limiting advance appropriations to these three accounts:

> Another issue that may arise would be how funding for VHA information technology programs including its electronic medical records system relate to funding the rest of the VHA under an advance appropriation. Beginning in 2005, VA consolidated all information technology (IT) functions throughout the VA and brought them under control of the VA Chief Information Officer (CIO). As a result of this reorganization, VHA's health IT budget was brought under central control. Currently, all IT programs within the VA are funded under the Information Technology account. Therefore, providing an advance appropriation for some VHA accounts and funding IT accounts under a regular appropriation act could create a situation whereby, for example, VHA could not purchase computer software although it has procured medical equipment that needs software. Another example would be the difficulty of procuring the IT infrastructure to support the opening of a new community-based outpatient clinic (CBOC).[13]

To address this concern, an amendment was offered by Representative Steve Buyer of Indiana, the Ranking Member, and agreed to by the Committee to include the Information Technology Systems and the Medical and Prosthetic Research accounts.

As amended, H.R. 1016 creates a framework to support the provision of advance appropriations by requiring the President to submit budget estimates; VA to provide Congress with details behind the estimates, and an annual report due no later than July 31 of each year that would enable the VA to inform Congress as to whether or not it has sufficient resources to provide the expected level of health care services for the fiscal year beginning 61 days later on October 1.

The Committee believes the July report is an important component of the advance appropriations framework in that it can guard against the VA facing a budget shortfall, as it experienced in 2005. The date was chosen to fall after the Administration's Mid-Session Review while still providing Congress with a window within which to act to provide additional resources if needed.

The Committee looks forward to receiving the initial report from the VA, due within 90 days of enactment, concerning the Secretary's plans to improve the capability of the VA to better and more accurately estimate future health care costs and demands

[13] Statement of Sidath Viranga Panangala, Analyst in Veterans Policy, CRS, Library of Congress, hearing on Funding the U.S. Department of Veterans Affairs of the Future, Committee on Veterans' Affairs, April 29, 2009.

and describing any impediments, statutory or otherwise, to providing future year estimates and advance appropriations. The Committee intends the VA to highlight any difficulties it faces, especially of a statutory nature, in meeting its requirements under H.R. 1016. The Committee has long taken an interest in the VA's health care forecasting activities and plans to work closely with the VA to better improve the Department's ability to forecast future health care demand and costs.

HEARINGS

On April 29, 2009, the Committee on Veterans' Affairs held a hearing entitled "Funding the U.S. Department of Veterans Affairs of the Future." The following witnesses testified: Joseph A. Violante, National Legislative Director, Disabled American Veterans, on behalf of the Partnership for Veterans Health Care Budget Reform; Steve Robertson, Director, National Legislative Commission, The American Legion, on behalf of the Partnership for Veterans Health Care Budget Reform; Carl Blake, National Legislative Director, Paralyzed Veterans of America, on behalf of the Partnership for Veterans Health Care Budget Reform; Katherine M. Harris, Ph.D., Study Director, Review and Evaluation of the VA Enrollee Projection Model, RAND Corporation; Sidath Viranga Panangala, Analyst in Veterans Policy, Congressional Research Service, Library of Congress; Jessica Banthin, Ph.D., Director of Modeling and Simulation, Center for Financing, Access and Cost Trends, Agency for Healthcare Research and Quality, U.S. Department of Health and Human Services; Randall B. Williamson, Director, Health Care, U.S. Government Accountability Office, accompanied by Susan J. Irving, Director, Federal Budget Analysis, Strategic Issues, U.S. Government Accountability Office; and, The Honorable Eric K. Shinseki, Secretary, U.S. Department of Veterans Affairs, accompanied by Patricia Vandenberg MHA, BSN, Assistant Deputy Under Secretary for Health for Policy and Planning, Veterans Health Administration, U.S. Department of Veterans Affairs. Submitted for the record was a statement made in support of advance appropriations by a Coalition of Former VA Officials.

COMMITTEE CONSIDERATION

On June 10, 2009, the full Committee met in an open markup session, a quorum being present, and ordered H.R. 1016, as amended, reported favorably to the House of Representatives by voice vote. During consideration of the bill, the following amendments were considered:

An amendment offered by Mr. Buyer of Indiana adding the Information Technology Systems and Medical and Prosthetic Research accounts was agreed to by a record vote.

A substitute amendment to the amendment in the nature of a substitute offered by Mr. Buyer of Indiana that would create an Advanced Quarter Appropriations Fund of $15 billion was not agreed to by voice vote.

An amendment offered by Mr. Buyer of Indiana requiring an additional report on implementation was withdrawn.

An amendment in the nature of a substitute offered by Mr. Filner of California was agreed to by voice vote.

COMMITTEE VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires the Committee to list the record votes on the motion to report the legislation and amendments thereto. A substitute amendment to the amendment in the nature of a substitute offered by Mr. Buyer of Indiana that would create an Advanced Quarter Appropriations Fund of $15 billion was not agreed to by voice vote. An amendment in the nature of a substitute offered by Mr. Filner of California was agreed to by voice vote.

An amendment by Mr. Buyer of Indiana adding the Information Technology Systems and Medical and Prosthetic Research accounts was agreed to by a record vote of 17 yeas and 8 nays. The names of Members voting for and against follow:

ONE HUNDRED AND ELEVENTH CONGRESS
U.S. STATES HOUSE OF REPRESENTATIVES
COMMITTEE ON VETERANS' AFFAIRS
BOB FILNER, CHAIRMAN

MARKUP

FULL COMMITTEE ROLL CALL VOTES

Date: **Wednesday, June 10, 2009**
Subject: **Approval of Buyer amendment #2**

NAME	YEA	NAY	Present
Mr. Filner		X	
Mr. Buyer	X		
Ms. Brown	X		
Mr. Stearns	X		
Mr. Snyder	X		
Mr. Moran			
Mr. Michaud	X		
Mr. Brown			
Ms. Herseth Sandlin	X		
Mr. Miller	X		
Mr. Mitchell	X		
Mr. Boozman	X		
Mr. Hall	X		
Mr. Bilbray	X		
Mrs. Halvorson		X	
Mr. Lamborn	X		
Mr. Perriello	X		
Mr. Bilirakis	X		
Mr. Teague		X	
Mr. Buchanan			
Mr. Rodriguez		X	
Mr. Roe	X		
Mr. Donnelly	X		
Mr. McNerney		X	
Mr. Space		X	
Mr. Walz	X		
Mr. Adler		X	
Mrs. Kirkpatrick		X	
Mr. Nye			
Total	**17**	**8**	

Final passage of H.R. 1016, as amended, was agreed to by a record vote of 21 yeas and 0 nays:

ONE HUNDRED AND ELEVENTH CONGRESS
U.S. STATES HOUSE OF REPRESENTATIVES
COMMITTEE ON VETERANS' AFFAIRS
BOB FILNER, CHAIRMAN

MARKUP

FULL COMMITTEE ROLL CALL VOTES

Date: **Wednesday, June 10, 2009**
Subject: **Final passage of H.R. 1016, as amended**

NAME	YEA	NAY	Present
Mr. Filner	X		
Mr. Buyer			
Ms. Brown	X		
Mr. Stearns	X		
Mr. Snyder	X		
Mr. Moran			
Mr. Michaud	X		
Mr. Brown			
Ms. Herseth Sandlin	X		
Mr. Miller	X		
Mr. Mitchell	X		
Mr. Boozman	X		
Mr. Hall	X		
Mr. Bilbray	X		
Mrs. Halvorson	X		
Mr. Lamborn	X		
Mr. Perriello	X		
Mr. Bilirakis	X		
Mr. Teague	X		
Mr. Buchanan			
Mr. Rodriguez	X		
Mr. Roe			
Mr. Donnelly			
Mr. McNerney			
Mr. Space	X		
Mr. Walz	X		
Mr. Adler	X		
Mrs. Kirkpatrick	X		
Mr. Nye			
Total	**21**	**0**	

COMMITTEE OVERSIGHT FINDINGS

In compliance with clause 3(c)(1) of rule XIII and clause (2)(b)(1) of rule X of the Rules of the House of Representatives, the Committee's oversight findings and recommendations are reflected in the descriptive portions of this report.

STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

In accordance with clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee's performance goals and objectives are reflected in the descriptive portions of this report.

NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY, AND TAX EXPENDITURES

In compliance with clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee adopts as its own the estimate of new budget authority, entitlement authority, or tax expenditures or revenues contained in the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

EARMARKS AND TAX AND TARIFF BENEFITS

H.R. 1016 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(d), 9(e), or 9(f) of rule XXI of the Rules of the House of Representatives.

COMMITTEE COST ESTIMATE

The Committee adopts as its own the cost estimate on H.R. 1016 prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

Pursuant to clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, the following is the cost estimate for H.R. 1016 provided by the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, June 16, 2009.

Hon. BOB FILNER,
Chairman, Committee on Veterans' Affairs,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 1016, the Veterans Health Care Budget Reform and Transparency Act of 2009.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Sunita D'Monte.

Sincerely,

DOUGLAS W. ELMENDORF, *Director.*

Enclosure.

H.R. 1016—Veterans Health Care Budget Reform and Transparency Act of 2009

Summary: H.R. 1016 would authorize appropriations for certain programs within the Department of Veterans Affairs (VA). CBO estimates that implementing the bill would cost almost $187 billion over the 2010–2014 period, assuming appropriation of the necessary amounts. Enacting the bill would not affect direct spending or revenues.

H.R. 1016 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would not affect the budgets of state, local, or tribal governments.

Estimated cost to the Federal Government: The estimated budgetary impact of H.R. 1016 is shown in the following table. The costs of this legislation fall within budget function 700 (veterans benefits and services).

Basis of estimate: For this estimate, CBO assumes that the specified and estimated authorizations will be appropriated near the start of each fiscal year beginning with 2011, and that outlays will follow historical patterns for similar and existing programs.

By fiscal year, in millions of dollars.—						
	2010	2011	2012	2013	2014	2010 2014
CHANGES IN SPENDING SUBJECT TO APPROPRIATION						
Medical Services:						
Estimated Authorization Level	0	34,715	35,333	35,925	36,727	142,700
Estimated Outlays	0	30,548	34,529	35,595	36,429	137,101
Medical Facilities:						
Estimated Authorization Level	0	5,198	5,258	5,316	5,398	21,170
Estimated Outlays	0	4,025	4,773	5,095	5,322	19,215
Medical Support and Compliance:						
Estimated Authorization Level	0	4,760	4,864	4,972	5,107	19,703
Estimated Outlays	0	4,231	4,781	4,925	5,066	19,003
Information Technology Systems:						
Estimated Authorization Level	0	2,572	2,601	2,630	2,670	10,473
Estimated Outlays	0	1,929	2,465	2,621	2,659	9,674
Medical and Prosthetic Research:						
Estimated Authorization Level	0	532	539	547	557	2,175
Estimated Outlays	0	335	478	538	552	1,903
Total Changes:						
Estimated Authorization Level	0	47,777	48,595	49,390	50,459	196,221
Estimated Outlays	0	41,068	47,026	48,774	50,028	186,896

H.R. 1016 would authorize appropriations for five specific budget accounts:

- Medical Services,
- Medical Facilities,
- Medical Support and Compliance,
- Information technology Systems, and
- Medical and Prosthetic Research.

Under current law, appropriations for those budget accounts are provided each year. Starting in 2011 for each account listed above, the bill would authorize appropriations for that fiscal year as well as advance appropriations for the following fiscal year. CBO estimates that implementing the bill would cost almost $187 billion over the 2010–2014 period, assuming appropriation of the necessary amounts.

CBO's estimate of the authorization of appropriations required under the bill are the same as projections for the 2011–2014 period in the most recent CBO baseline, completed in March 2009. Those amounts are derived from the 2009 appropriated level for each account and adjusted for anticipated inflation. CBO expects that those amounts would be sufficient to provide services at the current level. However, if VA were to significantly expand its health care programs—for example, to include certain veterans with higher incomes who are currently ineligible—additional funding would be required.

Intergovernmental and private-sector impact: H.R. 1016 contains no intergovernmental or private-sector mandates as defined in UMRA and would not affect the budgets of state, local, or tribal governments.

Estimate prepared by: Federal Costs: Sunita D'Monte; Impact on State, Local, and Tribal Governments: Lisa Ramirez-Branum; Impact on the Private Sector: Elizabeth Bass.

Estimate approved by: Theresa Gullo, Deputy Assistant Director for Budget Analysis.

FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimate of Federal mandates regarding H.R. 1016 prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act.

ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act would be created by H.R. 1016.

CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, the Committee finds that the Constitutional authority for H.R. 1016 is provided by Article I, section 8 of the Constitution of the United States.

APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

Section 1. Short title

This section provides the short title of H.R. 1016 as the "Veterans Health Care Budget Reform and Transparency Act of 2009."

Section 2. Sense of Congress

This section would state that it is the sense of Congress that the provision of health care services to veterans could be more effectively and efficiently planned and managed if funding was provided in the form of advance appropriations.

Section 3. Presidents' budget submissions

This section amends section 1105 of title 31, United States Code, to require the President to submit information on estimates of appropriations for the fiscal year following the fiscal year for which the budget is submitted for the Medical Services, Medical Support and Compliance, Medical Facilities, Information Technology Systems, and Medical and Prosthetic Research accounts of the VA.

Section 4. Advance appropriations for certain accounts of the Department of Veterans Affairs

This section amends title 38, United States Code, to add a new section providing authority for the provision of advance appropriations for the Medical Services, Medical Support and Compliance, Medical Facilities, Information Technology Systems, and Medical and Prosthetic Research accounts of the VA.

This new section would require the VA to provide additional detailed budget estimates in support of advance appropriations for certain VA accounts in the annual information it provides to Congress in support of the VA's budget request.

This new section would require a report, not later than July 31 of each year, to be submitted annually to Congress on the sufficiency of the VA's resources for the fiscal year beginning after the date of the submission of the report for the provision of medical care and include estimates of workload and demand data for that fiscal year.

Section 5. Comptroller General Study on adequacy and accuracy of baseline model projections of the Department of Veterans Affairs for health care expenditures

This section would require a report from the Government Accountability Office in 2011, 2012, and 2013 as to whether the amount requested in the President's budget submission is consistent with the anticipated expenditures of the VA for health care referenced to the amount projected to be necessary by the VA's Enrollee Health Care Projection model.

Section 6. Report to Congress

This section would require the VA to submit a report within 90 days of enactment to the Senate and House of Representatives Committees on Veterans' Affairs, Appropriations, and the Budget detailing the VA's plans for improving its capability to more accurately estimate future health care costs and demands and describe any impediments, statutory or otherwise, to providing future year estimates for the Medical Services, Medical Support and Compliance, Medical Facilities, Information Technology Systems, and Medical and Prosthetic Research accounts of the VA.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (new matter is printed in italic and existing law in which no change is proposed is shown in roman):

TITLE 31, UNITED STATES CODE

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SUBTITLE II—THE BUDGET PROCESS

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CHAPTER 11—THE BUDGET AND FISCAL, BUDGET, AND PROGRAM INFORMATION

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§ 1105. Budget contents and submission to Congress

(a) On or after the first Monday in January but not later than the first Monday in February of each year, the President shall submit a budget of the United States Government for the following fiscal year. Each budget shall include a budget message and summary and supporting information. The President shall include in each budget the following:

(1) * * *

* * * * * * *

(36) information on estimates of appropriations for the fiscal year following the fiscal year for which the budget is submitted for the following accounts of the Department of Veterans Affairs:

(A) Medical Services.
(B) Medical Support and Compliance.
(C) Medical Facilities.
(D) Information Technology Systems.
(E) Medical and Prosthetic Research.

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TITLE 38, UNITED STATES CODE

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PART I—GENERAL PROVISIONS

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CHAPTER 1—GENERAL

Sec.
101. Definitions.

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117. Advance appropriations for certain accounts.

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§ 117. Advance appropriations for certain accounts

(a) IN GENERAL.—For each fiscal year, beginning with fiscal year 2011, discretionary new budget authority provided in an appropriations Act for the appropriations accounts of the Department specified in subsection (c) shall—

(1) be made available for that fiscal year; and

(2) include, for each such appropriations account, advance discretionary new budget authority that first becomes available for the first fiscal year after the budget year.

(b) ESTIMATES REQUIRED.—The Secretary shall include in documents submitted to Congress in support of the President's budget submitted pursuant to section 1105 of title 31, United States Code, detailed estimates of the funds necessary for the accounts of the Department specified in subsection (c) for the fiscal year following the fiscal year for which the budget is submitted.

(c) ACCOUNTS SPECIFIED.—The accounts specified in this subsection are the following accounts of the Department of Veterans Affairs:

(1) Medical Services.
(2) Medical Support and Compliance.
(3) Medical Facilities.
(4) Information Technology Systems.
(5) Medical and Prosthetic Research.

(d) ANNUAL REPORT.—Not later than July 31 of each year, the Secretary shall submit to Congress an annual report on the sufficiency of the Department's resources for the next fiscal year beginning after the date of the submittal of the report for the provision of medical care. Such report shall also include estimates of the workload and demand data for that fiscal year.

ADDITIONAL VIEWS

In my view, it is premature for the House of Representatives to consider H.R. 1016, as amended.

The Committee on Veterans' Affairs did not hold a legislative hearing on the bill and the Administration has not provided its official views on the bill, although it has stated its support for the concept of advance appropriations. The failure to follow regular order and the unnecessary haste with which this bill is being advanced means that it will need additional changes later, if the House passes the bill in its present form.

H.R. 1016 was not considered by the Subcommittee on Health, to which it was referred. At the Committee markup, I offered an amendment that was adopted to include the information technology, and medical and prosthetic research accounts of the Department of Veterans Affairs (VA) among those covered by advance appropriations. I offered the amendment because both the Congressional Research Service (CRS) and the Secretary of Veterans Affairs, the Honorable Eric Shinseki, raised concerns at the April 29, 2009, Committee hearing on "Funding the U.S. Department of Veterans Affairs of the Future," that information technology should be included in advance appropriations legislation because of its close relationship to the provision of medical care. In a report dated April 28, 2009, CRS also discussed potential problems if medical and prosthetic research were not included in such legislation.[1] While I am pleased that these accounts are now included in the bill, a legislative hearing by the subcommittee with jurisdiction over the bill would have allowed the issue to be more fully considered at the appropriate stage of the legislative process.

Also, at the oversight hearing on the future funding of the VA, the Government Accountability Office (GAO) expressed reservations about its possible role in advance appropriations. Subsequently, in its written response of June 17, 2009, to one of my hearing questions, GAO made a strong statement which leads me to believe that section 5 of the amended bill (section 4 of the bill as introduced) is not workable to the extent that it requires GAO to obtain budgetary information from the VA before the department makes its fiscal year budget request. GAO stated:

> ". . . we do question whether GAO could conduct the required studies due at or before the date the President's budget request is submitted to Congress because of challenges in obtaining, evaluating, and reporting on the relevant budgetary and technical information. Section 4 contemplates that information regarding the President's requests for VA health care funding would be available to GAO as they are developed.

[1] Congressional Research Service Report (2009). "Advance Appropriations for Veterans' Health Care: Issues and Options for Congress." April 28, 2009, RL40489, p. 13.

> While GAO has a broad statutory right of access to agency records under section 716(a) of title 31, United States Code, executive agencies have consistently resisted making detailed information about the development of the President's budget available to GAO (footnote omitted). In light of the extensive negotiations typically required to resolve requests for this type of information, as well as the need for timely information for congressional deliberations on VA funding, GAO believes that a requirement like that contained in section 4 is inadvisable."

VA's official views on this issue are currently unknown, but it is my belief that any administration would likely find this process objectionable. I believe that it has not been adequately considered and that it should have been addressed before H.R. 1016, as amended, is reported to the House.

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