VETERANS' LEGACY MEMORANDUM

TO: Senator Rockefeller
FROM: Seth Gainer
DATE: April 11, 2014
RE: Legacy on Veterans' Issues

Senator Rockefeller, this memo provides a comprehensive overview of your work on veterans' issues since you entered the Senate. As you well know, you have been a member of the Veterans' Affairs Committee since you were elected to the Senate in 1984, you served as Chairman and Ranking Member of the Committee during of the most far-reaching and impactful veterans' legislation in the past fifty years.

Your work has directly benefited veterans across the country and at home in West Virginia. Over this nearly thirty-year span, your efforts have been particularly significant in several areas. Throughout your career and especially during your time as Chairman and Ranking Member of the Committee, you have been especially focused on expanding research and treatment of service-related illnesses such as Gulf War Illness, Agent Orange, and issues relating to Atomic Veterans; bringing attention to and treatment of Post-Traumatic Stress Disorder; and, reforming the VA health care system through a series of bills including eligibility reform and the Millennium Act. You have truly been a champion in the Senate for each of these issues and this memo will detail your history on these subjects below. First, however, it is useful to provide a brief synopsis of your work on each of these topics.

Gulf War Illness

As an early and outspoken advocate on behalf of veterans of the Gulf War, you brought attention to the needs of veterans suffering from the symptoms collectively called “Gulf War Syndrome,” pressuring the Department of Defense to acknowledge that veterans were returning from the Gulf War with major illnesses. This eventually resulted in the passage of the landmark *Persian Gulf War Veterans’ Benefits Act*. You also introduced and supported successful bills that provided research funding for these mysterious illnesses, expanded their scope to include spouses and children, and required better coordination of DOD and VA efforts to respond to their illnesses. Your persistent efforts were critical in pushing the Department of Veterans Affairs into following through on legislation you passed while Committee Chair, improving its woeful record on awarding disability claims, compensating veterans disabled by “undiagnosed illnesses”, and extending health care services on a priority basis for Gulf War veterans. Your efforts were vindicated in 2009 when a Congressionally-mandated committee you helped to create finally confirmed that these illnesses were a result of exposure to neurotoxic chemicals.

Mental Illness and PTSD

Your work on behalf of veterans with mental illness and post-traumatic stress disorder has been considerable and is still ongoing. As Chairman of the Senate Veterans Affairs Committee, you brought attention to serious resource shortages and a lack of centralized oversight on VA specialized services such as PTSD

and substance abuse disorders. You helped pass the *Joshua Omvig Veterans Suicide Prevention Act*, which required the VA to establish a comprehensive program for suicide prevention among veterans, and you have continued to hold successive administrations to task on their handling of these issues. As a result of your efforts to shed light on the severity of this problem, the Senate recognized June as PTSD Awareness Month for the first time in 2013. And while your focus on addressing PTSD at the national level has been unwavering, you have never lost sight of veterans back home. You were instrumental in obtaining approval for a Vet Center outstation in Parkersburg, meaning that for the first time there is a full-time VA mental health counselor for combat veterans and their families in Wood County.

Veterans' Health Care

You have long been a proponent of improved health care for veterans, and your tireless work is a key reason for the success of the VA system today. After the VA began to stop providing needed drugs for veterans due to escalating prices and a tightened budget, you authored the *Veterans Health Care Act of 1992*, which eased the crisis by guaranteeing VA discounts for prescription drugs and ensuring veterans' continued access to affordable prescriptions ever since. You were a critical voice in the passage of the *Health Care Eligibility Reform Act of 1996*, eliminating the distinction between inpatient and outpatient care – the most far-reaching change in veterans' health care since the end of World War II. You authored legislation ensuring, for the first time ever, long-term care benefits for veterans such as hospice care and nursing home care. And you have worked

tirelessly to speed up the processing of veterans' disabilities claims, playing a key role in the passage of the *Veterans' Claims Assistance Act.* Your work has transformed a failing hospital-based system into a network of clinics and hospitals that ranks among the best in the country. This has had a profound effect in West Virginia, as you helped create a network of community-based clinics across the state to provide veterans care closer to home. In keeping with your commitment to long-term care, you also helped secure funding for the state's first veterans' nursing home and a new state veterans' cemetery.

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Senator, this memo begins with a timeline of your work on behalf of veterans extending to the present day. It then follows with an expanded examination of your history on a number of the most important issues during your long career. You will find these "chapters," as well as their page numbers, below.

TIMELINE

January 15, 1985	You are sworn in as a U.S. Senator for the state of West Virginia. Your first committee assignment is on the Senate Veterans Affairs Committee.
1985	In July, you introduce a successful amendment to the Small Business Administration (SBA) authorization bill directing it to take a more active role in establishing Veterans Business Resource Councils across the U.S.
1987	You lead the successful opposition to abolish the *Veterans' Job Training Act*. Your bill to extend the program is incorporated into a larger veterans' bill that is enacted into law.
1989-1990	During this time period, you are actively involved in successful efforts to grant judicial review to veterans' benefits claims, compensate veterans exposed to radiation, and create a new Cabinet-level Department of Veterans Affairs (VA).
August 2, 1990	Saddam Hussein invades Kuwait. U.S. troops are sent to Saudi Arabia as part of *Operation Desert Storm* after King Fahd requests U.S. assistance from potential Iraqi aggression.
February 28, 1991	The Gulf War ends in a decisive victory for the United States. Iraqi forces are routed and Kuwait is liberated from Iraqi control.
1991-1992	Hire-a-Veteran Weeks in 1991 and 1992, which you originally sponsored, are enacted during the 102nd

	Congress to promote employment opportunities for veterans.
1992	You support an amendment that allows veterans to secure legal advice when facing an adversarial claim on a VA-guaranteed loan. You also push for action to respond to the plight of homeless veterans.
1992	You lead a successful battle to establish a program to guarantee the VA discounts for prescription drugs. The amendment was included in a comprehensive package to enhance veterans' health care.
January 3, 1993	You become Chairman of the Committee on Veterans' Affairs, following eight years as an active member of the Committee. You are responsible for overseeing the VA and its services to 27 million veterans, including more than 200,000 West Virginia veterans.
July 19, 1993	You hold a Senate Committee on Veterans' Affairs field hearing in Beckley – the first in fifteen years since Jennings Randolph held it in the same auditorium – with the Secretary of Veterans' Affairs to focus on veterans' health care needs in West Virginia and the role of the VA under health reform.
November 16, 1993	You hold a hearing to investigate the concerns of Gulf War veterans suffering from illnesses related to their service in the Persian Gulf.
1993	You introduce a successful bill to improve reemployment rights and benefits of veterans and other employment benefits for certain members of the Armed Forces. This legislation also includes another original bill by you that increases the amount

	of loan guaranty for loans for the purchase or construction of homes. You also sponsor successful legislation to increase services to homeless veterans through community and veterans-based programs. Finally, under your leadership, the Committee approves an omnibus bill aimed at expanding and improving health care services for veterans.
1993	Legislation is passed that provides medical care for sick Gulf War veterans if their illnesses appear to be caused by service in the war.
1994	Your efforts to create a full-time VA mental counselor in Logan lead to a Vet Center outstation in the area.
1994	You support S. 1030, the *Veterans Health Programs Improvement Act*, which passes the Senate by unanimous consent.
1994	The *National Defense Authorization Act for FY1995* (NDAA) is signed into law. An amendment you introduced is included in the final bill. It provides grants for independent research on Gulf War illnesses and requires studies on the prevalence, causes, treatment, and possible transmission of Gulf War illnesses.
October 7, 1994	Congress passes the *Persian Gulf War Veterans' Benefits Act*, authorizing the VA to provide compensation for veterans with undiagnosed illnesses, and for which no other causes could be identified. This bill also requires the VA to study birth defects, infertility, and other reproductive problems possible caused by exposure to dangerous

	substances during military service; include spouses and dependents in the Persian Gulf War Veterans' Health Registry; and, pay for their medical evaluations if they believe their illnesses are associated with the veterans' illness.
December 8, 1994	Your staff on the Veterans' Affairs Committee release the staff report *Is Military Research Hazardous to Veterans' Health?: Lessons Spanning Half a Century*.
January 3, 1995	Your Chairmanship of the Committee ends as the Republicans retake the Senate.
May 1995	The Wheeling Clinic in St. Clairesville, OH opens, allowing veterans in the Northern Panhandle to get their outpatient care without traveling to Pittsburgh.
1995	After requesting a General Accountability Office investigation which found that only 5 percent of disability claims for undiagnosed illnesses relating to service in the Gulf War were successful, you compel the VA to review all Persian Gulf veterans' claims.
1995	In response to your concerns, the VA agrees to proceed with voluntary examinations of veterans' spouses and children and enter the results into the Persian Gulf Veterans' Registry.
March 6, 1996	H.R. 3019, the *Omnibus Consolidated Rescissions and Appropriations Act of 1996*, was signed into law by the President. You successfully led efforts to strike from the bill a provision that would have limited compensation to mentally disabled veterans.
March 20, 1996	H.R. 3118, the *Veterans' Health Care Eligibility Reform Act of 1996*, signed into law by the

	President. You play a key role in winning passage of the bill, which includes a number of bills you introduced throughout the year.
April 29, 1996	S. 1711, the *Veterans Benefits Improvements Act of 1996*, is signed into law by the President. You are instrumental in its gaining passage through the Senate.
1996	You assist in arranging a meeting between the representatives of Disabled American Veterans (DAV) and the Ford Motor Company that results in Ford donating 11 vans to DAV's program to transport veterans to VA hospitals.
1996	Due to a provision you support in the FY1997 veterans' appropriations bill, the VA extends benefits to the children of veterans for the first time.
1996	You support legislation extending priority health care eligibility to Vietnam veterans exposed to Agent Orange through December 31, 2002, as well as the establishment of a new VA research center to examine reproductive problems of veterans exposed to dangerous substances during military service.
March 1997	You ask the VA's Inspector General to evaluate the VA's system for ensuring quality health care.
May 1997	You direct the Democratic staff on the Committee to undertake an independent investigation of the performance of VA's quality management system.
October 1, 1997	Beginning on this date, Vietnam veterans' children with spinal bifida are eligible to receive reimbursement for health care, vocational rehabilitation benefits, and a monthly stipend,

	depending on the severity of their condition.
November 1997	You helped push through Congress a bill which authorizes the VA to review otherwise final Board of Veterans' Appeals decisions on the basis of clear and unmistakable error.
November 1997	The NDAA for FY1998 is signed into law. It includes several amendments you introduced or supported, including support for joint DOD-VA research on health-related issues and better coordination between the DOD and VA in response to Gulf War-related illnesses.
December 1997	After a 7-month investigation, you and your staff publish a report finding problems with the VA's system of quality control, with quality health care varying from center to center.
1997	Your legislation creating a new equal employment opportunity system to handle complaints of harassment or discrimination in the VA is enacted
1998	You help pass legislation that requires the VA to adopt standards for breast cancer mammography tests in accord with guidelines issued by the Department of Health and Human Services; provide educational assistance to VA primary care providers through two programs intended to improve recruitment and retention of highly skilled health care workers; authorize health care for the treatment of any head or neck cancers which are associated with a veteran's receipt of nasopharyngeal irradiation treatments in active military service during the 1940's and 1950's; and authorize the Secretary of

	Defense to contract for an independent study to assess the need for routine use of protective eyewear at military small arms firing ranges to prevent unnecessary injuries.
1998	You support legislation requiring the VA to assess whether the two programs that are designed to help the survivors of service-connected veterans – the insurance program and Dependency and Indemnity Compensation – are continuing to meet their needs.
1998	You support legislation that enhances “veterans’ preference” rules in federal employment and improves on enforcement of existing veterans’ preference legislation.
June 9, 1998	Despite your considerable efforts, Congress passes a major highway bill in May which cuts off veterans' claims for tobacco-related illnesses unless they are filed before this date. While passage of this bill represents a blow to veterans, a small amount of the money saved is applied to modest improvements in other veterans’ benefits.
September 1998	The Special Investigation Unit (SIU) on Persian Gulf War Illnesses of the Senate Committee on Veterans' Affairs publishes the final report of its year-long investigation, which highlights the government’s lack of preparedness in responding to battlefield exposures including chemical and biological agents.
October 21, 1998	The *Omnibus Consolidated and Emergency Supplemental Appropriations Act for FY 1999* is signed into law by the President and contains legislation you authored that authorizes the

	Secretary of the VA to service the illnesses found by the National Academy of Sciences to be associated with Gulf War health exposures.
November 11, 1998	Building on the conclusions of the SIU report, you help win passage of the *Veterans Programs Enhancement Act*, which authorizes the Secretary of VA to contract with the National Academy of Sciences to make recommendations for future research on Gulf War illnesses, and assist in the development of a plan to establish a National Center on War-Related Illnesses and Post-Deployment Health Issues.
February 4, 1999	You introduce a successful amendment to the *Soldiers', Sailors', Airmen's, and Marines' Bill of Rights Act* (S. 4) that requires the VA to pay veterans' costs for courses preparing them for tests that are necessary for entrance to college or graduate school, such as the SAT or GRE. It is agreed to by voice vote.
September 8, 1999	The *Veterans Benefits Act of 1999* is agreed to in the Senate by unanimous consent. Your assistance is crucial to this legislation, which for the first time ever ensures veterans of long-term care benefits. In addition, it also authorizes the VA, for the first time ever, to reimburse non-VA facilities for emergency care provided to veterans enrolled with the VA for their health care.
September 1999	You are successful in spearheading efforts to require the VA to fund special grants totaling $15 million to improve its PTSD and substance abuse programs.

1999	You release a Democratic staff report that concludes that VA specialized services are suffering from serious resource shortages and that the VA is not providing the same level of services in all facilities as they suffer from a lack of centralized oversight.
1999	You support successful legislation that allows the VA to waive copayments for military retirees.
1999	You help pass legislation extending a VA health evaluation program for Gulf War veterans' spouses and children for an additional four years.
1999	You back successful legislation to provide DIC benefits to surviving spouses of former POW's who were rated totally disabled prior to their death for a period of one year.
1999	You support the reinstatement of additional benefits for remarried surviving spouses of veterans upon the termination of a remarriage.
May 11, 2000	You introduce S. 2544, the *Children of Women Vietnam Veterans' Benefits Act*. Based on this bill, legislation is passed that provides benefits to children born with birth defects to female Vietnam veterans.
October 2000	Congress passes a veterans' benefits bill that includes significant enhancements to veterans' educational benefits that you supported, including an increase in basic Montgomery GI Bill benefits.
November 11, 2000	After the Institute of Medicine releases a report that finds "limited/suggestive" evidence of an association between Agent Orange exposure and Type 2 (adult-onset) diabetes, you take immediate action by urging

	the VA to extend compensation to Vietnam War veterans suffering from this disease. On Veterans' Day, the VA announces that it will begin drafting regulations to compensate Vietnam veterans with Type 2 diabetes on a presumptive basis.
November 2000	You champion successful legislation signed into law that restores the VA's "duty to assist" veterans in developing their compensation claims and obligates it to notify claimants about what is needed to establish a claim and what additional evidence is required before it can make its decision.
November 2000	You author a bill that removes the limit on adaptive housing grants to disabled veterans who own their home with someone other than a spouse.
2000	Your efforts result in the establishment of several community-based outpatient clinics in Gassaway and Logan.
June 6, 2001	You assume the role of Chairman once again after Democrats regain control of the Senate.
February 2001	You announce that the Secretaries of the Air Force and the Navy have agreed, at your request, to assign additional staff to the Armed Services Center for Unit Records Research to help speed processing of veterans' disability claims.
June 5, 2001	The *Civilian Health and Medical Program of the Department of Veterans Affairs (CHAMPVA) For Life Act of 2001*, which you introduced in March, is signed into law by the President, extending veterans' benefits past the age of 65.
June 5,	The *Veterans' Survivor Benefits Improvements Act*,

2001	H.R. 801 is also signed into law after you help to shepherd it through the Senate, increasing coverage for Servicemembers' Group Life Insurance and extending it to dependents.
June 14, 2001	Following your hearing on the nurse shortage at VA hospitals, you introduce the VA Nurse Recruitment and Retention Act of 2001.
July 16, 2001	You hold a Senate Committee on Veterans' Affairs field hearing in Huntington to focus on access to VA health care services for veterans in rural West Virginia.
July 19, 2001	You hold a hearing on legislation that enhances and funds many programs VA administers to homeless veterans.
July 24, 2001	After VA Secretary Anthony Principi proposes increasing veterans' prescription drug copayments, you hold a hearing to examine the outcome of this increase on lower-income veterans. Following the hearing, you introduce legislation to exempt all veterans who make less than $24,000 from the prescription drug copayment.
September 6, 2001	You introduce S. 1408, the *Veterans' Copayment Adjustment Act*, to encourage the VA to decrease the copayment for outpatient care. On December 6, the VA announces that outpatient copayments will be reduced, introducing a tiered copayment system rather than the flat rate that existed before.
November 2001	Your letter to the VA Secretary successfully convinces the VA to add another full time counselor in Logan.

December 21, 2001	Following your hearing in July on homeless veterans, the *Heather French Henry Homeless Veterans Assistance Act* is passed, containing new benefits and increased funding for homeless veterans programs and outreach.
December 27, 2001	*The Veterans Education and Benefits Expansion Act of 2001* is signed into law. It includes legislation you authored allowing veterans to apply their GI Bill benefits toward short-term, high-technology courses. You also support a number of provisions in the omnibus bill, including eliminating the cap on compensation for Agent Orange, allowing the VA to compensate Gulf War veterans for diagnosed but medically unexplained illnesses, easing the ability of older veterans to receive VA pension benefits, raising the maximum loan guaranties through the VA, and increasing VA burial benefits.
2001	Following your request, the VA approves establishing a new community-based clinic in Williamson, WV and a VA Vet Center Outstation in Parkersburg, WV, bringing a full-time mental health counselor to Wood County for the first time.
January 23, 2002	Provisions from your *Veterans' Specialized Treatment Act* are included in a larger health care bill and signed into law by the President, ensuring that specialized health care services are available to veterans.
January 23, 2002	As a result of legislation (S. 1576) you introduced to extend Public Law 102-310, which authorizes the VA to provide health care services on a priority basis to

	Gulf War veterans for an additional length of time, an extension through December 31, 2002 is signed into law by the President.
January 23, 2002	Provisions of S. 1160, which enables the VA to provide blind or hearing-impaired veterans, as well as veterans with spinal cord injury or dysfunction, the ability to obtain service dogs, are incorporated in a larger health care bill, H.R. 3447, which is signed into law by the President. Provisions of your *VA Nurse Recruitment and Retention Act of 2001* are also signed into law by the President.
April 2002	You hold a hearing to demand that the VA comply with the *Millennium Act of 1999*, which required the department to meet the growing need for veterans' long-term care through both nursing homes and community-based options.
June 2002	The *Bioterrorism Prevention and Public Health Preparedness Act* is signed into law. You are a cosponsor of this bill, which integrates the VA into a broad response plan for potential future disasters and helping states prepare for possible bioterrorist attacks.
July 2002	You hold a hearing to bring attention to the VA's lack of attention to mental health care, emphasizing the importance of making this a priority and expressing your concern that veterans with mental illness may not be getting the care they need.
August 2002	The *Department of Veterans Affairs Emergency Preparedness Act*, which you introduced, passes the Senate, establishing new emergency preparedness

	research centers and authorizing the VA to provide health care to veterans, active duty forces, and the public during a major domestic disaster.
October 2002	You participate in the ground-breaking ceremony at the site of the 120-bed State Veterans Nursing Home in Clarksburg, adjacent to the Clarksburg VA Medical Center. You have worked with local and state officials for several years to build a home for the state's veterans.
November 2002	Legislation you introduced that authorizes a cost-of-living adjustment (COLA) to increase veterans' disability compensation for the next fiscal year is passed and signed into law by the President.
2002	You introduce legislation increasing funding for the treatment of post-traumatic stress disorder (PTSD) and expanding the number of VA mental health research centers from 5 to 15.
2002	You also introduce legislation that authorizes a cost-of-living adjustment (COLA) to increase veterans' disability compensation for next year.
2002	You introduce legislation that exempts veterans earning less than $24,000 per year from the VA's co-pay for prescription drugs, easing the burden of medical costs on veterans who are already struggling to make ends meet.
2002	Responding to increasing demand that the VA provide coverage for veterans with hearing loss, you introduce legislation that would, for the first time, compensate veterans for service-related hearing loss.

January 3, 2003	Your Chairmanship of the Committee ends for the last time as the Republicans retake the Senate.
March 20, 2003	The United States invades Iraq as part of *Operation Iraqi Freedom*. President Bush declares "Mission Accomplished" in a televised address aboard the USS *Abraham Lincoln*, announcing the end of major combat operations. Saddam Hussein remains at large until he is captured on December 13, 2003. U.S. forces continue to occupy the country as the insurgency grows.
March 2003	After the House fails to approve legislation that would allow disabled veterans to collect both their full disability and retirement benefits (known as concurrent receipt), you work to pass a compromise bill that restores full retirement pay to veterans who are at least 60 percent disabled as the direct result of armed combat.
March 2003	You finalize a Memorandum of Understanding between the WV Department of Health and Human Resources and that allows VA medical centers to provide health care support to state health and public safety officials during crisis situations. This is the first such agreement in the country.
December 6, 2003	The *Health Care, Capital Asset, and Business Improvement Act* is signed into law. It includes your bill extending long-term care for veterans through VA nursing homes and community-based options for an additional five years.
2003	You vote in support of *The Veterans' Benefits Improvement Act*, which increases benefit payments

	for the nation's veterans, including additional educational assistance and a veterans' COLA.
2003	After a General Accounting Office (GAO) report affirms that many veterans still lack the health care required by the *Millennium Health Care and Benefits Act of 1999*, you call on VA Secretary Anthony Principi to demand that the VA comply with federal requirements and make community-based, long-term care a top priority.
2004	You applaud a VA report calling for $60 million over the next four years to monitor the health of Gulf War veterans and their children.
2004	You write a letter to President Bush requesting more funding for the VA and highlight the need to do more for soldiers suffering from PTSD.
2004	After an advisory panel recommends that inpatient services be cut at the Beckley VA Medical Center, Secretary Principi, at your urging, overturns the recommendation.
January 2005	You cosponsor *The Standing With Our Troops Act*, which creates a bill of rights for National Guard and Reserve units, and the Keeping Our Promise to America's Veterans Act, which ensures that all veterans have access to health care and services, including mental health care.
November 11, 2006	After eight years of hard work with three governors, you are on hand for the dedication of the Clarksburg Veterans' Nursing Home, the first in West Virginia.
2006	After more than 26 million veterans have their information compromised, you introduce *The*

	Veterans' Privacy Protection Act to provide veterans with financial security advice to guard against the possible misuse and exploitation of their personal information.
2006	You push for several pieces of legislation that increase the COLA for service-connected veterans, authorize medical facilities, improve education benefits, and assist homeless veterans.
February 2007	You are an original cosponsor of the *Joshua Omvig Veterans Suicide Prevention Act*, which calls for the implementation of a comprehensive suicide prevention program to reduce the number of veterans who commit suicide.
2007	You write to David Chu, the Undersecretary of Defense for Personnel and Military Readiness, asking for immediate steps to be taken to repair dilapidated out-patient housing provided to soldiers and their families. You also question the transition process for patients from DOD to VA medical care after reports of lost paperwork and personnel files.
2007	You participate in a historic joint hearing to examine the disability ratings and transitions of service members from the DOD to the VA. You voice concerns over the rise in disability claims related to PTSD and the discrepancies between the services and their disability rating systems.
2007	You support measures providing three additional years of eligibility to access VA services for the nearly 4,300 WV National Guard and Reservists who had been deployed to Iraq or Afghanistan.

May 2008	Legislation that you cosponsored passes the Senate, providing $1.2 billion in tax relief to benefit veterans and military families nationwide.
2008	You cosponsor the *Post 9/11 Veterans Educational Assistance Act*, the biggest expansion since World War II. It covers full tuition, housing, fees, and provides a $1000 stipend each semester at any public university or technical schools for four years, as well as extending the time a soldier or veteran can collect benefits.
2008	Your fight to increase the mileage reimbursement rate for West Virginia's veterans that travel to and from clinics is successful. It is the second increase in as many years that you have worked to enact, the first such increases in 31 years.
2009	You help lead the fight to secure the *Veterans Health Care Budget Reform and Transparency Act of 2009*, which provides certainty in the funding for VA health care by providing it a year in advance.
2009	VA Secretary Shinseki agrees to your request that Guardsmen can get care for any related injuries or conditions after being exposed to sodium dichromate, even after five years of eligibility.
May 5, 2010	You support passage of the landmark *Caregivers and Veterans Omnibus Health Services Act*, which creates a new program to support caregivers of severely injured veterans, allowing them to be at home instead of in institutions.
2010	You commend the VA for new regulations that ease the process for disability compensation and health

	care relating to PTSD by removing the requirement for corroborated evidence.
August 31, 2011	You support passage of Agent Orange legislation that establishes a very specific process for providing the health and disability benefits of Vietnam veterans exposed to Agent Orange.
2011	The Senate approves your bill to provide disabled veterans and their families with an increase in veterans' cost-of-living adjustment (COLA).
2011	The DOD Office of the Inspector General releases its report on the exposure of National Guardsmen to sodium dichromate in 2003, finding that American soldiers were not properly notified regarding the exposure to dangerous chemicals in Iraq.
2012	You help pass the *Mental Health Access Act of 2012*, which provides a number of different initiatives to address mental health and suicide prevention.
May 31, 2013	You convene a roundtable in Parkersburg on Veterans' Mental Health with veterans, mental health providers, and VA and DOD officials.
December 2013	You introduce an amendment to the NDAA requiring DOD to complete a medical exam and mental health screening for all separating service members.
April 2014	After the NDAA is fast-tracked through the Senate without amendments, you reintroduce it with Senator Portman as the *Medical Evaluation Parity Act*, which includes enhanced entry as well as exit screening.

VA HEALTH CARE REFORM

Introduction

> *"Time and again, our sons and daughters, in West Virginia and throughout the country, bravely answer the call to duty. As West Virginians, we love our country and those who serve to protect it. For their sacrifices, and the sacrifices of their families, we will be forever grateful. I believe one of the best ways we, as a nation, can show our unending gratitude for their service is to hold true to the promise we've made to our veterans: that when they come home, they will be met with the best possible care and support we can provide. From our soldiers returning from Iraq and Afghanistan to our older servicemen and women from each and every conflict – every veteran deserves support and continuing care."*
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> Editorial by Senator Rockefeller on Veterans' Day
> November 7, 2007

The roots of the U.S. health care system for veterans can be traced back to the nascent years of the American enterprise, when the pilgrims of Plymouth Colony passed a law that stipulated that soldiers disabled in the war against the Pequot Indians were entitled to support by the colony. In 1776, the Continental Congress voted to provide pensions to disabled soldiers in the Revolutionary War. After the Civil War, states established veterans' homes, while benefits and pensions were extended to widows and dependents of veterans. When the U.S. entered World War I in 1917, Congress also established programs for disability compensation, insurance, and vocational rehabilitation.

The next step came in 1930, when the 71st Congress authorized President Hoover to "consolidate and coordinate government activities affecting war veterans . . . into an establishment to be known as the Veterans' Administration." World War II saw a rapid expansion in the veterans' population and their accompanying benefits. In 1989, you supported the successful establishment of the Department of Veterans Affairs (VA) as a Cabinet-level position. A short time later, thanks to your tireless work and support, Congress passed *The Veterans Health Care Eligibility Reform Act of 1996*, a piece of legislation that can be counted among your greatest achievements. Senator Alan Simpson, Chairman of the Senate Veterans Affairs Committee at the time, stated proudly, "In agreeing to this bill, the Congress will make, under the rubric of health care 'eligibility reform,' changes in the nature of our Nation's health care commitment to veterans that are more far-reaching than any decision since the end of World War II."

Early Years

While this landmark legislation was certainly a high mark in your efforts on behalf of our nation's veterans, it did not mark the beginning or the end of your own commitment to veterans' health care. In fact, the eligibility reform movement – legislation which would amend the provisions which set forth which veterans were eligible to receive what care from the VA – dated back to at least 1985, your first year in the Senate. Late that year, in the context of reconciliation legislation, both Houses passed legislation which amended the then-current law on access to VA care. The differences between those measures were resolved and the final

compromise, which created a hierarchy of veterans from which the VA was required to provide inpatient care, was enacted in *the Consolidated Omnibus Budget Reconciliation Act of 1985* (COBRA).

Following the enactment of COBRA, more efforts to modify this legislation followed. In 1988, legislation was enacted that set forth the groups of veterans who would be guaranteed access to outpatient care. Unfortunately, because of ongoing concerns about the VA's ability to meet the increasing demand for outpatient care in a timely fashion, the population of veterans guaranteed access to outpatient career was significantly smaller than the portion with guaranteed access to inpatient care. These efforts provide a clear backdrop for your subsequent efforts to reform the VA health care system. While you were obviously focused on the expansion of access, you also exhibited a clear interest in the extension of services, such as long-term care, early in your career. For example, one of the first pieces of legislation you introduced, although relatively minor, was a bill to extend respite care to chronically ill veterans at the VA. Provisions of this bill were later included in H.R. 901, *Veterans' Benefits Amendments of 1989*, which was signed into law in December 1989 and extended a number of expiring programs, including respite care for three years.

As a Senator from a rural state with a large veterans' population, you were particularly attuned to the needs of veterans across the country. This was due, in large part, to your willingness to listen and learn. At a field hearing focusing on health care services for rural veterans in Beckley, WV in 1993, you hosted the VA Secretary, Jesse Brown, who praised your desire to immerse

yourself in these issues, telling the audience that you were “a man who has worked very, very hard to become an expert in health care delivery throughout our country.” He characterized you as not only a person who is able to see the micro level of the VA, but also “able to see the big picture, and, as a result, I feel we are extremely, extremely lucky to have a person with [your] background and knowledge as a Chairman of the Veterans’ Affairs Committee.”

For your part, you emphasized the value of getting outside of Washington, DC, as it was “very important in terms of setting out a record [and] helping me expand my knowledge.” You said, “It is important that people understand that we are trying to hear and listen to what our Nation’s veterans have to say. That’s always very important to me.”

You listened to a number of veterans and health care professionals at the hearing, who presented you with a wide variety of issues, and a significant number of veterans mentioned the difficulties of travel. The Director of the West Virginia Division of Veterans Affairs, Gail Harper, told you that with “West Virginia being the way that it is, our veterans have to travel long distances to get to VA hospitals.” He expressed hope that this could change, “I know in some other states, the rural – the mobile units are working fine. And I think here in West Virginia maybe the catchman areas at each VA hospital could be extended by the mobile health clinics.” Tony Pansera, the Commander of WV AMVETS, also urged Congress to continue these valuable services.

Acting on these recommendations and others, the Senate Committee on Veterans' Affairs under your Chairmanship approved an omnibus bill aimed at expanding and improving health care services for veterans. *The Veterans Health Programs Improvement Act of 1994* contained provisions to establish a hospice pilot program, a VA rural health care clinic program, and an educational loan repayment program for certain VA health care professionals. It also authorized improvements in VA services to women veterans – another key topic at the field hearing in Beckley – and set standards to ensure that mammography services offered by VA were of the highest quality.

Eligibility Reform

Even after you became Ranking Member of the Veterans' Affairs Committee as Republicans regained the Senate, you continued to work closely with senior Republican members of the Committee, including Chairman Simpson and Senator (and former chairman) Frank Murkowski. Former staff related that you had good relations with both Senators, even though Cranston was a "blowhard" and Murkowski was somewhat "tepid" and both were "fairly partisan." These were less partisan times, however, and staffers said that this allowed you to have good working relationships across the aisle. This was particularly important when the health care reform effort spearheaded by President Clinton and the First Lady failed. You were heavily involved at the highest levels of this effort, so when it failed to come to fruition, your focus shifted elsewhere – specifically, to eligibility reform.

As you stated later, “Under my chairmanship, the committee made significant progress toward [the goal of eligibility reform]. However, our efforts were carried out as part of the national health care reform effort. When that larger effort died, so too did the work of our committee. This Congress the issue was again before us and a number of events led up to our markup in July to consider eligibility reform legislation.”

It is useful here to describe the events that preceded this legislation, and in particular the mounting arguments for its necessity. While the VA was initially created to care for service-connected disabilities, over time it became practical to extend the hospital system that had been created to service disabled veterans to other ailing veterans when space was available. By 1985, the VA was authorized to provide most categories of veterans with care. Unfortunately, it was neither required nor obligated to do so, and as you noted, “A lot of people think that the VA health care system is an entitlement program and [is] treated as such in the budget. Of course, it isn’t. Every year the Secretary has to go to battle, and I have to go to battle . . . to try to get the most money we possibly can from the Congress.” Since VA was not an entitlement, it could only provide as much care to as many veterans as possible. With funding subject to annual appropriation, once the funds were expended, the VA could no longer provide care, even to veterans who were entitled to it.

Equally frustrating to veterans and VA staff were the byzantine and often arbitrary provisions surrounding expanded care. For example, some veterans were able to receive outpatient care if it was for pre- and post- hospitalization and to remove the need for hospital care, while others were entitled to care and others were

simply eligible for it. To make matters worse, different VA medical centers interpreted these provisions in varying and frequently contradictory ways. Veterans were justifiably confused by what they were entitled or merely eligible to receive, which was only compounded by the lack of a defined across-the-board benefits package for all veterans.

The VA system lagged behind in a number of other important ways. Over time, its priorities shifted to the degree that non-service-connected conditions provided for the bulk of its workload. At the same time, its outdated eligibility rules focused on inpatient hospitalization to the detriment of outpatient care. Under the law as it had been in effect since 1988, only a very small percentage of the veteran population – less than 470,000 – had comprehensive access to both VA inpatient and outpatient care. For the rest of the eligible veteran population, which numbered around 10 million, access was almost entirely limited to inpatient care. This prioritization of inpatient over outpatient care flew directly in the face of modern medical practice. You expressed your frustration in a 1996 hearing on this issue, “The current system is a patchwork of rules that have evolved over the years as an imperfect means of rationing the scarce resources of the VA medical system by limiting the population of veterans who can free health care. The eligibility rules are now criticized – fairly, I believe – as burdensome and out-of-date.”

H.R. 3118, *the Veterans' Health Care Eligibility Reform Act of 1996*, represented an attempt to address these limitations, expanding the services the VA could provide while eliminating the barriers to and lowering the expenses of providing care. It was the

result of a compromise effort between the House and the Senate Committees and eventually passed through the Senate by voice vote. As Ranking Member of the Committee, you played an outsized role in winning passage of the bill, which contained a number of provisions that you had fought hard to include. Ultimately, this bipartisan bill reformed veterans' health care eligibility rules, eliminating the differences in access to inpatient and outpatient care. By streamlining and expanding access to outpatient care, patients were able to get more appropriate care that was less disruptive to their lives, while simultaneously allowing the VA to reduce its costs per patient.

Beginning early in 1995, you worked with four veterans' service organizations that prepare the Independent Budget – AMVETS, Disabled American Veterans, Paralyzed Veterans of America, and Veterans of Foreign Wars – to develop a draft eligibility reform bill based on their testimony before the Committee. You and Senator Simpson introduced this bill, S. 1563, in February "by request", indicating that you were not endorsing the bill but merely making it available for consideration by the Committee. You did the same in October when the VA submitted its reform legislation to Congress. The House then passed a number of provisions that tracked closely with the VA proposal, but these did not make it through conference.

Against this backdrop of activity and support among the veterans community, the Senate Veterans Affairs Committee held two hearings on the issue. The first, on March 20, 1996, heard testimony from the General Accountability Office and a number of veterans' organizations. The second, on May 8, 1996, took

testimony from VA and the Congressional Budget Office. Following those hearings and significant work to develop a proposal which could gain the support of the committee, the committee met on July 24 and ordered reported an original measure, which became the basis for the compromise agreement that eventually passed in 1996.

You believed strongly that any legislation the Committee endorsed would have to eliminate the complexity and confusion in current law, but do so in a budget-neutral manner. While the Senate Committee's proposal was similar to the VA and House bills, both of which sought to eliminate differences in the law on eligibility for inpatient and outpatient care and differences among groups of veterans in the access to types of outpatient care, it made several important changes.

First, rather than making all care for veterans "subject to appropriations" – which was included in the House and VA bills in order to make them more budget neutral – your bill stipulated that some subsets of the veterans' population would continue to be guaranteed care without limitation, while others would be subject to available funds. The approach adopted by the committee was designed to ensure that the veterans who had the highest claim on VA resources – veterans with service-connected disabilities, veterans with the most serious disabilities, former prisoners of war, and older veterans of the Mexican border period and World War I – would receive the care they needed. It was your stated view that Congress should not be cutting back on its promises at the same time it was making new ones.

Unfortunately, late in the compromise process, the Congressional Budget Office (CBO) decided that the Senate bill would create an entitlement to care and that this would result in VA health care funding being classified as mandatory rather than discretionary spending. While you felt strongly that this appeared to cut back on guaranteed care for the most deserving veterans, you realized that your insistence on either the Senate approach or the return to current law could jeopardize the entire bill. Therefore, you reluctantly agreed that all veterans would be "subject to appropriations." As a practical matter, the most deserving veterans would still receive the first priority and thus almost certainly be guaranteed care, but you were sensitive to the perception this would cause among the veterans community.

Second, your bill required that the VA establish a rigorous enrollment system, rather than the apparently nonbinding system incorporated in the House bill. This meant that only those who enrolled would be able to receive VA care. The purpose for this provision was to ensure that those who wanted VA care would know with some certainty whether they would receive such care within a particular enrollment period. This provision was included in the final compromise bill.

Throughout the committee's efforts on this legislation, you believed strongly that whichever veterans were made eligible for VA care should have been able to receive all the care they needed, in turn precluding the need for VA to make rationing decisions at the facility or management level. As the debate progressed, you realized that this approach was unlikely. However, you expressed hope that this legislation would provide more information on the impact to the VA and confidence that the

Committee would continue to amend and enhance the VA in the years ahead.

Therefore, because of the nature of the changes outlined above, you expressed some reluctance about the compromise legislation; however, this was grounded in your belief that there was still work to be done, rather than a more general disinclination to support the bill. In fact, you expressed a great deal of support for a number of important provisions contained in the bill, particularly those that allowed the VA to share medical resources with and contract some activities to non-VA entities, which gave it greater latitude in providing services and represented a sea change in how it met its mission. You also supported a provision derived from legislation you authored that directed the VA to carry out a research study to determine the best way to provide a VA hospice care program and a compassionate alternative for terminally ill veterans.

Continued Efforts to Improve the Reform Legislation

In order to ensure that these new changes would not diminish the quality of care at VA facilities, you asked the VA's Inspector General in March 1997 to evaluate the VA's system for ensuring quality health care. You also directed the Democratic staff on the Committee to undertake an independent investigation of the performance of VA's quality management system. Your goal was to ensure that veterans everywhere received the high quality health care that they had earned and deserved. After a 7-month investigation, you published a staff report in December 1997, which found a number of problems with VA's system of quality

control. According to the report, although the VA had many good programs and talented personnel, the quality of VA health care varied widely from center to center. The report concluded with a series of recommendations, several of which were soon implemented by the VA.

Kim Lipsky argued that because of this report, the VA now has one of the most sophisticated quality-of-care performance measures in the country. She believes that your report was the precursor to that. She also related how you directed your staff to do a number of similar reports, granting “high marks” to programs and initiatives that pushed to do more, which in turn prodded the VA to adopt these measures and improve quality-of-care across the board.

One such report focused on specialized services at the VA. *The Veterans' Health Care Eligibility Reform Act of 1996* required the Secretary of the VA to ensure that the capacity of the Department to provide specialized services be maintained at the level existing as of October 1996, the date the legislation was enacted. While the VA stated in a 1998 report that “by and large, the capacity of the special programs . . . has been maintained nationally,” other agencies, including the GAO and the VA Federal Advisory Committee on Prosthetics and Special Disability Programs, were more critical, finding the report flawed. Amid this controversy, you directed the Democratic staff of the Veterans’ Affairs Committee to review 57 specialized programs in 22 places around the country. These included programs for veterans with special needs, such as prosthetics, blind rehabilitation spinal cord injury, PTSD, and substance use disorders, to see if VA was indeed

maintaining the mandated levels. The report concluded that VA specialized services had suffered greatly from serious resource shortages in recent years, as it was not providing the same level of services in all facilities, with specialized services in particular suffering from a lack of centralized oversight.

You went to the floor on July 27, 1999 to bring attention to this problem. While you applauded the dedicated staff and their tireless work at the VA, you underscored the sense of urgency about the condition of health care for veterans in the country. You spoke of the compact America entered with those who had sacrificed for their country, saying that they should be treating with a special respect, special honor, and special care. With that care deteriorating, you expressed outrage over increased budget cuts, saying, “The Republican tax cut, along with any other that might be suggested, including the one that is being talked about at $500 billion, would make a mockery of that commitment to the American veteran. I want people to understand that very clearly.”

To address these shortcomings and to build upon the 1999 Democratic staff report which examined VA’s compliance with the 1996 law, you introduced the *Veterans’ Specialized Treatment Act* on October 31, 2001. This legislation aimed to ensure that high quality, specialized health care services are readily available to veterans. This included veterans who had spinal cord injuries, amputations, blindness, PTSD, substance abuse, and homelessness. Provisions your bill were included in a larger health care bill which was signed into law by the President on January 23, 2002.

These reports are examples of your dedication to make certain that VA programs did not suffer as a result of the 1996 eligibility reform law. However, you also backed initiatives that improved upon the law. For example, you supported a measure that provided an additional three years of eligibility to access VA services across the country. This also helped nearly 4,300 West Virginian National Guard and Reservists who had been deployed to Iraq or Afghanistan. By changing the amount of time National Guard and Reservists were eligible for VA services from two year to five years, you expressed hope that veterans and their families would be able to gain access the critical care they need.

Ensuring recent reforms at the VA were also improving health care services in West Virginia was a high priority for you. That is why, in July 2001, you held a Veterans' Affairs Committee hearing in Huntington to assess the impact of these reforms and determine the status of VA health care services for veterans in rural West Virginia. As you said at the time, "The whole question of access to health care obviously is crucial to me, because if you don't have access to health care, you don't get it. Access equals care. That has always been a problem, and that is particularly a problem in a rural state."

You expressed support for recently opened outpatient clinics and heard from constituents on a range of issues. By bringing together veterans and VA staff in the state, this forum encouraged dialogue about how to improve the VA health care system and later resulted in improvements in transportation and patient transfers between VA hospitals for veterans who need specialized treatment.

Randy Pleva, the President of the WV Paralyzed Veterans of America, confirmed that health care had improved in the state and expressed support for recent changes to the law. Jacob Stafford, the Chairman of the state Veterans' Coalition and the Legislative Officer of the WV branch of Disabled American Veterans, thanked you on behalf of the members of his organization "for what you had done for the veterans in the state of West Virginia and across the Nation in the last few years." He also spoke at length about transportation problems in Beckley for underprivileged veterans trying to get to Richmond and other VA medical centers, while underscoring the importance of the DAV transportation network. Randall Sims, a Vietnam veteran in Parkersburg, voiced his belief that the outpatient clinics were working, but also agreed that getting health care was becoming more difficult as his father simply didn't travel very well anymore. He also said that when he had back problems, he had to make almost 40 trips between Wyoming County and Richmond, describing the "terrible, terrible pain when you can't walk and you have got to sit in a pickup truck or a car, trying to get down there and back."

As testimony from witnesses at the field hearing showed, eligibility reform not only allowed more veterans to enter into the VA system; it also gave the VA opportunities to reach more veterans by opening up outpatient clinics in rural areas. At the same time, it underscored the persistent problems veterans faced living in rural communities. You continued to find alternative ways – both large and small – to assist these veterans. One way you did this was through your support for the DAV national program that provided transportation for sick and aging veterans to VA hospitals.

The DAV transportation program began in 1987 when budget cuts forced the VA to stop reimbursing veterans for the costs of transportation to and from VA medical centers. In addition to benefitting those who cannot afford transportation, the program helps veterans in small communities and rural areas who may not have access to public transportation or who need special traveling assistance. Since the program began, you were a strong support, urging major auto manufacturers to support the program. In 1996, the same year you helped pass eligibility reform, you assisted in arranging a meeting between the representatives of the national DAV and the Ford Motor Company.

A few short years later, on June 17, 1998, you hosted the DAV Dedication and Drive-Away Ceremony in Washington, DC, celebrating the donation of 147 new vans – over $3 million in value – to support its national program. Since the program began, DAV had donated 755 vans, which had traveled over 150 million miles. West Virginia received two of these vans, as you noted, “Most of the veterans in my home state of West Virginia do not have the advantage of public transportation, and without this program, many of them would be forced to go without the medical care they need and deserve.”

Not forgetting veterans that drove themselves to VA clinics, you would later fight on their behalf, as well, pushing to raise the reimbursement rate for veterans traveling to and from clinics from 11 cents per mile to 28.5 cents per mile in 2007 – the first increase in 31 years. You successfully fought for another increase from 28.5 cents per mile to 41.5 cents per mile in 2008.

Long-Term Care & the Millennium Act

Over and above its gnarled mountains and its lack of public transportation, West Virginia has always presented a number of singular challenges to its legislators. The state houses the second oldest population in the United States and is home to one of the largest populations of veterans per capita, as well as a high rate of poverty. Eligibility reform was undoubtedly an important achievement for veterans, and one that benefited West Virginia's veterans. However, you had long showed even more interest in the issue of long-term care, dating back even before you chaired the Pepper Commission in 1990. In an article in *The New England Journal of Medicine* published on October 4, 1990, you wrote, "I believe the Commission's efforts provide an opportunity at long last to come to grips with a rapidly growing health care crisis. The President and the Congress have a choice. We can continue to duck our heads and hope this issue will not bring the nation to its knees, or we can use the commission's recommendations as the rallying point for building the political consensus that can make universal coverage for health and long-term care a reality."

With the state's poor, aging veteran population in mind, you played a pivotal role in passing the *Veterans Millennium Health Care and Benefits Act of 1999*, which represented a comprehensive effort to address the long-term care of our country's veterans. For the first time ever, the VA was required to provide a wide range of extended care services – such as home health care, adult day care, respite care, and hospice care – to all veterans who used the VA health care system. It also directed the

VA to provide nursing home care for veterans whose disabilities were most severe (those requiring nursing home care specifically for their service-connected disabilities and those with service-connected disabilities rated at 70 percent or greater). Finally, the VA was required to operate and maintain extended care programs at no less than the level of such services provided in 1998.

With over 35 percent of the veteran population 65 years or older, this legislation was also critical in addressing an increasingly important shortfall in the VA's mission. At the time, there were 6 million World War II veterans, 4 million Korean War veterans, and 8 million Vietnam veterans nationwide, and each of these three populations was either in need of long-term care or would need it soon. Prior to this legislation, however, VA was not required to provide long-term care to any veteran. Rather, long-term care was provided on a space available basis only. Even so, VA had contributed substantially to the field of long-term care. It directly provided nursing home care to approximately 13,000 veterans at an annual cost of $1.1 billion, paid for nursing home care at private nursing homes for another 6,500 at an annual cost of $316.8 million, subsidized nursing home care for around 14,000 at a cost of $200 million annually, and provided non-institutional alternatives to nursing home care to 11,000 veterans at an annual cost of $154 million. Unfortunately, due to budget shortfalls and the cost of long-term care, the VA was increasingly incentivized to divert resources and reduce its capacity for long-term care.

This was also a national problem. Long-term care was a critical issue for the nation at large, but the debate had become increasingly poisoned. Medicare was equally impossible to

reform. Your former staffers related that this legislation was a way to reach the country's aging population in a manner more palatable to both sides. It represented a small place for the government to provide long-term care benefits. As one staffer related, "We were way ahead of our time."

In a floor speech prior to passage of the bill, you concurred, "With this legislation, we are taking an important step forward for our veterans, and I am hopeful that it signals a new concern for providing long-term care for all elderly Americans."

The Millennium Act contained many more provisions – 74, in fact – but several were particularly important. Based on legislation you authored, the bill mandated that the VA carry out a series of pilot programs to gauge the best way for the VA to meet veterans' long-term care needs. One program would test and evaluate various approaches to meeting the long-term care needs of eligible veterans in order to share its expertise and learn from others. Another program authorized the VA to establish assisted living services, which you felt that this was the last remaining gap in the VA's long-term care continuum.

Finally, provisions of Senator Daschle's *Veterans' Access to Emergency Care Act of 1999* were included in the Millennium Act with your strong support. Knowing the burden of costly emergency care services on veterans and their families, you fought hard to include this legislation, which authorized the VA to reimburse non-VA facilities for emergency care provided to veterans who were enrolled with the VA for their health care, provided that the veteran had received VA care within a two-year

period prior to the emergency and had no other health insurance options. You had hoped for more comprehensive legislation, but you believed this was a valuable first attempt at making emergency care available to veterans.

Stories from veterans in West Virginia brought the importance of this legislation home. The same week that this legislation was passed, the wife of a seriously ill veteran called your office. Her husband was a low-income veteran with no health insurance. When he began to have severe chest pains, his family wanted to call for an ambulance, the veteran refused because he had used an ambulance in an earlier emergency situation and had been left with a sizeable bill that his family had been unable to pay. Instead, he crawled to the family car, insisting that the family drive him to the VA medical center. Once there, medical staff told him and his family that his actions had placed him at great risk. If this legislation had not been enacted, these situations would have continued to persist, as veterans who received VA care were not covered if they went to a non-VA facility in an emergency under the law at the time.

The Millennium Act represented an important first step in extending long-term care to veterans. However, it encountered resistance from the VA, which did not issue interim guidance on new long-term care benefits until October 2001 – two years after the bill passed. Having confronted similar resistance on other efforts to make the VA comply with Congressional mandates, such as Gulf War Illness, you were all too aware of the difficulties of bringing change to a large, unwieldy bureaucracy. Springing into action, you requested a GAO report to assess the VA's

compliance with the Millennium Act. This report found that many veterans do not have access to adult day health care, geriatric evaluation, and respite care.

You held a Committee hearing on April 25, 2002 demanding that the VA meet the growing need for veterans long-term care through both nursing homes and community-based options, saying, "The law we passed in 1999 was a mandate from Congress, not a suggestion. We follow federal laws in this country and I will not accept the excuse that this can't be done because of Agency rules and regulations."

At the hearing, GAO witnesses testified that "more than two years after enactment, VA has not completed its response to the Millennium Act." Additionally, they found that "several facilities reported offering at least eight of the non-institutional long-term care services, but some offered one … or none at all." They concluded, "The results of our survey are similar to the distribution of services noted almost four years ago by the Advisory Committee on the Future of VA Long-Term Care."

In contrast, you highlighted the efforts of four VA clinicians who were also testifying at the hearing. They had set up a variety of successful community-based solutions to ease the demand for long-term care. As many of these programs were able to keep veterans in the setting of their choice, you noted, "While VA nursing homes remain a necessity, many veterans with chronic illnesses don't require a bed in a nursing home, yet they still need medical attention. They want to stay in their own homes and communities, and we need to find ways to support that."

This recalled testimony at your field hearing in Huntington in 2001, when a Vietnam veteran named Randall Sims told you, “Not all of us want to put our parents in a nursing home. We would like to take care of them at home, and it is very hard to do.” He then related how difficult it was for his father to be kept in a nursing facility due to the reemergence of wartime flashbacks. He told you how his father would pound on the desk at the nurse’s station and yell, “I’m not a POW no more!”

After the hearing, you called on VA Secretary Anthony Principi to immediately comply with federal requirements, demanding that the VA make uniform community-based, long-term care options for all enrolled veterans a top priority. Veterans Service Organizations shared their concerns at the Committee’s May 2, 2002 hearing on pending legislation. Dennis Cullinan, the Director of Legislative Affairs at the VFW, testified that the “VFW is deeply disappointed that these services, as provided for [in the Millennium Act] almost three years ago, have yet to be properly implemented by VA.”

Less than a month after you held the first hearing to demand that the VA answer for ignoring Congressional mandates, VA took action by issuing regulations that required VA hospitals and nursing homes to increase options for long-term care. On May 17, 2002, the VA authorized non-institutional long-term care services and designating non-institutional adult day care, geriatric evaluation, and respite care as part of the medical benefits package. You responded in a press release, "This is the first step for VA in fulfilling these mandates, but the process is far from

over. Now that the regulations have been issued, I will be closely monitoring the long-term programs at each hospital and nursing home to ensure that they are providing a variety of options that will complete this process."

Even after you became Ranking Member once again in 2003, you continued to ensure that long-term care services were available to aging veterans. For example, a bill you authored to extend long-term care for veterans was included in the *Health Care, Capital Asset, and Business Improvement Act*, which was signed into law in December. This provision extended care for veterans through VA nursing homes and community-based options for an additional five years.

Heeding your call almost a decade earlier to find and fund community based-options that allow veterans to stay in their homes and communities and yet still receive needed medical attention, Senator Akaka introduced the landmark *Caregivers and Veterans Omnibus Health Services Act of 2010*, which passed the Senate with your full support. This law created a new program to support the caregivers (spouses or parents) of severely injured veterans with a stipend and health care so veterans could be at home instead of in institutions. Additional provisions improved VA personnel, quality management, outreach to women veterans, rural veterans, and homeless veterans, among others. VA Secretary Shinseki was supportive of the legislation, calling caregivers "critical partners … in the recovery and comfort of ill and injured veterans." DAV also applauded the measure and the "unprecedented new services for our most recent severely ill and injured."

Throughout this time, you also pursued several other ways to help America's aging veterans. At the time, beneficiaries of the VA's Civilian Health and Medical Program lost their eligibility for coverage when they turned 65 and entered into the Medicare program. You introduced the *Civilian Health and Medical Program of the Department of Veterans Affairs (CHAMPVA) Act of 2001* to extend veterans' benefits past the age of 65 for those who were covered under CHAMPVA. Signed into law by the President on June 5, 2001, this legislation provided needed relief to eligible dependents by covering medical expenses Medicare didn't cover at the time.

Later that year, you also sponsored legislation that would make it easier for older veterans (over age 65), those living in nursing homes, and those receiving Social Security disability benefits to receive the VA's non-service-connected pension, a needs-based program that provided a monthly benefit to wartime veterans whose incomes were below the poverty line. This provision was included in a larger bill that was signed into law in December.

The Impact of Health Reform on West Virginia

Quite simply, your work on eligibility reform and long-term care transformed a failing hospital-based system into a network of clinics and hospitals that ranks among the best in the country today. This legislation also had a profound effect in West Virginia. Since entering office, you have been instrumental in bringing a substantial number of new VA facilities to the state. After you helped create Community Based Outpatient Clinics in 1996, you

then fought to open these clinics in West Virginia so that quality medical care could be accessible and convenient. Thanks to your efforts, West Virginia today has an extensive network of community-based clinics across the state to provide veterans care closer to home.

West Virginia today has five VA Medical Centers (VAMC) serving the state, with four inside its borders. These are located in Beckley, Clarksburg, Huntington, and Martinsburg, while the Pittsburgh VAMC also serves parts of the state. There are ten Community Based Outpatient Clinics, located in Charleston, Franklin, Logan, Parkersburg, Parsons, Petersburg, Sutton, Williamson, Lewisburg, and Morgantown. Finally, there are nine Vet Centers in the state. They can be found in Beckley, Charleston, Logan, Huntington, Martinsburg, Morgantown, Parkersburg, Princeton, and Wheeling.

It is important to emphasize that you did not just create the legislation that allowed these facilities to exist. You also played an often personal role in bringing these projects to fruition. In 1985, a Congressionally-mandated report found that the Huntington VAMC was “seriously understaffed” even when compared to the rest of the VA system, which was also widely assumed to be understaffed. This was in spite of the fact that the Huntington VAMC was one of the first medical centers constructed by the VA in 1932. After the VA also delayed the construction of a new research addition to the Huntington VAMC, you wrote numerous letters to push the VA into continuing with the much-needed improvements. In 1998, you were able to see the fruition of these efforts, attending the dedication of the new research addition at

the Huntington VAMC that allowed closer collaboration between the Marshall University School of Medicine and the Huntington VAMC. You were joined by then-Secretary of Veterans Affairs Togo West, Jr.

Even before the *Eligibility Reform Act of 1996,* you were active on pushing the VA to expand its capacity in the state. In 1988, you wrote a letter to Thomas Turnage, the Administrator of the VA, to push for additional vet centers in the state. On May 13, 1988, after a careful review of possible sites, the VA found “a significant level of unmet need” and thus initiated new veterans’ centers in Beckley and Princeton. In 1995, your efforts were instrumental in making the Wheeling Clinic in St. Clairesville, OH a reality. In 1996, when you learned of problems with the spinal cord injury program in West Virginia's four VA medical centers, you worked with the National Director of VA's spinal cord injury program to improve the quality of care in the state. As a result of your actions, all four West Virginia VA medical centers now have primary care teams specifically trained in the treatment and care of spinal cord injuries.

Following passage of eligibility reform, a number of community-based outpatient clinics were established in the state. Just two years after your legislation was passed, outpatient clinics had already opened in several counties around the state, including a clinic in Kanawha County in Charleston, another in Petersburg in Grant County, and another in Franklin in Pendleton County. The outpatient clinic in Charleston was established under the control of the Huntington VAMC, while the Petersburg and Franklin clinics were operated by the Martinsburg VAMC.

You personally worked hard to pursue VA approval in establishing several Community-Based Outpatient Clinics in state. In 1998, you asked the directors of both the Beckley and Clarksburg VAMCs to do a joint assessment of the availability of health care for veterans living in central West Virginia, as many veterans in the area had told you the difficulty they faced reaching the nearest VA facility. The VA responded quickly to your request and established an outpatient clinic in Braxton County, serving veterans in Braxton, Clay, Nicholas, and Webster counties. As a result of your hard work, the VA also opened a clinic in Logan shortly after the clinic in Gassaway was opened. Partnering with the Department of Family and Community Health at Marshall University, the VA was able to provide primary care services at the family practice office of Dr. Harry Fortner. These arrangements brought quality medical care much closer to many veterans in the central and southwestern parts of the state.

Following your request to consider Mingo County for a VA community-based clinic, the VA approved the location of such a clinic in Williamson, WV. The new clinic, established through a partnership between the Huntington VAMC and a health care group in Mingo County, began service in 2002. Responding to concerns in the southern part of the state, you wrote to the VA Secretary and successfully obtained approval for a VA Vet Center outstation in Parkersburg. Perhaps even more important, this marked the first time there had been a full-time VA mental health counselor for combat veterans and their families in Wood County. Finally, you wrote to the VA Secretary and successfully persuaded the VA to add another full-time counselor to the Vet

Center outstation in Logan so that more veterans could benefit from this valuable service.

You also played a critical role in saving the Beckley VAMC. Your former staffers have stated that you saved the Beckley VA hospital on over three occasions, and without your timely intervention in 2004, this facility, which offers essential care to more than 15,000 veterans in southern West Virginia, would likely not exist today. Earlier that year, you were told that the CARES Commission, an advisory panel, recommended that inpatient services in Beckley be cut. It was the only West Virginia hospital on their list of facilities to cut. However, your staff found that the Administration had justified closing the VAMC by relying on faulty numbers, as they had miscounted the beds in the area. This was due to a common practice among private hospitals where they would count more beds than they had the capacity to treat, allowing them to grow quickly if needed. At your urging, the West Virginia Hospital Association attested to this practice in writing. According to staff, you had a very good relationship with VA Secretary Principi, so you requested a meeting with him. With no one else in the room, you told him that you would personally make sure that George W. Bush would be blamed if the hospital was closed and he would never win Southern West Virginia again. Tasked with making the final decision, Secretary Principi overturned the recommendation and kept the Beckley VAMC open.

One of your most significant accomplishments was helping to establish the State Veterans Nursing Home in Clarksburg, adjacent to the Clarksburg VAMC in Harrison County. In keeping

with your commitment to long-term care, you worked with local and state officials for several years to help build a home for the state's veterans. In 1998, you urged Governor Underwood to approve legislation that would allow for the construction of the state's first Veterans' Nursing Home. Under Governor Wise in 2001, the State Legislature approved this legislation. As both Chairman and Ranking Member of the Veterans' Affairs Committee in the coming years, you continued to ensure that the 120-bed, 52,000 square foot facility was a top priority at the VA, securing federal dollars that accounted for 65 percent of the $26 million needed for construction. The $13.5 million reserved by the VA for this project represented the largest grant ever awarded by the VA. You stayed involved by monitoring construction after attending the ground-breaking ceremony in 2003. After working for eight years and with three governors, you were on hand when the Clarksburg Veterans' Nursing Home was dedicated on November 11, 2006. At the ceremony, you said, "We have made great progress in improving veterans' access to health care in our state – and now, with the dedication of this nursing home, we can truly extend that care through our veterans' entire lives. They deserve it, they earned it, and we are grateful for their service."

You were also instrumental in bringing a State Veterans Cemetery to West Virginia, participating in the project from the onset. In early 2006, you were contacted by Logan County veterans Rudy Varney and Andy Clark, among others, requesting assistance with the placement of a national cemetery for southern West Virginia. You wrote to then Under Secretary for Memorial Affairs, Bill Tuerk, who had worked for the Veterans' Affairs Committee for many years and had a deep respect for you. While

he turned down a request for a national cemetery – as the state already had two – he encouraged funding through the State Cemetery Grant Program. After convincing Don Kinnard that this was a worthwhile project, Governor Manchin also agreed to move forward with the project.

After some veterans in the state had shared concerns that this approach was “settling for seconds,” you invited Bill Tuerk and his staff to West Virginia in 2006 to explain the grant program and allay their concerns. In 2007, the West Virginia Division of Veterans Affairs, at the direction of the West Virginia Veterans Council, prepared a feasibility study for the Governor’s approval. After several months of searching with your staff and the site selection committee, the Director of the WV Division of Veterans Affairs recommended the donation of 300 acres by Dow Chemical in Institute, WV. The West Virginia legislature then enacted legislation to allow lottery proceeds to provide operation funding for the cemetery and for the WV Veterans’ Nursing Home. In 2010, you joined Governor Manchin, Dow representatives, and local VA officials to honor the deed transfer between Dow Chemical and the State for the cemetery. Later that year, you announced that West Virginia had received the largest grant ever awarded by the VA for a state cemetery.

You attended the groundbreaking ceremony at the Donel Kinnard Memorial State Veterans Cemetery in Institute, WV in October 2010. The cemetery was dedicated to Don after his death in 2008. As Chair of the West Virginia Veterans Council until his death, he had worked hard with you and Governor Manchin to make the state cemetery a reality. At the dedication ceremony, you honored

Don, saying, “We well up with pride and appreciation when we think of [our veterans]. We line the streets for parades in reverence of them. And, when they’re gone, we never forget them. That’s what this place of honor is all about. Here wives, husbands, sons and daughters will say goodbye. Loved ones and friends will gather to remember. For them – and for those they lost – this cemetery is the very least we can do.”

You added, “But we can do more – we can live with a more profound understanding that our way of living is only possible because of heroes like Don.”

Conclusion

This understanding – that our country owes a debt to its veterans’ that we are obligated to repay in any way we can – is what drove much of your efforts to reform the VA health care system. Through your work, veterans across the country now have greater access to health care than ever before. This difficult process often meant exhibiting the leadership necessary to take a failing hospital-based system and transform it into a network of clinics and hospitals that, according to the Rand Corporations, is among the best in the country. It also meant extending VA services to include long-term care and other benefits. This has had an especially pronounced impact on the state of West Virginia, as your dedication to veterans in rural areas brought about the establishment of a number of outpatient clinics and other facilities in the state. Quite simply, without your leadership and resolve, the landscape of veterans’ health care in the state and across the country would look very different today.

PRESCRIPTION DRUG PRICES

Introduction

> *"I refuse to accept such a bottom line that veterans will be denied health care, and I know that my colleagues in the U.S. Senate cannot accept such a grim bottom line item."*
>
> Your floor statement regarding passage of the Veterans Health Care Act of 1992
> October 8, 1992

One of your most enduring accomplishments has been the *Veterans Health Care Act of 1992*. A number of staffers have highlighted your dedication to achieving affordable drug prices, pointing to your long history on this issue, particularly with regards to the VA. According to Kim Lipsky, your former top staffer on the Veterans Affairs Committee and now the Staff Director for the Aging Committee, the VA consistently negotiates the best prices on drugs for their patients, with those savings directly translating into care. She strongly believes that this is a result of your efforts beginning in 1992 and throughout your career as an advocate on behalf of veterans.

Background

In the early 1990s, price spikes on prescription drugs began to price the VA out of the market, taking up a large portion of its annual budget. This partly began in 1990, when Congress passed the OBRA-90's Medicaid rebate legislation. With your support, Senator David Pryor introduced this bill as a means to achieve discounts to the Federal Medicaid Program, ensuring that the State and Federal Medicaid partnership received a minimum

discount of 15 percent. You believed that this was fair compensation to the Federal Government for its status as the single largest purchaser of pharmaceuticals in the United States. Unfortunately, this had unintended effects on other Federal health care programs, as manufacturers responded by cost-shifting their losses onto other Federal purchasers.

The VA's cost for drugs skyrocketed to over $100 million. You first raised this issue when a Veterans Administration pharmacist in West Virginia complained to you about the difficulty in obtaining drugs due to drastically escalating prices. You were then told by Acting Secretary Principi that unless the VA received financial relief from escalating prescription drug prices, veterans were going to be denied health care. You were galvanized by other, even more egregious stories, as well as letters from some of the major veterans' organizations. One story told of a veteran who was turned away from a VA hospital pharmacy because his prescription expired too late in the fiscal year, and his local VA ran out of money and they cannot fill his prescription until they get new funding. Another veteran needed a cardiac catheterization and was told to wait a few weeks because his local VA hospital was cutting back and delaying surgery because of budget shortfalls caused by increases in prescription drugs.

The Veterans Health Care Act of 1992

From that point on, you began to build a coalition for action with the goal of stabilizing costs and protecting health care services for veterans and other Americans. Ultimately, you authored a provision that would be included as an amendment to the

Veterans Health Care Act of 1992, a comprehensive package to enhance veterans' health care. This eased the crisis by allowing the VA to negotiate its own prices, guaranteeing VA discounts for prescription drugs and ensuring veterans' continued access to affordable prescriptions ever since. As part of a later compromise, it also linked all federal purchases together, stipulating that drug manufacturers could not cherry pick among agencies within the government. For example, a manufacturer could not choose to sell solely to the VA and forego public health clinics.

You worked hard to focus attention on the key issues at hand, even testifying with Senator David Pryor, who you had worked with closely on the first round of drug fixes, before a packed hearing room for the House Energy and Commerce Committee. At the time, it was standard practice for the lobbyists to pay "line sitters" to save their seats prior to a hearing, and, as was common, the first several rows of the hearing room were taken up with lobbyists from the major drug manufacturers. Representative "Sonny" Montgomery, the longtime Chairman of the House Veterans Affairs Committee, was also in attendance. Before the testimony, he noted that it was standing-room only at the hearing, saying that while veterans couldn't afford line sitters, this hearing would affect their health care, and asked the Committee if they could stand alongside the wall. The veterans were marched into the room, creating an uncomfortable juxtaposition between the old men in their crisp uniforms standing sharply along the wall and the young lobbyists occupying all the seats. Barbara relates that these veterans were carefully instructed not to allow the lobbyists to give up their seats, intensifying the discomfort as many of the lobbyists attempted to stand up and then had to sit back down.

Watching the bedlam from the front of the room, you leaned back to Barbara, who had accompanied you to the hearing, and said, “Oh, this is good. This is really good.”

It was not always such an easy effort, however. In a floor speech you gave prior to passage on October 8, 1992, you detailed some of the difficulties, “Time and time again there were snags in the negotiations, [as] people were focused on terms and technicalities.”

Ellen Doneski related that the biggest fight was actually with other Democrats, as the HELP Committee wanted to expand the provision to include public health hospitals after you had largely worked out a deal with Republicans on the veterans portion of this legislation. You worked closely with Senators Specter, Simpson, and Frank Murkowski to move forward. Ellen said that you could always get Senator Specter to help, as “he was a Republican that was always willing to spend money on health care,” dealing with similar issues in Pennsylvania. The others were more difficult, but Senator Simpson was a populist who could be persuaded on veterans’ issues. Ellen said that you cajoled them individually, and your staff knew that they had won when you got Simpson and Murkowski on board. With two such conservative members in support of your effort, the path forward was cleared.

This hard work did not go unnoticed. Senator Cranston, Chairman of the Veterans Affairs Committee at the time, thanked you and Senator Pryor specifically for your “very, very helpful” efforts on bill, which he noted would be the last of countless bills that he shepherded to enactment during his 24 years in the Senate.

In your floor speech, you made clear that this was an accomplishment that you didn't take for granted, stating, "This legislation will set a new precedent in the Federal Government procurement of prescription drugs. That is interesting and exciting, since the Federal Government can act as an educated consumer effectively using practices that have worked in the private market to guarantee discounts and to save dollars. This protects the American taxpayer by using the limited Federal dollars wisely. It protects veterans, and other Federal purchases by giving them a lower price in the pharmaceuticals for the need of the people who rely on them."

Ellen agreed, telling me that while it doesn't seem like a big deal now, it was absolutely groundbreaking at the time. Even you somewhat surprised by your success at the time, as you related in your floor speech, "To be quite honest . . . this is a bit of [a] phenomenal process. I think it is important to remember how far in fact we have come to reach this agreement that I hope we are about to reach."

After thanking Barbara Pryor and Ellen Doneski for the long hours and hard work that they put into this achievement, you closed on a more sober, prescient note, however, saying, "It demonstrates just how tough it is likely to be to achieve the comprehensive health care reform – which must be centered on cost containment – that Americans expect from the next administration and the 103rd Congress. But it also shows that persistence, commitment, and hard work do pay off, when the cause is right and allies are willing to work together constructively."

All in all, this program continues to save VA medical centers millions of dollars annually. The importance of this legislation cannot be overstated, as every dollar saved on prescription drug purchases by VA medical centers has been used to strengthen health care for veterans. Ellen personally believes that this bill allowed veterans to retire in West Virginia, giving them the freedom to make better and more informed choices, while at the same time improving the VA's constituency base by allowing it to appeal to a broader range of veterans. As you made clear upon its passage, "This is an historic public policy advance, one that should save the American taxpayers dollars, protect veterans' health care services, and provide new clout to public health clinics. It is really an extraordinary accomplishment."

Subsequent Efforts and Conclusion

Following this successful legislation, you continued to fight for both lower prices and lower co-pays, easing the burden on the country's most underprivileged veterans. After the Secretary of Veterans Affairs, Anthony Principi, proposed increasing copayments from $2 to $7 for 30-day prescriptions as a way to deal with increasing costs in the VA health care system in 2001, you held a hearing to examine the outcome of this proposal on lower-income veterans. After discovering that veterans making just over $9000 per year would still be responsible for their copayment on prescription drugs, you introduced legislation exempting veterans earning less than $24,000 per year from the VA's co-pay for prescription drugs. The income threshold would

also increase with the number of dependents. Unfortunately, your bill did not pass.

At the same time, however, you supported legislation that allowed the copayments of military retirees who come to the VA for their health care to be waived. This legislation was intended to expand the health care options of military retirees, particularly in states like West Virginia that lacked military bases. This legislation was enacted.

You continued to push the VA to lower their co-pays and ease the burden of medical costs on veterans already struggling to make ends meet. For example, in 1999, Congress gave the VA the ability to reduce the $50 copayment for outpatient care. Unfortunately, while this fee was much higher than the industry standard, the VA was slow to move forward in lowering the copayment. In order to spur the VA to move on this issue, you introduced legislation in September 2001 encouraging a decrease the outpatient co-pay. Just a few months after you introduced your bill, the VA announced that outpatient copayments would be reduced. It replaced the flat rate with a three-tiered system. The first tier was free and focused on preventive care visits, such as flu shots, lab tests, and other services. The second tier focused on primary care and required a copayment of $15. Finally, the last tier cost $50 and was for specialty services, such as outpatient surgery, audiology, and optometry.

In 2005, after the President’s budget undermined veterans’ health care by initiating $250 enrollment fees and more than doubling prescription drug co-payments, you led the charge against these

cuts. At a February Senate Veterans' Affairs hearing with VA Secretary Jim Nicholson, you were blunt in your opposition, predicting that "the doubling of prescription drug co-payments and the $250 deductible . . . will not reach halfway to first base." You said, "It has been there before; it has not gotten there before. It is just an automatic rejection, I think, in both houses."

This exchange underscores your willingness – throughout your career – to fight to protect the basic promise the government gave to veterans. Even with a hostile Administration and a Republican Senate, you continued to fight for veterans. As Ellen said simply, a promise is a promise, and you have continued to be a constant voice and watchful eye on these issues throughout your career.

GULF WAR ILLNESS

Background

On August 2, 1990, four Iraqi tank divisions affixed with the names of legendary Babylonian kings crossed the border into Kuwait, marking the beginning of what would become known as the Gulf War. Within a week of Saddam Hussein's invasion, the U.S. began the single largest deployment of troops to a foreign country since the Vietnam War. Coalition forces led by the U.S. achieved a swift, stunning victory, despite previous estimates of high casualties in a sustained ground campaign. For many, the specter of Vietnam had finally been exorcised in an overwhelming display of American military might. However, in the years following the war, this sense of success began to be replaced by uncertainty over the growing health concerns of Americans who had served in the war.

"Many of the men and women who served in the Gulf have suffered chronic, and in some cases, disabling health problems. Their pain has been compounded by their difficulty in getting the government they served to acknowledge their problem and provide the care and benefits they deserve. This legislation will address some of their concerns. I regret that we can't do more, but we must begin the process where we can. We can't wait the 20 years we waited after the Vietnam War to assess the effects of Agent Orange, or the 40 years we waited after World War II to concede the problems of radiation-exposed veterans. It is time to learn from the lessons of the past and act now."

Your floor statement regarding passage of the Veterans Programs Enhancement Act of 1998
October 21, 1998

“Are We Treating Veterans Right?”: The 1993 Committee Hearing and the Persian Gulf War Veterans’ Benefits Act

By the time you became Chairman of the Veterans’ Affairs Committee in 1993, your work surrounding Agent Orange and atomic veterans had already established your commitment to the men and women who willingly put their lives, livelihoods, and health on the line for our country. Your focus on these issues and your willingness to hold the Pentagon and the VA responsible for these service-connected illnesses translated into tangible results and long-delayed assistance for afflicted veterans. Neither of these previous efforts, however, can compare to your efforts relating to Gulf War Illness. Former staffers speak proudly of your willingness to point fingers both at the Department of Defense and at the Democratic Administration in the White House. One staffer called you “bipartisan before it was cool,” crediting you with being the “first to point the finger at DOD,” drawing attention to a “pattern of a lack of concern” for veterans and emphasizing a “history of the Department of Defense screwing with people’s health.” Another staffer referred to the tenacity with which you engaged on this issue as an “obsession,” one that lasted through your first stint as Chairman of the Veterans Affairs Committee, throughout the 90s as ranking member, and again as chairman from 2001 to 2003 and beyond.

Under your Chairmanship, the Senate Veterans Affairs Committee took an early interest in the health problems that Gulf War veterans were developing, according to a report released several years later. Judge Mary Schoelen, your former staffer on the Committee who is now a judge for the U.S. Court of Appeals

for Veterans Claims, compared your interest in this issue with the legal issues surrounding the claims process at the VA. She said that while you found the establishment of a court for veterans to be intellectually engaging, Gulf War Illness was very personal for you. You met with hundreds of veterans and their families over many years and were moved by their stories. Above all, this was a story of the little guy, and, she said, you “loved talking to the little guy.” Accordingly, after receiving letters and phone calls from an increasing number of Gulf War veterans suffering from undiagnosed illnesses that they believed to be related to their service in the Persian Gulf, you called a Senate Veterans Affairs Committee hearing in November 1993 to investigate their concerns.

During your opening statement of this hearing, you explicitly tied this issue to mistakes made in the past, telling the audience, “I assure you that I do not intend to sit back and watch the Pentagon and VA repeat the many errors the Government made in the handling of the Agent Orange crisis.”

You told the story of an older veteran in a wheelchair who had testified before the Committee. Having been at the test sites where we first developed our nuclear weaponry, he was now dying of cancer. “He described what it was like to be dying and to have fought for 40 years to get the Government to recognize the relationship between what was happening to him and what he had done for his country,” you related, “and the Government never did. We then passed the bill that assisted atomic veterans, and it’s something I’ll never forget.”

“The purpose of today’s hearing,” you concluded, “is very simple: to be sure that the Pentagon and the VA are doing everything humanly possible to solve this mystery and to care for those veterans who are ill.”

This hearing represented the beginning of a decade-long effort to determine the causes and possible treatment of Gulf War Illness, an effort that is sadly still ongoing. What we now know is that over 175,000 veterans from the Gulf War have reported a host of seemingly unconnected illnesses and health difficulties that have affected their lives, careers, and families. A later report found that the most common complaints were fatigue, rashes, headaches, muscle and joint pain, neuropsychological complaints, shortness of breath, sleep disturbances, gastrointestinal disturbances, and other respiratory complaints.

Unfortunately, at the time, there was a great deal of confusion and even obfuscation on the part of DOD and the VA. While DOD and the VA had initiated research into these unexplained illnesses, they were primarily looking at troops’ exposure oil fires and possible psychosomatic triggers. Many veterans who served in Operations Desert Shield and Desert Storm reported having been told when they sought medical treatment that their ailments were “all in their heads.” However, what is clear after reading transcripts of your hearing in 1993 is that no one who had been inside the hearing room, who had listened to the stories of the veterans who testified before the committee, could conclude that they had simply imagined their ailments.

Brian Martin, the first soldier to testify, stated that he and “every single ill veteran that I have ever talked to, which has been quite a few all over the United States … have the same story of how the VA hospitals have given us a runaround, how nothing has ever been diagnosed, how records have come up lost, denial, how we’ve been told things that have absolutely nothing to do with our ailments.” He continued to receive the same diagnoses and the same results, despite the fact that he had swollen appendages, loss of strength, shortness of breath, severe headaches, digestive problems, memory loss, and mood swings – all just a few short years after he was awarded the Association of the U.S. Army award for being the outstanding soldier of his basic training cycle. He joked cynically, “Less than 24 months ago, I was jumping out of airplanes, [and] now I have a hard time jumping to a conclusion.” He concluded with simple statement that was almost a plea: “I just want to be the man that I used to be before, and I want my family to be the family that they were before again.”

Others corroborated his testimony. Colonel Herbert Smith related that he experienced headaches, joint pain, and chronic fatigue; and that he was unable to walk in a straight line and had memory loss so bad that he had gotten lost coming home from work several times. He too went into the Persian Gulf in excellent health, having been awarded the physical fitness excellence badge. He said that because “there is no disability code that recognizes that the Persian Gulf War veterans were exposed to something … [they] are not receiving sufficient priority for their claims.”

One witness likened the process of obtaining medical care to a stone wall. John Riggs, a military veteran from St. Mary's, WV, agreed. Despite mounting evidence and his own personal experience, he was told outright that soldiers had not been given any drugs to counteract chemical or biological warfare and that there was nothing wrong with him. He explained to the Committee, "If they would say, 'Yes, there's a problem. This is what you were subjected to,' or 'We don't know what you were subjected to, we don't know what's causing the problem, but there is a problem,' that's all that has to be said." He asked, "Are these people dying in vain, or are we dying as soldiers, casualties of the Persian Gulf War?"

After hearing from these ailing veterans, you concluded that the Pentagon and the VA needed to do more to discover the causes of these mysterious illnesses and that it was likely that we would have to start treatment before knowing the causes. Before bringing the hearing to a close, you told the VA Secretary – who was in attendance – that Congress would pass a bill making it easier for Persian Gulf veterans to receive free treatment at VA hospitals, and you made good on that vow. Legislation you spearheaded was passed that provided medical care for sick Gulf War veterans if their illnesses appeared to be caused by service in the war. Less than a year after your initial hearing, Congress passed the landmark *Persian Gulf War Veterans' Benefits Act*, which authorized the VA to provide compensation to Gulf War veterans disabled by illnesses that could not be diagnosed or defined at that time, and for which no other causes could be identified. Judge Schoelen said that this legislation was "a really big deal" as it allowed veterans with undiagnosed illnesses to

receive benefits for the first time.

The Discovery of Pyridostigmine Bromide and Continued Efforts to Provide Benefits to Gulf War Veterans

Throughout your time as Chairman and Ranking Member of the Veterans Affairs Committee, you and your staff doggedly pursued wisps of evidence and different avenues of research through multiple, ongoing reports and hearings, shedding light on the mysterious illnesses. That same year, your staff published a key committee report entitled “Is Military Research Hazardous to Veterans’ Health?: Lessons Spanning Half a Century.” This report, underscoring your prodigious interest in service-connected illnesses from atomic veterans to Agent Orange, found that over the past fifty years, military personnel had been consistently and deliberately subjected to human experimentation and intentional exposure to any number of benign and dangerous substances, often without their knowledge or consent. While many of these tests were intended to ultimately save lives, the report underlined a clear pattern of neglect and exploitation that continued up to and including the Gulf War. It lent particular focus on the experimental anti-nerve gas drug pyridostigmine bromide, which many now believe is responsible in part for a number of cases of Gulf War Illness.

The report’s findings were troubling. It found that many Persian Gulf veterans were forced to take investigational vaccines, including pyridostigmine bromine and the botulism vaccine, without proper information on the potential risks and then ordered not to tell anyone – not even medical professionals – under threat

of court martial. When it applied for a waiver of informed consent in 1990, DOD officials assured the Food & Drug Administration (FDA) that it would provide warnings orally and in writing. It also promised to keep records on all personnel that took the drugs and to monitor them for side effects. It is clear that it had no intention of doing either.

Officials estimate that up to two-thirds of all U.S. troops in the Persian Gulf War took pyridostigmine bromide for varying periods of time, despite its experimental nature. The Pentagon knowingly administered this drug despite the fact that while it improved the survival of animals exposed to soman, it appeared to make individuals more vulnerable to other nerve agents, such as VX and sarin, which Iraq had in abundance. Many veterans spoke of the side effects they experienced after taking the drug. The report highlighted one individual, Carol Picou, who experienced incontinence, drooling, and blurry vision beginning on the third day after taking the drug. When she did not take her pills as scheduled, the side effects stopped; however, her commanding officer ordered her to continue taking the pills and watched to make sure she swallowed them. She now has many permanent medical problems.

The report concluded that DOD fundamentally misunderstood the use of experimental, or investigational, drugs, used them in ways that were ineffective, and did not know whether they would be safe for use. Despite repeated claims by DOD and FDA at the Committee’s May 6, 1994 hearing and at other times since the war that the drug was perfectly safe was not consistent with the concerns of DOD scientists conducting research just before the

war. It stated, “It does not make sense that the researchers would establish such elaborate safeguards when giving the drug to four men, and then have none of those safeguards when giving the drug to more than 400,000 U.S. troops.”

By denying the possibly of harm from exposure to pyridostigmine bromide and other substances, the DOD directly contributed to delays in the availability of medical assistance to those harmed by the drug. Even before the report was completed, you pushed to expand the focus of other ongoing studies to include additional toxins or infectious diseases. You introduced an amendment to the *National Defense Authorization Act* – signed into law in September 1994 – that provided grants for independent research on Gulf War illnesses. It required studies on the prevalence, causes, treatment, and possible transmission of Gulf War illnesses, including research on pyridostigmine bromide.

You were also an early proponent of addressing the impact of these illnesses on the wives and children of veterans, having heard from scores of veterans on this issue. Brian Miller, the military veteran who testified in your hearing in 1993, said that his 3-year-old daughter had infections and rashes that mirrored his own, while his 1-year-old had difficulties at birth and had developed a respiratory problem. Julie Mock, another veteran, spoke of the significant neurological challenges facing her sons. Many other veterans shared these concerns. The *Persian Gulf War Veterans’ Benefits Act* also included a provision that, based on a bill you introduced, required the VA to study birth defects, infertility, and other reproductive problems possibly caused by exposures to dangerous substances during military service. It also

required the VA to create the Persian Gulf Spouse and Children Examination Program, which, for the first time, allowed spouses and dependents to receive medical evaluations free-of-charge if they had illnesses they believed were associated with a veteran's illness. This information could then be collated and analyzed to determine if illnesses were being transmitted to spouses or offspring.

This program soon ran into problems, however. Slated to start on November 1, 1994, the pilot program was delayed by the VA and didn't begin until April 1996. There was significant resistance by the VA in implementing this program, and it continued to fight with Congress as it attempted to reduce its scope. VA sought to interpret the law as providing for an already-planned epidemiological study; however, both Congress and the White House saw the statute as clearly providing for voluntary medical evaluations of spouses and children with health concerns relating to a veteran's Gulf War service. Sensing that the VA was continuing to act in bad faith, you asked the Government Accountability Office (GAO) to conduct a report on the program, which found that due to a lack of accountability and access, it had reached less than 1,000 people and provided little information about the health status of veterans' family members, while many families who could and should have been able to meet with a physician were denied this opportunity.

Upon release of the GAO report, you called upon the VA to follow through on this legislation, releasing the following statement: "Sadly, because the children and spouse pilot program was implemented poorly, we know little more today about the health

problems facing spouses and children of Gulf War veterans than we did when the program was created four years ago. The VA never wanted to carry out the program, dragged its feet for a year and a half and then did such a bad job with implementation that they seriously undermined the program's effectiveness. Because the VA provided only minimal outreach to inform veterans and their families of the program, few veterans' families know the program exists. And even if you do know about the exams, you may not be able to get one in your area because less than one quarter of the VA's 172 medical centers offer the program." Shortly after, the VA agreed to proceed with voluntary examinations of spouses and children and Gulf War veterans, with the results to be entered into the Persian Gulf Veterans' Registry. Later, in 1999, you helped pass legislation that extended the program for an additional four years.

This is just one example of your continued activity on these issues throughout the 1990s even after the Democrats lost the Senate. You worked well with Senator Specter, the Republican Chairman of the Committee at the time, in part because he was less than engaged in the day-to-day operations of the committee, as one staffer related. He had his eye set on the Judiciary Committee, which allowed you to lead on many issues even while you were Ranking Member. In turn, this gave you the freedom to monitor the implementation of legislation passed while you helmed the committee. You requested another GAO investigation into the VA's record of awarding veterans' disability claims for compensation for undiagnosed illnesses relating to their service in the Gulf. After it found that only 5 percent of those claims were

successful, you compelled the VA to review all Persian Gulf veterans' claims again.

The SIU Report on Gulf War Illnesses

Following the disclosure in 1997 that the Pentagon knew of the risk of chemical weapons at the ammunition depot of Khamisiyah and blew it up anyway, you questioned the credibility of both the Pentagon and the CIA and said the new disclosures made clear the need for an exhaustive Congressional investigation into the causes of Gulf War Illness. You excoriated military leadership, saying, “It is my judgment a cover-up of major proportions, and will lead to very serious consequential actions. We are faced with some incredibly amazing derelictions. Military commanders and high Pentagon officials failed our troops and the American public.”

The CIA did not escape your wrath, either, as you said, “The CIA is every bit as implicated as the DOD. The CIA has known since 1991 and totally failed to come forward until last year.”

Given this information, as well as the disclosure that the Pentagon had failed for five years to follow up on a November 1991 report on the possible exposure of troops to chemical weapons at weapons depots in the Persian Gulf, you called for new leadership at DOD. You also pressed the Pentagon to investigate links between the drugs and vaccines given to soldiers and other chemicals which may have made the effects of nerve gas exposure worse.

Shortly after these shocking disclosures, and still with no clear understanding as to what may have caused Gulf War Syndrome, the Senate Committee on Veterans' Affairs created a bipartisan special investigation unit (SIU) in April 1997 to undertake a comprehensive and detailed review of Gulf War Illness. The SIU published the final report of its yearlong investigation in September 1998. The report found that both the Department of Defense and the Department of Veterans Affairs had given "insufficient priority to matters of health protection, prevention, and monitoring of troops when they are on the battlefield and thereafter when they become veterans." It argued that this was because of a gap in the missions of both organizations: where DOD is focused on fighting wars, and while the VA takes care of veterans once they leave military service, "neither … performs the basic public health function of observing, investigating, and preventing health problems that may arise in the context of war."

The SIU report determined that the mishandling of records, operational logs, and other evidence made it extremely difficult to ascertain possible detections of chemical weapons, reconstruct events during wartime, or even piece together commonalities that might shed light on the potential causes of Gulf War Illnesses.

Judge Schoelen related a story from her time on the Committee that underscored the lack of appropriate systems in place for service members at the time. She said that staffers discovered that during the conflict in Kosovo, after troops received their shots, they were given an updated vaccine card and told to take it back to the U.S. to keep in their affiliated medical records. This meant that 18 year-old kids were not only responsible for keeping

their cards throughout the conflict, but also for bringing them back and giving them to the appropriate authorities once they had returned. She asked pointedly, how they could have expected these kids to have been responsible for that?

As the above anecdote relates, records of vaccinations and other medical records during the Gulf War were incomplete and often administered in a piecemeal fashion, rendering it impossible to know what drugs were given to whom. Many soldiers did not have updated pre- or post- deployment physicals. In addition to the destruction of many critical documents, the DOD lacked a system that tracked the location of units deployed throughout the theater, making it difficult to know who would have been exposed to what and when. Summing it up bluntly, the SIU report stated, “The first casualty of the Gulf War may have been basic, required record keeping.”

The VA hardly fared better in estimation. The SIU report found that “too many times the VA simply could not answer questions about Gulf War veterans such as how many have undiagnosed illnesses, how many of those veterans also are receiving compensation benefits for that condition, how many are receiving health care, and whether those who have received care at VA facilities in the past are getting better or worse.” Rather than operating as a single entity, in practice it was nothing more than a “loosely linked group of bureaucracies that operate largely in isolation from one another.” It found that internal oversight was uncommon and a lack of accountability the status quo.

In the end, due to the absence of even the most basic information pertaining to service members and the war effort, the report was unable to pinpoint any one cause of the health problems of Gulf War veterans, concluding that there is no single "Gulf War syndrome." However, since many Gulf War veterans nevertheless suffer from a variety of very real and still evolving health problems whose causes remained unknown, it stressed that efforts should be focused on providing adequate treatment and compensation.

Building on the conclusions of the SIU report, you helped win passage of legislation authorizing the Secretary of VA to contract with the National Academy of Sciences (NAS) to make recommendations for future research on Gulf War illnesses, and assist in the development of a plan to establish a National Center on War-Related Illnesses and Post-Deployment Health Issues. In addition, the Omnibus Appropriations bill for FY 1999 included legislation you authored that authorizes the Secretary of VA to service the illnesses found by the NAS to be associated with Gulf War health exposures.

At the same time that your staff was completing the SIU report on Gulf War Illnesses, your work continued to be instrumental in getting legislation passed that ensured that many of the mistakes detailed in the SIU report would not be duplicated in the future. *The National Defense Authorization Act for Fiscal Year 1998*, signed into law in November 1997, contained several such amendments. You and Senator Dodd successfully inserted language aimed at better coordinating the VA and DOD’s response to Gulf War veterans’ illnesses and helping to protect the health of service members in future deployments. These

provisions required a joint plan from DOD and VA to provide appropriate health care, improved medical tracking by DOD of deployed service members through pre- and post-deployment medical examinations, improved medical recordkeeping of immunization and health records, a plan to improve collection and maintenance of troop location information, and timely notice of use of unapproved or investigatory drugs by the military and adequate recordkeeping of the administration of such drugs.

Several of your former staffers underscored the importance of these efforts, saying that because of you, the military fundamentally altered its behavior toward service members, putting a greater emphasis on safety and changing the way it recorded and tracked the drugs given to service members.

After the SIU Report: Subsequent Efforts on Gulf War Illness

You continued to hold the Pentagon’s feet to the fire regarding the possible exposure of American troops to chemical weapons, particularly at the Khamisiyah munitions depot. After DOD released an updated report that confirmed that U.S. ground forces destroyed Iraqi rockets containing nerve gas at the compound, you reacted strongly. "While I commend the DOD’s efforts to understand which of our troops were exposed to nerve gas during the Gulf War, the Pentagon's delay of almost a decade in determining their exposure is inexcusable," you said. "It took DOD five years to acknowledge that our troops were exposed to nerve gas, and now three more to determine accurately which units were involved. As I have said before, too much time was wasted

on denying, rather than investigating, the exposure and its health effects for our veterans."

As a result of the report, over 35,000 veterans received letters from the Secretary of Defense notifying them for the first time that they might have been exposed to nerve agents. You responded, "The newest estimates will bring troubling news for many brave men and women who served in the Gulf, who are learning for the first time that they may have been exposed to nerve gas. Now, we must focus on research to establish – as quickly and accurately as possible – what the health consequences of different levels of exposure to sarin are."

Well before this report was released, you were a prominent advocate for research on the causes and possible treatment of Gulf War Illness. In fact, the NDAA for FY 1998 included a provision offered by you and several of your colleagues that designated $15 million from the Department of Defense to support joint DOD-VA research on health-related issues affecting both veterans and active duty military personnel. Of the $15 million total, $4.5 million was authorized for a Persian Gulf War illness clinical trial program evaluating the effectiveness of treatment programs for Gulf War veterans with ill-defined or undiagnosed conditions. Later, in 2004, you applauded a VA report calling for $60 million over the next four years to monitor the health of Gulf War veterans and their children, standing in stark contrast to the VA’s incalcitrant behavior regarding the Persian Gulf Spouse and Children Examination Program just a few years prior.

Unfortunately, a decade after Congress first gave the VA the authority to compensate Gulf War veterans disabled by undiagnosed illnesses, the specific causes of their symptoms still remained undefined. Even worse, many veterans received diagnoses that labeled their unexplained symptoms – also making them ineligible for benefits. Realizing this, you successfully supported legislation that added diagnosed but medically unexplained chronic multi-symptom illnesses, such as chronic fatigue syndrome and fibromyalgia, to the list of compensable conditions. The provision passed the Congress as part of an omnibus veterans' benefits bill signed into law on December 27, 2001.

As estimates of the number and locations of service personnel exposed to nerve agents continued to grow, you recognized the need to address the medical requirements of Gulf War veterans, particularly when research had determined neither the causes nor the long-term health consequences of veterans' illnesses. This is why you introduced legislation to extend Public Law 102-310 authorizing the VA to provide health care services on a priority basis to Gulf War veterans for an additional length of time. An extension through December 31, 2002 was signed into law by the president on January 23, 2002.

Conclusion

During your tenure as Chairman and Ranking Member of the Senate Veterans' Affairs Committee from 1993-2002, you led the effort to pressure the Department of Defense to acknowledge that Gulf War veterans were returning with serious illnesses. Today,

former staffers told me that Gulf War veterans are receiving more care per capita than veterans from any other conflict, largely due to your efforts on their behalf. Dr. Diana Zuckerman, a former staffer on the Veterans Affairs' Committee and now the President of the National Research Center for Women & Families, explained that another reason why this was so important was that when the U.S. military returned to the Gulf years later, DOD had planned to expose soldiers to the same things that had made them sick in the early 1990s. You intervened immediately and, as a result of your efforts both identifying the causes and putting a stop to their continued use, you were able to prevent a new set of Gulf War Illnesses.

Your words from a press release in 2009 are an accurate encapsulation of these efforts:

> "Gulf War veterans' complaints about their health issues fell on deaf ears at the VA and within the Pentagon. As Chairman of the Senate Veterans Affairs Committee in the early 1990s, I believed it absolutely necessary to get to the truth – no matter how uncomfortable it would be for the Pentagon or the VA. Throughout the 1990s, those of us on the Senate Committee on Veterans' Affairs held numerous, often contentious, hearings into what would come to be known as Gulf War Syndrome or Gulf War Illness. The Pentagon and the VA never officially acknowledged the cause of these symptoms. Despite the lack of an official cause, it became clear through our investigation that pyridostigmine bromide … was at least one cause for the symptoms experienced by Gulf War veterans."

No member of Congress did more to advance the study and treatment of Gulf War Illness than you, and in 2009, your efforts were finally vindicated. A report issued by the Research Advisory Council (RAC) on Gulf War Veterans' Illnesses – which you helped to create in 1998 – reached an important and previously elusive conclusion 17 years later: that there is substantial and overwhelming evidence that what many called Gulf War Syndrome is a real illness.

The RAC, a public advisory panel of independent scientists and veterans mandated by Congress and appointed by the Secretary of Veterans Affairs to advise on federal research studies and programs that address the health consequences of the Gulf War, reached several conclusions. First, it found that Gulf War Illness is a serious condition affecting at least one-fourth of the 697,000 U.S. veterans who served in the Gulf War. Second, it was clear that it differs significantly from other trauma and stress-related syndromes describes after other wars. Third, and perhaps most importantly, it found evidence that strongly and consistently suggests two Gulf War neurotoxic exposures are causally associated with Gulf War Illness: the use of pyridostigmine bromide pills and the extensive use of pesticides during the deployment. In addition, evidence supporting possible association with low-level exposure to nerve agents, close proximity to oil well fires, and the receipt of multiple vaccines could not be ruled out.

The tireless work by you and your staff in uncovering the use of pyridostigmine bromide and other possible causes was invaluable to the eventual conclusions made by this report. In a press

release on February 24, 2009, you expressed something akin to relief, saying, “At long last, [Gulf War veterans and their families] have validation that the health issues they live with each day are real, there is a name for their illness, and there is hope that they can finally get the treatment and disability benefits that they are entitled to receive.”

Most recently, researchers at the University of California-San Diego School of Medicine demonstrated for the first time that veterans with Gulf War Illness suffered from impaired function of mitochondria, sometimes called the energy powerhouses of cells. The lead researcher of the study, Dr. Beatrice Golomb, noted that impaired mitochondrial function could account for numerous features of Gulf War illness, including fatigue, cognitive and other brain-related challenges, muscle problems and exercise intolerance, and neurological and gastrointestinal problems. Because it affects the cellular level, these symptoms sometimes appear contradictory or paradoxical, affecting small subsets of patients or with varying patterns of severity and incidence among individuals.

Dr. Golomb pointed to exposure to acetylcholinesterase inhibitors such as pyridostigmine bromide (which shut off neurotransmitters and cause nerve impulses and organ activity to increase) as a primary factor in impaired mitochondrial function. Jim Gottlieb related that you and your Committee staff in the 1990s were the first to say that these inhibitors were causing Gulf War Illness, saying, “Almost twenty years later, it is confirmed!”

Dr. Diana Zuckerman, another former staffer, agreed with Jim, pointing to your 1994 staff report, “Is Military Research Hazardous to Veterans’ Health?” as the first document to make connection between acetylcholinesterase and the pyridostigmide bromide pills given to soldiers to protect against chemical nerve agents. Dr. Golomb strongly corroborated this work, noting that while some have “sought to ascribe Gulf War Illness to stress . . . [it] has proven not be an independent predictor of the condition.” Instead, the inhibitors that you pointed to in 1994 “generally show the strongest and most consistent relationship to predicting Gulf War illness,” including “which symptoms predominate, how [they] manifest themselves, and why routine blood tests have not been useful.”

Ultimately, these findings could help lead to new treatments benefitting affected individuals and to new ways to protect service members from similar problems in the future. Thanks to efforts by scientists over the last few years, veterans suffering from this terrible disease are one step closer to understanding not only what they are suffering from, but what caused it and how it could be treated. You captured this sentiment in an earlier statement, saying, “I have been working for veterans my entire career. As a nation, we owe them everything and can never forget how much they have sacrificed and how deserving they are of peace of mind, support, and a special thing called hope.”

ATOMIC VETERANS, AGENT ORANGE, & OTHER ILLNESSES

Introduction

> *"It's time to consider . . . examin[ing] the wide range of issues related to post-conflict illnesses. I have heard too many agency officials testify that poorly understood, unexplained illnesses are a common, inevitable occurrence of every military conflict. Characterizing these illnesses as inevitable is absolutely unacceptable. We must do everything possible to prevent them."*
>
> Your statement following passage of the National Defense Authorization Act for Fiscal Year 1999
> June 26, 1998

From your very first year in the Senate, you demonstrated a clear and conscious concern over the plight of veterans whose illnesses were brought about in part due to their service on behalf of their country. This concern has been realized most noticeably in your work on Gulf War Illness and Post-Traumatic Stress Disorder (PTSD), but you were actively involved in helping veterans with a number of other service-related illnesses, as well.

Atomic Veterans

At a 1985 Veterans Affairs Committee hearing – one of the first committee hearings you would attend as a Senator – examining the medical problems encountered by veterans who participated in atomic testing in the 40s and the 50s, you pointed to four decades of disregard and stated critically, “We have a special obligation to ensure that the medical and financial needs of these

men – who were never warned of the enormous risks involved in radiation exposure – are adequately met."

Before the VFW National Committee on March 2, 1986, you lamented the millions of dollars spent by the government to determine whether illnesses were caused by participation in nuclear testing and asked, "Isn't it time to accept responsibility for their plight, whether or not science can prove without a doubt that we "owe" these distinguished veterans who served so willingly in these dangerous circumstances?"

In light of these concerns, you cosponsored the *Atomic Veterans Relief Act*, which aimed at helping these "atomic veterans" obtain special medical treatment and other forms of compensation from the government. An estimated 250,000 Americans participated in the Pentagon's atomic testing between 1946 and 1962. The stories that you heard from these veterans deeply impacted the way you approached your work on the Veterans' Affairs Committee. You would later became one of the leading voices on service-connected illnesses, particularly with regards to Gulf War Illness. In fact, during one of the first public hearings on Gulf War Illness in 1993, you pointed to a cancer-stricken veteran who had testified before the Committee detailing his fight to get the government to recognize what he had done for his country. From that point on, you vowed that those mistakes would not be repeated under your watch.

Agent Orange

You have also devoted a considerable amount of time and effort addressing issues related to Agent Orange, a preoccupation that dated back to your time as Governor. As you related in a Committee hearing in 1988, “West Virginia suffered painfully during the Vietnam War. Our state had the highest rate of combat casualties in Vietnam [and] over 40,000 of our citizens living today served in that war.”

You told the Committee, “I remember vividly when our Vietnam veterans returned. After a painful period when these honorable men and women felt neglected and even stigmatized, eventually the American people began to pay attention and finally pay tribute to our veterans of the Vietnam era.” Working with veterans groups in the state, you initiated several projects that recognized these veterans and provided them with the medical care, job training, and other services they deserved.

These efforts culminated in the Agent Orange Assistance program, which you started as a part of the WV Health Department. At the time of the hearing, you told the Committee that it was recognized as one of the leading and most active efforts in any state in the country. Its director, Chuck Conroy, was a nationally recognized expert on Agent Orange issues and sat on the advisory committees of several major research efforts on this issue. This program placed emphasis on outreach, matching veterans up with hospitals and carefully monitoring their health, doing so not only to help the veteran but also to contribute to the ongoing research surrounding Agent Orange.

It was with this background that you approached the debate surrounding Agent Orange. As you related to the Committee, “I am really puzzled about this debate – the debate about what we know . . . about the linkages between Agent Orange exposure and illnesses or diseases that emerge among Vietnam veterans.” You added, “I sincerely wish the answers were obvious. I do know that we have a responsibility to do everything in our power to extend both assistance and justice to veterans who served in Vietnam.”

Around the same time, the *Nehmer* decision upended VA policy with regards to Agent Orange. This lawsuit challenged a VA regulation with stipulated that chloracne was the only disease that scientific evidence showed was associated with exposure to herbicides like Agent Orange used by the United States in Vietnam. In 1989, this section was invalidated by the courts, and the VA agreed that whenever it recognized that scientific evidence showed a positive relationship existed between exposure and disease, it would retroactively pay disability benefits to claimants, regardless of whether they had been previously denied.

In 1991, you supported the *Agent Orange Act*, which gave the VA the authority to declare certain conditions “presumptive” to exposure to Agent Orange, making any veterans who served in Vietnam eligible to receive treatment and compensation for their conditions. It also directed the National Academy of Sciences to periodically review the science on dioxin and herbicides to determine evidence showing an association between exposure to Agent Orange and certain diseases. In 1993, based upon a report

by the National Academy of Sciences presented at a Committee hearing that you chaired, the VA established a presumption of service connection based on exposure to herbicides in Vietnam for four addition diseases: non-Hodgkin's lymphoma, soft tissue sarcoma, Hodgkin's disease, and porphyria cutanea tarda. That same year, the *Veterans Health Programs Improvement Act* extended priority status for health care to veterans exposed to Agent Orange or ionizing radiation.

Even as you continued to work on a number of other issues, the health of service personnel and veterans was never far from your mind. You offered several successful amendments to the *National Defense Authorization Act (NDAA) for Fiscal Year 1998*, a particularly significant achievement in your work on service-connected illnesses. Additionally, the NDAA included an important provision authorizing $300,000 to a program for testing radiation-exposed veterans that could potentially provide a more accurate measure of an individual’s internal radiation dosages. This was included so that testing might assist veterans filing claims for presumptive service connection based on radiation exposure.

The first amendment sought to reduce the number of preventable post-conflict illnesses and enhance treatment by directing the Department of Defense to contract with the National Academy of Sciences to study the need for and feasibility of a National Center for the Study of Post- Conflict Illnesses. You pointed directly to the misunderstood, undiagnosed illnesses afflicting veterans from not only the Gulf War, but also Vietnam veterans who were exposed to Agent Orange and Atomic-era veterans suffering from health problems due to radiation exposure. Because these

illnesses continued to be misunderstood time and again, you believed that it was important to create an independent entity to examine the wide range of issues relating to post-conflict illnesses. Citing the entrenched dogma of many government officials, you believed that rather than establishing a research center within DOD or the VA, it was important to draw on health expertise from outside those agencies, as well.

The second amendment you offered to the NDAA designated $10 million to fund cooperative research between the DOD and the VA for health-related research benefitting active-duty military personnel and veterans. This program had been working since 1987 to study the onset and treatment of diseases and injuries sustained on the battlefield.

The next year, the Institute of Medicine (IOM) released a report that linked Agent Orange exposure to Type 2 diabetes, also known as adult-onset or non-insulin-dependent diabetes. Under the *Agent Orange Act of 1991*, the National Academy of Sciences (NAS) was directed to review scientific evidence on the health effects of exposure to Agent Orange and other herbicides, and to report back to Congress every two years. The NAS had previously found "limited/suggestive evidence of an association" between Agent Orange exposure and diseases such as respiratory cancers, prostate cancer, and the birth defect spina bifida, which were all subsequently compensated by the VA as service connected.

As part of the current study for the NAS, the IOM evaluated whether exposure to dioxin – the toxic component of Agent

Orange – and other chemicals found in herbicides used in Vietnam increased the risk of developing Type 2 diabetes. The IOM analyzed 11 peer-reviewed studies examining diabetes-related illness and death in dioxin-exposed veterans, workers, and residents at the site of an industrial accident. While no single study demonstrated undeniable proof that dioxin exposure caused Type 2 diabetes (a complex disease to which heredity, diet, and exercise can also contribute), the IOM concluded that the accumulated research showed "limited/suggestive evidence of an association between exposure to the herbicides used in Vietnam or the contaminant dioxin and Type 2 diabetes."

As the Ranking Member of the Veterans Affairs Committee at the time, you took immediate action to urge the VA to extend compensation to Vietnam War veterans suffering from this disease, saying, “Based on the VA’s previous actions with presumptive service-related conditions in this category, I recommend that VA compensate Vietnam War veterans who suffer from Type 2 diabetes.” By Veterans' Day in 2000, the VA had already announced that it would begin drafting regulations to compensate Vietnam veterans with Type 2 diabetes on a presumptive basis.

That same year, you sponsored legislation to eliminate the 30-year cap on compensation for Agent Orange-related respiratory cancers in Vietnam veterans and restore a VA presumption, eliminated by a Court decision, that in-country Vietnam veterans were exposed to herbicides such as Agent Orange. This bill also continued the regular scientific reviews that helped the VA determine health consequences connected to Agent Orange

exposure, which most recently led to the service connection of Type 2 diabetes for Vietnam veterans. These provisions were combined in a single benefits bill that was signed into law on December 27, 2001.

Recognizing the debilitating impact of these illnesses on women and children, you also introduced S. 2544, the *Children of Women Vietnam Veterans' Benefits Act*, in 2000. Based on this bill, legislation was passed that provided benefits to children born with birth defects to female Vietnam veterans. These included reimbursement for health care needed as a result of birth defects, rehabilitation services for up to 2 years, and monthly allowances determined by the severity of the disability.

Well after you gave up the gavel at the Veterans' Affairs Committee to chair the Commerce Committee, you were still heavily involved in these issues. In September 2010, VA Secretary Shinseki was scheduled to testify before the Veterans Affairs Committee about his decision to establish three presumptions of service connection for ischemic heart disease, Parkinson's disease, and chronic b-cell leukemia. Several Senators on the Committee, including Senator Webb and Chairman Akaka, were planning to complain about the new presumptions, claiming that they were too expensive to accommodate. In a previous meeting with Secretary Shinseki, you assured him that you were with him, but that you would not be able to attend as you would be chairing another hearing at the Commerce Committee.

After the Secretary left your office, you began to rethink your decision. You walked to the bottom of the stairs and yelled for Barbara, who came bounding down the stairs. You asked, “Barbara, am I the Chairman of the Commerce Committee?”

She answered, “Yes, sir.”

You asked, “Barbara, as the Chairman, can I change the Commerce schedule so that I can attend the vets hearing?”

She answered, “Yes, sir.”

You replied, “Then I want a really good statement.”

Your personal office and committee staff moved quickly to reschedule the Commerce hearing for later in the day, allowing you to attend the Veterans’ Affairs Committee hearing and voice your strong support for Secretary Shinseki. In your opening remarks, you told the Committee that you were a proud cosponsor of the 1991 Agent Orange Law. You said that you believed the Secretary – who you had met with “extensively” and greatly respected – was following the standard set by law. You related this to black lung in West Virginia and voiced your concern that the standard was “very inadequate” and that you were far more concerned “that sick veterans not be left out.”

Addressing the issue of cost, you said unequivocally, “Let me be clear, I believe the unspoken issue here today that some will talk about and some may not want to is cost. People are going to say in muted ways, it costs too much. We cannot afford to do that. So

it comes down to what are the spending priorities for our country? The Vietnam War cost $740 billion, and caring for the veterans drafted to fight that war is a fraction of that."

You then tied the issue of costs to the movement to extend the Bush tax cuts, which you blamed for converting "our national surplus into enormous deficits." You reminded members that $700 billion could be saved if they were not extended to the wealthiest 2 percent. You concluded, "If given the choice between tax cuts for the rich and paying for care for our veterans, we on this Committee have a fairly clear choice about priorities, which will test who we are morally. I think the choice is clear; we spend it on veterans. We have the resources and the ability to fulfill our obligations to care for them and we have to do that. We owe them that."

Barbara said that after you had concluded your statement, many of the members of the Committee slid their statements back into their folders and declined to give their remarks. On August 31, 2011, the VA added all three presumptions to the ongoing list and began processing benefits.

Sodium Dichromate

It is important to note that while you were predominantly focused on atomic veterans, Agent Orange, and Gulf War Illness during your time in the Senate, the concerns you had for veterans affected by these illnesses influenced your oversight on other critical issues, as well. In 2009, you learned that a National Guard unit from West Virginia was exposed to toxic levels of sodium

dichromate at Qarmat Ali, a water injection facility in Iraq, in 2003. During one of the many private, confidential roundtables you held with returning veterans to understand their deployments and the challenges they faced returning to civilian life, you learned from Russell Powell, a medic with the WV National Guard, that National Guard troops were exposed to the dangerous chemical while providing security for contractors at the water treatment plant. They were not warned of or protected from exposure to the chemical.

When you learned of this serious problem, you wrote to the Secretary of Defense and the Secretary of Veterans Affairs for information and requested a report on what was being done to help soldiers exposed to sodium dichromate. You also joined with Senator Bayh on his bill, S. 642, the *Health Care for Members of the Armed Forces Exposed to Chemical Hazards Act of 2009*. In testimony to the Democratic Policy Committee in August 2009, you related that this was certainly not the first time you had to battle the Pentagon over chemical exposure. During your investigation of Gulf War Illness, you said that you had to demand testimony from key officials and fight to bring attention to the illness. Deeply disturbed by their dismissal of the serious health concerns of Gulf War veterans, you worried that the Pentagon was continuing this approach. You criticized DOD for its failure to realize possible exposure to toxic chemicals and its subsequent inability to notify exposed troops in a timely fashion, saying, "[O]nce again, the Department of Defense seems to be ignoring our service members' objective evidence and complaints, denying that something in the environment at Qarmat Ali has caused health problems."

While you found DOD's initial response disappointing, you were pleased that the Inspector General at DOD responded to your request to review WV National Guard members' exposure to sodium dichromate. At your request, the Social Security Administration relayed information to National Guardsmen who had not yet been notified of potential exposure. On October 8, you held a Senator Veterans Affairs Committee hearing on this issue, reading a letter from VA Secretary Shinseki that promised the VA would take action to better track those exposed at Qarmat Ali, improve its exams and testing to detect indications of related health problems, improve communication of these services to troops and veterans, and assess previously-filed disability claims resulting from exposure at the plant. You also asked and secured a pledge from the Secretary that Guardsmen could get care for any related injuries or conditions even after the five years of VA eligibility.

In 2010, you pushed for legislation that would have ensured that National Guardsmen who were exposed to sodium dichromate while serving at Qarmat Ali in Iraq would have the opportunity to access VA care for long-term health issues without having to prove a service connection. This legislation would have done so by allowing these select service members to enroll in the VA health care system through 2012.

Finally, in 2011, the Office of the Inspector General of the Department of Defense finally released its report on the exposure of National Guardsmen to dangerous chemicals in 2003. This report faulted a national defense contractor and U.S. military

officials for failing to protect and properly notify the American soldiers – including 122 members of the West Virginia National Guard – regarding the exposure to dangerous chemicals in Iraq. You responded, “Since day one, I have been fighting for truth and transparency to make certain that the West Virginia Guard members who were exposed to this dangerous chemical were given all of the information and all of the care that they need. This report further proves that the DOD’s and KBR’s actions prior to and after finding out about the presence of sodium dichromate were absolutely unacceptable - they can and must do better.” Throughout this time, you continued to urge Guard members to register for testing and to protect their future.

THE FIGHT OVER VETERANS' SMOKING COMPENSATION

Background

In 1993, the General Counsel of the Department of Veterans Affairs (VA) under the Republican administration of President George H.W. Bush determined that VA law required it to compensate veterans for illnesses or diseases that were linked to tobacco use that began during military service. This ruling further stipulated that the payment of disability compensation was predicated on a veterans' ability to prove he or she had become addicted to tobacco while in military service and that the addiction had continued without interruption and resulted in an illness or disability.

> *"Just as Vietnam veterans were exposed to Agent Orange and receive compensation for the illnesses caused by that chemical agent, so too veterans – whose addiction to nicotine developed during their service and indeed was fostered by the military – are entitled to claim compensation for the illnesses that resulted from government-fostered addiction . . . It is the government's responsibility to compensate veterans for illnesses and injuries caused during service to our country. Not doing so – in this case or others – would be an abdication of that responsibility.*
>
> Statement by Senator Rockefeller on the VA's Attempt to End Compensation for Illnesses Caused by Nicotine Addiction
> October 16, 1997

Following this opinion, the VA halted adjudication of smoking-related claims while it conducted a number of studies, and, in May 1997, the VA's Undersecretary for Health concluded that nicotine addiction was a disease. The General Counsel subsequently

affirmed the 1993 decision, further stating that if nicotine addiction was shown to be linked to diseases arising after separation from active duty, those secondary diseases were also to be regarded as service-connected. The VA then began processing approximately 7000 pending claims. The controversy surrounding veterans' smoking-related illnesses began almost immediately thereafter.

"Smoke 'Em if You Got 'Em"

At the time, the VA compensated veterans for all disabilities that occurred or were aggravated by military service. The injury did not have to be war- or combat-related, however. It only had to be related to a veterans' service, which was a more temporal connection. In addition, to be compensable under the law, the disability could not be due to a veterans' abuse of alcohol or drugs or willful misconduct. The VA concluded that tobacco use was neither drug abuse nor willful misconduct.

The VA therefore determined that the addiction to nicotine was an illness, and one that could have occurred during service due to the actions undertaken by the military at the time. Simply put, smoking rates were higher in the military than among civilians. It was estimated that military service increased the smoking rates of World War II and Korean War veterans by 30 percent. Even today, approximately 74 percent of veterans report past or current smoking, compared to 48 percent of nonveterans.

By the time the VA began to process smoking-related claims, the military had also begun to acknowledge that it had played a

significant role in fostering addiction in the Armed Services. It had done so in a number of interrelated ways. First, it included free cigarettes in the C-rations and K-rations it distributed to service members. Second, it created a culture that encouraged smoking, promoting the slogan “smoke ‘em if you got ‘em,” pressuring soldiers into smoking during breaks as a way to relax. This sometimes went well beyond pressure and into coercion, as one of your former staffers related a story where soldiers who refused to smoke were forced to do push-ups. Finally, the military sold tobacco products at vastly reduced prices, sometimes as much as 76% less than in civilian markets. On-base tobacco promotions were common.

Tobacco companies actively encouraged this behavior. They provided free cigarettes to the military, which continued to dispense them in troops’ rations years after the Surgeon General’s warning. In addition, while the health warning labeling on tobacco products began in 1965, they were not mandated for tobacco products distributed through the military system until 1970. You strongly believed that the tobacco companies played an integral role in fostering veterans’ addiction to nicotine and should have been accountable for their share of the liability alongside the military.

Given these odious practices, the VA understandably ruled that veterans who could prove that their addiction to nicotine occurred as a result of their service would be eligible for benefits, if their addiction was also associated with an illness or condition such as lung cancer. This, however, was a very difficult test to meet, and only a tiny fraction of the claims for compensation were granted.

Nationwide, smoking-related claims had a mere 8 percent success rate. In West Virginia, only 250 smoking-related disability claims were filed, and of that number, only 6 were granted. You said later, “What this says to me is that these are tough claims to substantiate. This tough test is the very reason that so few claims have been filed and why so few have been granted.”

Efforts to Rescind Smoking-Related Compensation

The Clinton Administration voiced its opposition to tobacco-related disability claims even before the VA finalized its internal guidelines on disability claims related to smoking. While testifying before a House of Representatives subcommittee on appropriations, VA Secretary Jesse Brown called it “borderline absurdity” to pay pensions to veterans who became ill from smoking. Shortly after, he submitted draft legislation to Congress containing a provision prohibiting disability pensions resulting from “abuse of alcohol and drugs.”

Despite the public opposition of the VA Secretary, VA Under Secretary for Health Kenneth Kizer, MD, determined that “nicotine dependence may be considered a disease for compensatory purposes,” noting that “by the mid 1990s, the medical community was . . .about as unanimous as you can get on any subject … that smoking was an addiction.” He added, “It wasn't a matter of poor or weak character, but that it was a physiologically determined behavior.” In July, VA General Counsel Mary Lou Keener reaffirmed the 1993 position taken by the VA General Counsel.

Top Administration officials continued to push for the prohibition of compensation to veterans for the adverse effects of tobacco use, and the President's FY1998 and FY1999 budgets both recommended doing away with the measure, despite the meager success rate of smoking-related claims. The Administration attempted several times to bar smoking-related disabilities from compensation and change the law to deny such claims. The Office of Management and Budget (OMB) estimated that the cost of these benefits could exceed $17 billion in over 5 years, based on guesses that 550,000 new claims would be filed each year. This was in spite of the fact that from 1993 to 1998, only 6000 claims were filed, 2000 were adjudicated, and 215 grants of service connection were made.

Nonetheless, the Administration continued to argue that smoking was a matter of personal choice, not an addiction, and thus not related to anything that occurred in service. This was in conflict with the Administration's general position that smoking was an addiction, and according to DOD's statements at the time, something for which the government had responsibility. The OMB also anticipated that the pending case backlog would grow astronomically. Finally, it argued that granting these benefits could threaten the integrity of the program itself, meaning that people might not support VA benefits if they knew that the VA provided compensation for anything other than combat-related injuries.

You were skeptical of these claims, noting in a statement released in October after Senator Specter withdrew the VA's draft legislation that "there is an inherent contradiction between the

Clinton Administration's strongly-held view that nicotine is addictive and the Department of Veterans' Affairs' efforts to deny veterans compensation for smoking-related illnesses." You went on to say that the assumption that smoking was a matter of personal choice was "entirely inconsistent with both the Administration's ongoing efforts to negotiate and finalize a tobacco settlement that explicitly recognizes the addictive power of nicotine and DOD's current efforts to secure reimbursement for health care costs from the tobacco industry." Additionally, the language of "personal choice" was exactly what tobacco companies had argued for years.

You continued to voice strong concerns over the Administration's position on this issue, arguing that the law should not be changed, assuming the veterans could meet the difficult test of proving addiction in service and resulting disability, as smoking was an addiction fostered by the military. In addition, you believed that the Administration's cost estimates had little basis in actual experience. As one of your former staffers pointed out, guys that set one foot in Vietnam could be treated for heart disease, but the government was unwilling to do this for veterans suffering from lung cancer and other diseases. You argued that the OMB essentially invented an exorbitant cost estimate, while proposing to cut spending by the identical amount, forcing a policy shift and the appearance of "savings" that could be used to fund other, more popular programs. You cautioned that this was a dangerous precedent. The major veterans' service organizations agreed with you, arguing that they were being singled out while others received similar compensation from Social Security Disability Insurance, for example, and that any "savings" were being

reallocated elsewhere, meaning that veterans' benefits were effectively paying for other programs.

However, despite your opposition to efforts to rescind this compensation for veterans, you attempted to find ways to reach a compromise on this issue, suggesting the imposition of small taxes on cigarettes to be earmarked for disability payments and the creation of a Veterans Smoking Disability Trust Fund. This fund would have been created on the proceeds of tobacco settlements, giving the government responsibility for compensation while placing the real cost where it belonged, on the tobacco industry. These proposals fell on deaf ears.

The debate continued to rage on, however. In testimony before the Senate Veterans Affairs Committee on March 31, 1998, acting VA Secretary Togo D. West, Jr. said that "the use of tobacco products is not a requirement of military service [and] it is inappropriate to compensate those veterans who do use tobacco, and their survivors, under a program developed for veterans who became disabled in service to our nation."

However, as James A. Endicott, Jr., former General Counsel of VA and author of the 1993 decision finding VA liable for tobacco-related claims as service-connected claims, pointed out during that same hearing, veterans were not generally aware of the dangers of smoking, "and our veterans were in many cases provided that first cigarette by our government as part of their daily food ration or as part of a comfort pack . . . clearly, the government was the agent that ultimately gave those cigarettes to our veterans."

ISTEA

After withdrawing the VA's draft legislation, the Clinton Administration took a different tact. After the Senate passed the *Intermodal Surface Transportation Efficiency Act* (ISTEA), a $217 billion highway funding bill, it went to conference. Conferees inserted language that removed the disabilities benefit for smoking-related illnesses, and, using the VA's savings estimate, committed $15.4 billion to offset costs of highway construction. The remaining funds were used to improve various veterans benefits.

You were "incensed," as one former staffer described you. You went to the floor to protest the "midnight raid" on veterans' funds by the administration and the Budget Committee. In your floor statement on April 2, 1998, you excoriated your colleagues, telling them that this action was only to find another offset, one that would take funding from disabled veterans. You stated, "After long debate, and for very good reasons, the Government long ago decided that veterans' disability compensation is not limited to only combat-related conditions. The budget resolution would change that."

You stated further in a press release, "Usually, under the budget law, cuts like the one the Budget Committee is trying to make must be fully aired and debated. Instead, the Budget Committee is using veterans' funds as a cash cow to finance other projects. This is a sad day, indeed. I am all for building new highways — just don't do it at the expense of our nation's veterans."

You made sure to put a human face on this legislation, ensuring that your colleagues knew exactly who they were hurting. You spoke of Robert Christian, a 71-year-old World War II veteran in Huntington, WV, who entered the Navy when he was just 17 years old. You said, “He began smoking cigarettes supplied by the Navy while on a ship headed to the Pacific, where he was involved in three separate invasions during that war.”

You rebuked those who spoke of “personal choice,” saying that “Robert is just one of thousands of World War II veterans who became addicted to cigarettes supplied by the military . . . so Robert smoked and has been addicted for 24 years. Today, he has bronchitis and emphysema as a result of his addiction [and] receives regular treatments to help him breathe.”

You noted that “because Robert and his physicians were able to make the connection between his bronchitis and his nicotine addiction, his medical disability has been service-connected by the Department of Veterans Affairs.” As a result of the budget resolution, however, veterans like Robert would not be able to seek help or go to the VA medical center for treatment of his condition.

Calling this a “disgrace,” you pointed to another veteran, Larry Stotts of Spencer, WV, who joined the Marines at the age of 18 and began smoking the cigarettes supplied in service. Larry, a combat veteran and “one of the Chosin Few,” you said, “veterans of a bloody battle fought in driving snow and sub-zero temperatures at the Chosin Reservoir in Korea in 1950.”

Chronicling Larry's condition, you said, "After years of smoking beginning in the military, Larry has chronic obstructive pulmonary disease. It is so severely disabling that the VA has granted – under the very law now proposed to be struck down – a 100 percent service-connected disability and free medical care."

Consequently, you reminded your colleagues that a vote to deny compensation was also a vote to deny veterans health care, "not just compensation for being disabled, but health care to thousands of veterans who turn to the VA for treatment of their smoking-related diseases." You said unequivocally, "This is indeed a sorry statement about this country's sense of obligation to those who served our country. . . there is simply no reason morally, ethically, or otherwise to take away money from disabled veterans' programs and use it for other programs like tax cuts and highways. It is outrageous that veterans' programs are being looted in this way."

You were also indignant that this action effectively superseded the jurisdiction of the Committee on Veterans' Affairs, unilaterally barring veterans' claims for disabilities resulting from tobacco-related illnesses without the acquiescence or input by the authorizing committee. The Appropriations Committee had essentially overruled the Veterans' Affairs Committee, and you argued that the budget resolution would thus "ultimately result in the erosion not only of the Veterans' Committee's authority, but of all authorizing committees' authority to determine policy." You said, "This type of gimmickry makes a mockery of our budget process and of regular order in the Senate. It makes a mockery of

the system of the Senate, which so many of our Senators are fond of talking about."

Making clear that you were not introducing an "anti-highway" but rather a "pro-veteran" amendment, you urged your colleagues to vote in favor of your amendment to the bill and stated that it had one purpose and one purpose only, "To protect veterans funding from . . . a ravage on the authority of the Veterans' Committee to see that the needs of the Nation's veterans are met."

Conclusion

Despite your strong words and the passion that clearly and succinctly drove them home, your amendment failed. The *Transportation Equity Act for the 21st Century,* as ISTEA came to be known, passed in May. Buried in the bill was a small piece of language adding the phrase "or use of tobacco products" to the section of the US Code that states, "no compensation shall be paid if . . . disability is a result of the veteran's own willful misconduct or abuse of alcohol or drugs." With those five seemingly inconsequently words, Congress limited the authority of the VA to grant service-connected compensation for smoking-related illnesses. The legislation did call for the VA to provide medical care for veterans with tobacco-related diseases if the tobacco industry could be forced to provide payment, despite bill proponents' claims that veterans with tobacco-related diseases did not deserve disability pensions. Unfortunately, a recent report found no evidence of any attempt to pursue this option, providing a particularly depressing coda to this endeavor.

Members of Congress routinely praise service members and veterans for their heroism, merely mouthing words like “patriotism” and “sacrifice” while doing nothing more than giving voice to empty thanks. Since the 1950s, veterans have had to fight protracted battles at home to receive benefits for the wounds they received serving abroad. You and your staff were fully aware that this particular fight was a pitched battle, and yet you fought anyway. It is an example of your integrity and your willingness to champion a cause not because you felt it was politically expedient, but rather because it was right. Your strong words and forceful actions ensured that your colleagues confronted their actions with full knowledge of what they were undertaking. In the end, the fight over veterans’ compensation for tobacco-related illnesses cannot be characterized as one of your greatest accomplishments, but it is an integral part of your legacy.

POST-TRAUMATIC STRESS DISORDER

Introduction

> *"So often, the battle wounds that veterans come home with are not visible. They may not be missing a limb. They may not be scars or shrapnel. I have never seen anything as devastating as PTSD. Most Members of Congress could not tell you what the letters stand for, but the people that have PTSD suffer in ways which we are just beginning to understand."*
>
> Your opening remarks for Veterans' Affairs Committee Hearing, "Mental Health Care: Can VA Still Deliver?" July 24, 2002

Mental health issues like posttraumatic stress and traumatic brain injury are often called "the invisible wounds of war," and they are particularly painful for veterans and active duty service members because they impact many aspects of daily life in unseen ways. They are also widespread, as the IOM has found that 49 percent of veterans have experienced posttraumatic stress. These diseases strain relationships, create problems at work and lead to self-medication and alcohol abuse. Simply put, coping with psychological trauma and other issues while adjusting to life back at home is a major challenge. Because they are unseen and because they affect behavior in different ways, these struggles often place an unfair stigma on veterans as being unstable or dangerous. Perhaps even more pervasive is the stigma around mental health issues in the military, where those who are struggling can be hesitant to seek help for fear of appearing weak or damaged.

Even today, these are difficult issues to talk about, but you have long been an influential voice and advocate for bringing relief to veterans suffering from these “invisible wounds.” Through regular private meetings with veterans in West Virginia, you have heard about the severity of unseen war injuries. A central thread running through your Senate career is an unstinting and unequivocal belief that the debt our country owes its veterans is inviolable. You have returned to this theme again and again in floor speeches and hearing statements, and it has colored your thinking on issues ranging from Gulf War Illness to Agent Orange to, most recently, Post-Traumatic Stress Disorder (PTSD). Your work on behalf of veterans with mental illness and PTSD has been considerable and it continues today. You were an early supporter in the Senate for research and treatment of these issues, and you have played a role in a number of important advances in this field during your career.

Early Efforts

Efforts to expand mental health services at the VA date back at least to your first year in the Senate in 1985. On October 20 of that year, the Kety Committee – so named because it was chaired by Dr. Seymour Kety – submitted its report evaluating the Mental Health and Behavioral Sciences Research Program at the VA. It concluded that research on mental illness and training for psychiatrists and other mental health specialists at VA facilities was inadequate. Especially damning was the report’s contention that while 40 percent of VA beds were occupied by veterans who suffered from mental disorders, less than 10 percent of the VA’s research resources were directed toward mental illness.

Based on the recommendations of the Kety Committee, the Committee on Veterans' Affairs encouraged research into mental illnesses. On May 20, 1988, legislation was enacted that included provisions to add an express reference to mental illness research in the statutory description of the VA's medical research mission. At the same time, the Committee urged the VA to establish three Mental Illness Research, Education, and Clinical Centers of Excellence (MIRECCs).

At a Veterans' Affairs Committee hearing in July 1988 on PTSD, you spoke of your great interest on this subject and its effect on the state of West Virginia. You argued that the government needed to respond more aggressively, compassionately, and effectively to this problem, noting, "It is very clear that those who were fortunate to return home have brought with them wounds and scars and effects that still linger with them."

You expressed your definitive belief that this was a serious, service-connected disease affecting up to 15 percent of Vietnam Veterans. However, you observed that the VA lacked the resources and the commitment to increase access and improve its service for veterans with PTSD. You pointed to West Virginia as a microcosm of these problems, noting that it had four VA hospitals at the time and not one of them was equipped with a special PTSD unit. You then told the story of a Vet Center Counselor who recognized that a veteran had a level of PTSD that required inpatient treatment and worked not just months but years to get that veteran admitted into a mental health program with the relevant expertise and resources.

Later that year, you supported provisions included in the House- and Senate-passed *Veterans' Benefits and Programs Improvement Act of 1988* that contained a number of important measures relating to PTSD. This legislation would have directed the VA to place more priority on responding to veterans with PTSD, increased eligibility for health care for veterans with PTSD, and directed the Administrator to designate several VA health care facilities as the locations for Mental Illness Research, Education, and Clinical Centers of Excellence (MIRECCs). Unfortunately, these provisions were not included when this bill was incorporated into larger veterans' legislation.

Other initiatives were more successful. After a National Veterans Readjustment Study in 1988 reported that only 20 percent of the 490,000 Vietnam veterans suffering from PTSD had ever received assistance, funds were authorized and appropriated by Congress to provide expanded inpatient and outpatient treatment. The PTSD Residential Rehabilitation Program (PRRP) was created in 1992, providing expanded services following the complement of the Specialized Inpatient PTSD Program (SIPU). While the latter focused on war-zone traumatic issues, this new program focused on rehabilitating the learning and social skills needed for readjustment to the community.

At a field hearing in Beckley in 1993, you heard from a number of veterans concerned about PTSD in West Virginia. You also received testimony from Dr. Eric Gerdeman, the Coordinator of the PRRP in Martinsburg. He described the program as a 90-day structured therapeutic community for veterans, where fifteen

patients would begin each program together as a unit, developing trust and support while participating in a number of activities and group outings. He detailed the achievements of the program to date, telling you that the first patients in Martinsburg were admitted in March 1992 with 114 successful completions. At the time, there was a 4-month waiting list. Despite this success, another witness pointed out that West Virginia had nearly a quarter of a million veterans in the state, with just 18 slots available for treatment. It provided a sober reminder of just how much work still needed to be done on PTSD.

Eligibility Reform and the Establishment of Mental Illness Research, Education, and Clinical Centers of Excellence

Throughout this time, the VA had done little on its own to implement the recommendations of the Kety Committee, despite growing consensus on the importance of establishing these centers of excellence. In January 1991, the blue ribbon VA Advisory Committee for Health Research Policy released its final report, recommending the establishment of MIRECC's as a means of increasing opportunities in psychiatric research and encouraging the formulation of new research initiatives in mental health care, as well as maintaining the intellectual environment so important to quality health care. These centers in particular would provide an ideal avenue toward developing cutting-edge psychiatric research programs at the VA. In short, the report stated that these "centers could provide a way to deal with the emerging priorities in the VA and the Nation at large."

Unfortunately, little changed even after other groups advocated for similar objectives. Ten years after the Kety Commission first issued its report, the percentage of VA patients suffering from mental illness still hovered around 40 percent, while the VA continue to neglect research on mental illness. At the same time that it was providing mental health services to up to half a million veterans each year, the VA resisted any significant efforts to focus resources on the needs of mentally ill veterans.

In light of the VA's failure to act on these recommendations, you introduced S. 425 on February 15, 1995 to accomplish these goals legislatively. You believed strongly that MIRECCs could be an important and integral link the VA's efforts in the areas of research, education, and provision of clinical care to veterans suffering from mental illness. You patterned your bill after the legislation that established the successful Geriatric Research, Education, and Clinical Centers (GRECCs) in 1980.

The primary goal of your legislation was to use MIRECCs as a means to assemble a range of clinicians and research investigators on one issue at one facility. For example, experts on PTSD would be assigned one facility, while experts on schizophrenia or drug use would be assigned to another. MIRECCs would also provide training and education opportunities for students and residents in related fields while at the same time contributing to the development of new models of effective care and treatment for veterans with mental illnesses. The latter was especially critical, as research into effective treatment was still forthcoming.

These provisions were included in the successful *Veterans' Health Care Eligibility Reform Act of 1996*, establishing five centers of excellence in the area of mental illness at existing VA health care facilities with an appropriation of $3.125 million for Fiscal Year 1998 and $6.25 million for Fiscal years 1999 through 2001. You played a pivotal role in passage of this bill, which is described more fully in the "Eligibility Reform" section of this memo. Upon passage, you were confident that this represented a significant step forward in improving care to some of the neediest veterans. You also expressed hope that "this long recognized need will become more than a forgotten want . . . for veterans who suffer, in many cases, in silence."

Continued Efforts to Fund Mental Health Services

Following up on this legislation, you directed the Democratic staff of the Veterans' Affairs Committee to review the VA's programs for veterans with special needs, including programs focused on PTSD and substance abuse, to see if the VA was maintaining the levels required by Congress in the *Eligibility Reform Act*. This report (which you can read in greater detail in the "VA Health Reform" section of this memo) found serious deficiencies in VA's specialized services.

These problems were particularly acute for services for PTSD and mental illness. Your staff found that VA was maintaining capacity in some specialized programs, such as prosthetics and blind rehabilitation. However, as a result of staff and funding reductions, with the resulting workload increases and excessive waiting times, the PTSD and Substance Abuse Disorder

programs were failing to sustain services at needed levels – or comply with the law. Your staff found that veterans were waiting an average of five and a half months to enter PTSD programs, even while the VA was aggressively reducing its inpatient services for PTSD. Although it was also expanding its use of outpatient programs for these services, you cautioned that some of the more seriously affected veterans would likely require longer inpatient care.

In a floor statement on July 27, 1999, you railed against both Democratic and Republican administrations for failing to adequately fund even basic veterans' health care programs, saying, "We are robbing Peter to pay Paul in many of veterans' hospitals and to maintain other services on which a higher priority is placed." You asked, "Why is it in this country that we will not put down mental health as a disease? Why is it we do not consider it as a medical condition? Why is it that we put it off in the category of human behavior as opposed to something that has a cuase in something [else], such as post-traumatic stress disorder?" You concluded, "For veterans, to blindside mental health, to push [it] to the side is beyond comprehension and beyond humanity."

Putting these words into action, you were able to insert provisions into the *Veterans' Millennium Benefits and Health Care Act of 1999* that required the VA to carry out programs enhancing the provision of specialized mental health services for veterans, at the same time providing $15 million in grant funding for these programs. You specifically encouraged the VA to carry out programs on additional treatment in underserved communities, dedicated case management services for veterans suffering from

PTSD, enhanced staffing, and short-term or long-term care services that combined residential treatment of PTSD.

You also worked to build upon many of the findings in the 1999 Democratic staff report on specialized services, introducing the *Veterans' Specialized Treatment Act* to ensure that specialized health care services such as PTSD treatment were available to all veterans. Provisions of this bill were later included in a larger health care bill signed into law by the President.

As you worked on these issues at the national level, you made sure to stay attuned to issues in the state. Individual casework proved to be a useful barometer. For example, after combat veterans in the Clarksburg and Morgantown area shared concerns about the PTSD program at the Clarksburg VA Medical Center in 1999, you helped to expand the program and obtain additional staffing and training in quality treatment, benefiting veterans throughout the state. At a field hearing in Huntington, WV in 2001, you spoke at length on PTSD with John Looney, the Team Leader of the Wheeling Vet Center, who explained how the community outreach center was able to reach veterans with PTSD. He also brought to your attention the long wait times for new patients to have an appointment at the community-based outpatient clinics. Finally, responding to the concerns of combat veterans in and around Wood County, you wrote to the VA Secretary and successfully obtained approval for a VA Vet Center outstation in Parkersburg, marking the first time there had been a full-time VA mental health counselor for combat veterans and their families in Wood County.

In July 2002, you held a Veterans Affairs Committee hearing to once again draw attention to the VA's lack of attention to mental health care. You emphasized the importance of making mental health care a priority, as well as your concern that veterans with mental illness were not getting the treatment they need, pointing to a report by the VA's own Advisory Committee which found that mental health services had not been maintained per congressional mandate. You underscored this point by speaking of the recent unilateral decision to close the inpatient psychiatric care unit at the Clarksburg VA hospital, despite the fact that it was one of the most prevalent diagnoses at the facility. While this decision was reversed, saving veterans and their families hours of travel and possible separation, you expressed fear that needed inpatient programs were not being spared in other parts of the country.

Testimony from VA officials and expert witnesses at the hearing revealed that the VA was spending 23 percent less on mental health programs since 1996. A representative of the American Psychiatric Association called for additional MIRECCs to be funded in 2003, testifying that the VA was devoting less than 9 percent of its total research to mental illness and substance abuse issues, even though 35 to 40 percent of patients at the VA needed mental health care. You also introduced a joint letter to VA Secretary Principi signed by a number of veterans' service organizations, including AMVETS, the American Legion, Veterans of Foreign Wars, and Vietnam Veterans of America, detailing the VA's "inexplicable and indefensible" failure to allocate necessary resources to fulfill its statutory obligation to mental health services. Dr. Robert Roswell, Under Secretary for Health at the

Department of Veterans Affairs, admitted that the VA faced shortfalls in placing mental health care professionals across the country, with waits of over six months for the 300,000 veterans eligible for care.

Following this hearing, you introduced legislation that would have strengthened mental health programs within the VA. Noting that serious mental illnesses affected at least one-fifth of the veterans who used the VA health care system, your bill increased funding by $10 million to assist medical facilities in their efforts to improve acre for veterans with PTSD. In the past, this additional funding had enabled the VA to develop better outpatient substance abuse and PTSD treatment programs, outpatient dual-diagnosis programs, and more community clinical teams. Additionally, your bill would have allowed the VA to establish up to ten more mental health research centers, from 5 to 15. You noted that MIRECCs have encouraged research, given VA caregivers better tools to treat patients with mental disorders, and increased our fundamental understanding of mental illnesses.

You continued to push for more funding throughout the Iraq War. In 2004, after a GAO report estimated at least 15 percent of returning troops were experiencing PTSD, you wrote a letter to President Bush pressing him to do more for soldiers suffering from the disease. In addition, the GAO report also affirmed that many of these troops would not show symptoms for years. You told the President that you were concerned that this report indicated that the VA did not have the data necessary to thoroughly plan and prepare its PTSD care for returning veterans.

During a hearing on the nomination of Ambassador Jim Nicholson to be Secretary of Veterans Affairs, you told him that the VA needed substantially more funding for America's veterans. After holding informal roundtables on a number of occasions around the state with returning veterans and the VA staff who served them, it was clear to you that staff was struggling to meet the needs of veterans with too few resources. You also asked Nicholson what the VA would do to address the needs of veterans suffering from PTSD, highlighting it as one of the VA's greatest challenges. Based on recent discussions you had had with returning veterans, you believed that the number of personnel experiencing PTSD was much higher than experts predicted.

A short time later, you helped introduce the *Keeping Our Promise to America's Veterans Act*, which would have expanded VA health care to address the needs of veterans suffering from PTSD across the country. This legislation would have ensured that every VA Medical Center in the country would have a PTSD clinical team. Currently, only half of the VAMCs across the country had the staff and resources to help soldiers suffering from the disease. Although all of the VA Medical Centers in West Virginia offered mental health services, only Clarksburg and Martinsburg had residential rehabilitation units dealing exclusively with PTSD.

You also lent your support to S. 481, which would extend health care eligibility for returning National Guard and Reservists from two years to five years. You believed this legislation was necessary and that these soldiers deserved access to VA health care. You told a roomful of wounded veterans at a Veterans' Affairs Committee hearing that, having served and sacrificed

alongside active duty troops, “they should be treated accordingly where their health is concerned.” You also pointed out that the extension of coverage would provide a greater opportunity to treat soldiers suffering from PTSD, which could take years to materialize.

Finally, in a statement on the Senate floor during passage of over $1.5 billion in emergency funding to address a shortfall in the VA budget on July 29, 2005, you castigated the Administration for failing to provide a better budget for the VA and for refusing to support Senator Murray’s amendment to the Iraq Supplemental to add $1.97 billion for VA health care, as well as the VA for failing to review its own numbers. You said, “Our heroic service men and women have been serving in Iraq since 2003, and the VA budget officials should have known to re-work and review the VA health care budgets. It is a sad excuse for VA officials to tell Congress in April that VA health care funding is adequate and fine, and then have VA officials come to Congress at the end of June to suggest a shortfall of at least $1.5 billion in the VA health care programs.”

Referring to the passage of this funding as a “mere down payment,” you reminded your colleagues of the consequences of failing to provide the VA with adequate funding. You called attention to a new survey from the Army that suggested that as many as 30 percent of returning personnel could face mental health concerns such as PTSD. These numbers confirmed by your own experience, having hosted private roundtables with returning veterans and listened to their stories. You believed that their compelling need for health care were a natural byproduct of the overwhelming stress of serving in such a challenging combat

situation, as “the stories from West Virginia veterans about their service have convinced me that we must invest in more resources for mental health care, counseling, and our Vet Centers.”

Wounded Warriors and Joshua Omvig

Never was this more apparent than during the Walter Reed Army Medical scandal. In February 2007, the *Washington Post* published a series of articles on the Walter Reed Army Medical Center, outlining the deplorable conditions and neglect of wounded soldiers at the facility. Buildings were described as infested with rats and cockroaches, with stained carpets and black mold and little heat or water. As a result of these allegations, as well as other criticism focusing on the difficulty of obtaining treatment or benefits after transitioning from active duty, the Veterans’ Affairs and Armed Services Committees held the first joint hearing since the beginning of the Afghanistan and Iraq wars.

With the focus of the hearing on the transition of service members from DOD to the VA, you took this opportunity to once again call attention to PTSD. You expressed concern about the rapid increase in disability claims for the disease, which had more than doubled since 2000, from 130,000 to 270,000 claims. You stated emphatically, “PTSD is a real disorder, and many of our troops and veterans aren’t getting the mental health care they need. We cannot continue to deny the reality of mental illness, especially as an effect of war. We need to do more to offer care and make it easier for troops to seek mental health care.”

Senator Byrd crafted a bill soon after the Walter Reed Army Medical scandal, titled the *Dignified Treatment of Wounded Warriors Act of 2007*. This legislation was aimed to improve the treatment and care of America's returning soldiers by requiring the Pentagon and the VA to develop a comprehensive policy on the care, management, and transition from the military to the VA or civilian life for service members with combat-related injuries or illnesses. Additional provisions also improved the delivery of services to veterans with Traumatic Brain Injury (TBI) or PTSD by developing a plan for prevention, diagnosis, and treatment with service-connected disabilities. It also called for the establishment of two national centers of excellence on TBI and PTSD respectively in order to establish further scientific and medical research.

As a cosponsor of this legislation and the senior member of the Veterans' Affairs Committee, you helped shepherd it through the Committee. You said, "Our soldiers are coming home with deep and debilitating wounds – both physical and mental. This can make their transition back into civilian life a truly difficult challenge. This legislation will go a long way toward giving our wounded warriors the support they've earned and deserve." This bill passed the Senate by voice vote on July 25, 2007, the same day that the President heard from a Blue Ribbon Panel on how to improve the delivery of care for soldiers at Walter Reed.

You continued to exhibit leadership on the issue of PTSD. You helped introduce the *Joshua Omvig Veterans Suicide Prevention Act*, one of your most notable achievements on this issue. This legislation, named after an Army Reservist who committed suicide

after struggling with PTSD upon returning home from Iraq, called for the implementation of a comprehensive suicide prevention program to reduce the number of veterans who commit suicide. You participated in a Veterans' Affairs Committee hearing on this issue in April 2007, which included testimony by the Omvig family.

In your opening statement, you told other members of the Committee that while you didn't know much about suicide, you did understand the frustration and anger of returning veterans. You said that when you "go home to West Virginia," you just "sit down with 12 or 13 wounded veterans – visibly, invisibly – for two or three hours [with] no staff allowed, no press . . . [which] never know that it happens." You told members that "people begin to say things that you could never imagine that people could say unless you were in there and [felt] the rhythm of the whole thing: their bonding, their anger, their need to leave the room sometimes just to vent."

The first panel included a recent Iraq veteran with PTSD, parents of an Iraq veteran soldier who died of an overdose of his own prescription drugs while in VA care, and the parents of Joshua Omvig. These families had come from as far away as Iowa and California to talk about the tragedy of their sons' deaths and to seek ways to ensure that other families might avoid similar tragedies. The Iraq veteran, a combat medic, spoke eloquently of his own problems first acknowledging and then treating his PTSD, comparing them to the similar experiences of soldiers in his platoon. One particularly powerful story was told by the father whose son who had overdosed in VA care. When he and his wife went to claim their son's personal effects, the items were handed

to them in a plastic garbage bag. You called this “horrible beyond description” and said that “it is almost like you went over there to fight for the country and you ended up fighting the people that you were fighting for.”

When votes were called, you turned to Barbara Pryor and told her of your decision to skip them. After a short conversation, you told Chairman Akaka that you didn’t think the votes were “going to change the future of the world” and you felt that “what we are doing here is far more important than what they are going to be doing on the floor of the Senate.” You then volunteered to stay, take the gavel from Chairman Akaka, and listen so that the full story of the witnesses could be given in Committee. Barbara told me that veterans talked about this event for years.

In a floor statement the next day, you apologized for missing the votes. However, you said that these families already felt that parts of the government did not care, so you felt compelled to stay to chair the hearing and let these courageous witnesses continue their testimony. You were very glad you did, and commended the witnesses for speaking out boldly and passionately, offering good ideas and suggestions in hopes of changing the current system. Even so, you felt that the most important thing was that they were heard, “These are stories that must be told and, more importantly, must be heard in public by those who can and must make changes. I could not walk away from this important hearing about issues crucial to our combat veterans returning from Iraq and Afghanistan.”

Even after the *Joshua Omvig Act* was signed into law by President Bush on November 5, 2007, you continued to push for more attention and better treatment for veterans with PTSD. In 2008, you pushed for legislation that expanded programs to improve the VA's capacity to care for the unique physical and mental health needs of women veterans, including the requirement that VA mental health counselors would be certified to care for women who were victims of Military Sexual Trauma and PTSD.

In 2010, you commended the VA for adjusting its regulations to ease the process for veterans seeking benefits for PTSD. Current VA rules at the time required veterans to keep documentation of traumatic events like firefights or bomb explosions that could cause PTSD. For veterans to receive disability benefits under the old rules, claims adjudicators were required to corroborate that veterans experienced a specific stressor related to hostile military activity. Unfortunately, this was impossible for many who had lost their records or were simply unable to record specific stressors. Under the new regulations, the VA no longer required documentation or corroboration of specific events if a VA doctor confirmed that the experience recalled by the veteran was in line with a diagnosis of PTSD. By presuming that the symptoms were caused by veterans' experiences in combat, this eliminated the involved and protracted process for VA to search and verify individual military records. As a result, the time required to adjudicate a claim would be significantly reduced.

In 2012, you helped pass the *Mental Health ACCESS Act of 2012*, which improved access to support services and care for

veterans and their families, opening up eligibility for mental health treatment for the family members of deployed service members. Introduced by Senator Murray, this act directed the DOD to develop a comprehensive suicide prevention program for service members. It also required the VA to partner with the National Academy of Sciences to conduct a comprehensive assessment of current mental health services.

Veterans Mental Health Roundtable & Subsequent Efforts

Just last year, you convened a roundtable in Parkersburg with veterans, mental health providers, and officials from the VA and the DOD to discuss mental health resources and highlight the needs of West Virginia's veterans. After a recent study by the West Virginia Legislature found that 20 percent of West Virginia's 170,000 veterans were at risk of suicide, with half showing signs of PTSD or depression, you decided to give veterans and their families a public forum to vent their frustrations on the limited access to mental health care in the state and excessive wait times for filed claims at the VA, as well as the stigma associated with mental health issues.

A study by the Institute of Medicine confirmed these issues, finding that excessive wait times and the poor availability of mental health care were major problems for the DOD and VA in providing the necessary care for returning veterans. The urgency of addressing this – and the danger of an average wait of fifty days to access VA care – was underscored by a study at the VA that found that 22 veterans were committing suicide every day. One of the major challenges identified in the WV Legislature study

was that only half of the veterans who participated were not seeking help or treatment at the VA, deterred by frustration with the care they received and by the stigma of needing help at all.

While these numbers are disturbing, even more harrowing are the stories by individuals struggling with this disease. At the roundtable, you met Jerry and Tracy White, the parents of three young boys with special needs. Jerry, a combat veteran who had served five tours of duty and earned two combat action badges, struggled both with PTSD but also with the unfairly complex system to get the care and benefits he earned. It took courage for Jerry to tell you and others in the audience some of his unimaginable combat experiences, like when he took his friend's photograph just before the moment he was killed by an IED. Despite his bravery and the mental toll of his experiences, the Whites did not have health coverage. Jerry sought therapy but was told he didn't fit into a stereotype of someone with PTSD. Counselors told Tracy she should sleep in another room and call the police for protection, so he remained isolated at home while awaiting a decision from the VA about his disability benefits. Unable to care for his family, Tracy was forced to hold down a part-time job while caring for her sons and standing by her husband's side.

After the roundtable, you worked closely with the Whites to make sure Jerry received the care he needs. However, as you pointed out in an editorial in June, there were thousands of other veterans like Jerry and the system was failing them. You applauded a recent VA announcement that it had filled 1600 mental health positions and vacancies of more than 2000 mental health clinical

providers, but you also wrote that you believed we could do more for these veterans, particularly by ending the “months-long delay that places veterans in limbo when transitioning their paperwork from active duty status at the DOD to the VA.”

In December, you followed through on your pledge to do everything possible to support service members coming home from active duty by introducing an amendment to the *National Defense Authorization Act* (NDAA), which would have – for the first time – required the DOD to complete a medical exam, including a mental health screening, for service members leaving active duty. This amendment would have helped providers catch PTSD and other mental health issues early, while creating a complete record for later applications for benefits. Currently, full physical exams are only required upon entrance to the military, but they are voluntary and often overlooked or ignored upon separation. Unfortunately, due to a constricted timeframe caused by the conflicting schedules of the House and Senate, this bill was fast-tracked through both chambers, precluding any amendments to the underlying bill.

In early April 2014, however, you and Senator Portman reintroduced an expanded version of your amendment to the NDAA, the *Medical Evaluation Parity Act*. This legislation would improve the way the military identifies and addresses mental health issues by instituting mental health assessments upon entrance and separation. The entry screening would serve as a baseline for future mental health assessments throughout service members’ careers, while the exit screening would provide more

accurate information on their mental health condition as they transition to civilian life.

The tragic shooting at Fort Hood in April – one in a line of many – underscored the need for improved entry screenings in the military. While there is a comprehensive physical exam to enter the military, there is currently no significant screening process to identify mental health warning signs early on. Your bill would address this situation by requiring a mental health evaluation upon entry to the Armed Forces, providing a baseline against which future problems could be measured and allowing the military to provide better care for service members who need help but may not proactively advertise it. The bill also included the provisions of your original amendment that required a mental health screening upon separation, as well as a mandate for a feasibility study on the DOD's capacity to provide an electronic copy of service members' medical records upon exiting the Armed Forces, which could potentially cut down on the claims backlog while allowing veterans access to the care they need while their records transition from DOD to the VA. In just the short time since it was introduced, your bill had already garnered the support of a number of veterans' service organizations, including the VFW, the National Guard Association, and the Iraq and Afghanistan Veterans of America, as well as the American Psychological Association.

MDMA-Assisted Psychotherapy and PTSD

At the same time as you were leading efforts to improve the mental health screening process at the DOD, you were also

working with the VA and others to explore different types of treatment for PTSD. Much of your efforts over the past year have been on behalf of your cousin, Dr. Rockefeller, and the leadership team of the Multidisciplinary Association for Psychedelic Studies (MAPS). Prior to a scheduled meeting between you and VA Secretary Shinseki, you spoke with Dr. Rockefeller regarding the use of MDMA for therapeutic use. He believed this represented a promising avenue of research, and a path that was currently not being traveled at the time. He asked you to assist MAPS with getting the VA to work cooperatively with them in their research, and you agreed.

A brief history of MDMA is required to understand the groundbreaking research being undertaken by MAPS and why your efforts were needed. MDMA, a synthetic psychoactive drug, was first patented by E. Merck in Germany in 1912. Similar to LSD, it became popular as a recreational drug. Its widespread use in uncontrolled settings led to increasingly negative reports of its effects, and the U.S. Drug Enforcement Agency banned the drug for all types of use in 1985. The DEA has received requests for consideration of clinical use for the drug, but these requests were dismissed and it remains a Schedule I controlled substance, deemed to “have no currently accepted medical use in the United States, a lack of accepted safety for use under medical supervision, and a high potential for abuse.” Other drugs in this category included heroin, LSD, marijuana, and peyote.

MDMA functions as a powerful central nervous system stimulant. It has been found to promote relaxation, loosen the ego, encourage thoughtfulness and contemplation, and produce

feelings of warmth and empathy. This is important for the treatment of PTSD because MDMA can lessen anxiety and inhibit the natural fear response, producing a state of improved insight, aiding greater exploration of painful repressed memories, and enhancing the relationship between the patient and the therapist. While there is some danger, including death, in the use of MDMA for recreational purposes, this is very uncommon, especially compared to deaths relating to alcohol or tobacco. More importantly, the recorded life-threatening cases of MDMA have been a result of other factors common to the recreational setting – usually dehydration – that can be easily controlled in a clinical setting. Additionally, while the acute mood effects of MDMA can be positive and life affirming, they have the potential to endure long after psychotherapy treatment and could possible intensify negative thoughts.

Despite the DEA ban, there have been some successful studies on MDMA in the U.S. and other countries. Currently, the only countries with research underway are Spain and Israel. In the U.S., the only organization who has and continues to conduct rigorous clinical research on this topic is MAPS. Others have studied the drug for additional psychological issues, such as psychotherapy for advanced stage cancer patients, but the science has been limited and intermittent. At this time, most research has indicated that MDMA used in low doses in a controlled psychotherapy environment is safe and has potential benefits, but further research must be done to validate this and to answer additional scientific questions about doses, mechanisms, and context, among others.

Your staff has continued to work with MAPS to facilitate further research at the VA and the DOD. You personally pushed VA Secretary Shinseki to look into this research during a scheduled meeting, and MAPS has made significant progress thanks to your help. In January, Dr. Rick Doblin, the Executive Director of MAPS, reached out to you to inform you that they had "finally had a major breakthrough with the VA." Leaders from the VA's National Center for PTSD, and researchers from Yale and the University of Toronto held a teleconference with Dr. Rockefeller, Dr. Doblin, and Dr. Mithoefer, a researcher and psychiatrist for MAPS, and gave them the green light to move forward with planning a collaborative MDMA/PTSD pilot study. Conducted by the VA and funded by MAPS, the proposed study would combine MDMA with a form of couples therapy for PTSD sufferers. MAPS credited this breakthrough to your meeting with Secretary Shinseki.

You also assisted MAPS in their overtures to DOD, as well. You wrote a letter to Dr. Jonathan Woodson, the Assistant Secretary of Defense for Health Affairs to help obtain approval for a collaborative study with DOD. In February, your staff assisted Dr. Rockefeller in setting up conference calls with a number of people, including Terry Rauch, the Director of Research and Development for the Defense Health Program, and General Peter Chiarelli (Ret.), the former Army Vice Chief of Staff for the current CEO of ONE MIND, an independent, non-partisan, non-profit organization dedicated to curing the diseases of the brain and eliminating the stigma and discrimination associated with mental illness. As a result of these calls, DOD expressed willingness to work with the VA on the MAPS-funded study and help fund further research at the VA. In an email on February 22, Dr. Rockefeller

expressed his gratitude for your willingness to assist on this project and the effort you had put into this endeavor to date.

Conclusion

Your work on PTSD is considerable and ongoing. It is needed, as problems continue to persist and a disturbing amount of veterans are still grappling with mental health issues. Just last year, 284 service members died by suicide. A survey by the Iraq and Afghanistan Veterans for America found that 73 percent of respondents indicated they did not believe that troops and veterans are getting the care they need. 23 percent admitted that they had not sought care because they were afraid it might affect their career or their relationships with family and friends. There is still so much more work to be done. Service members and veterans continue to struggle with their invisible wounds even as they encounter barriers that prevent many from seeking the care they need. Those suffering from mental illness still face very real challenges in society. The stigma associated with these illnesses is very real.

However, the enormity of the challenge is not an invitation for resignation. As you indicated in your opening remarks at the veterans' mental health roundtable in Parkersburg last year, "This is a deeply complex issue. I know that. But we can't let the complexity of this issue be an excuse for not delivering the kind of support and care our veterans have earned. No one is more deserving."

CLAIMS PROCESSING

Background

Your many years of hard work on behalf of veterans have been lively and diverse, marked with the unforeseen detours that result from the caprices of public service. However, one constant since nearly the first day you stepped foot into the Senate has been the inability of the VA to process claims at an expeditious rate.

> *"I simply believe that all citizens should have the same rights to judicial review of their claims, whether they be veterans, miners with black lung, Social Security or Medicaid recipients, or anyone else with a legal grievance of sufficient weight to be entered into court. Judicial review of some nature … would benefit veterans worldwide."*
>
> Your statement at the
> Joint Hearing of the Senate and House
> Veterans' Affairs Committees
> March 17, 1987

Your work on this issue began with concerns over the VA's response to the National Personnel Records Center fire outside of St. Louis in 1973. The fire partially or wholly destroyed the records of roughly 17,000,000 veterans. 85 percent of the stored records for Army veterans serving between 1911 and 1960 were destroyed, as well as 85 percent of Air Force personnel discharged prior to 1964 with surnames beginning with the letters "I." It was no surprise that when records were unavailable, it was much more difficult to show that one's illness was service-connected. You were originally asked to help by a veteran in a trip in the state in 1986, and you asked your staff to look into the

issue. They were unimpressed with ongoing efforts by the VA, prompting you to write a letter to the VA seeking information on how they were handling the claims of veterans whose records were destroyed.

The Veterans' Judicial Review Act of 1988

In 1987, a number of revelations regarding abuses of the VA's adjudication of benefits claims led many to begin questioning the efficacy of the VA's disability claims process. The National Association of Radiation Survivors (NARS) soon brought a case against the VA for their practices relating to atomic veterans. The NARS lawsuit originally focused on one issue – the statute forbidding veterans from paying lawyers more than $10.00 to represent them before the VA. In the process, however, their lawsuit uncovered far more serious and far-reaching problems, including instances in which the VA willfully destroyed a number of documents relating to the NARS case. This was accompanied by the discovery of widespread document shredding at the VA, exposing an uncaring and even antagonistic attitude in an organization meant to protect the rights and benefits of veterans.

Given the severity of these revelations, the Senate and House Veterans' Affairs Committees held a rare joint hearing on the issue. You participated in the hearing and took the opportunity to raise broader implications of the VA's policies. As you attested, many of these problems stemmed from a policy called "productivity control" at the VA which, in what would become an all-too-familiar refrain, placed a greater emphasis on the number of cases processed than on serving the veterans' best interest.

Employees were pressured to “dispose of” claims more quickly, leading to the possibility of countless application denials with little or no consideration of their content or merits. You highlighted several ineffective policies that failed to prevent these errors, as well as evidence that management in VA regional offices doctored or at least misreported statistics to the VA Central Office. You told both committees that these actions showed “disregard and disrespect toward our nation’s veterans.”

Senator Alan Cranston of California, then Chairman of the Committee, introduced the *Veterans’ Judicial Review Act of 1988* (S.11) in order to directly address these issues. You were a leading proponent of this successful legislation, which represented the first tentative step in opening up an archaic process. In fact, many of the veterans’ organizations at the time were hesitant to support the bill, fearing that the introduction of lawyers into this process would erase the “paternalism” of the VA.

Prior to this law, any decision by the VA with respects to veterans’ benefits was final. At the time, veterans filed over 800,000 disability claims each year, while roughly one half were successful, and unlike claimants to Social Security, Medicare, and other government programs, veterans had no recourse to a court of law. Reversing this 100-year-old policy, this legislation allowed veterans to hire an attorney after the denial of a claim by the VA. It also lifted the limitation on attorney fees with respect to work performed after a final decision and allowed a review of benefits adjudications, necessitating the establishment of a higher court of claims. The U.S. Court of Veterans Appeals (which was later changed to the U.S. Court of Appeals for Veterans Claims in

1999) was established as a court within the U.S. judiciary when President Reagan signed the *Veterans' Judicial Review Act of 1988* into law on November 18. It also authorized seven judges to fifteen-year terms on the court.

You were then approached in 1989 by the WV chapter of the Vietnam Veterans of America to push the Secretary of the VA to further loosen restrictions on attorney fees, particularly in cases involving debt collection. Since 1862, veterans had been statutorily banned for hiring or paying attorney fees over $10 in cases involving the VA, including cases that involved VA action against the veteran, as opposed to the vast majority of cases which involved the veteran filing for benefits or care. However, from 1974 to 1986, the VA that it would allow veterans to pay an attorney during forfeiture or debt collection cases. In May 1986, the VA suddenly reversed its policy and began prohibiting veterans from hiring lawyers in all cases.

The basis of the original law was to keep the VA claims process as non-adversarial as possible. VA personnel were obligated to provide assistance in the preparation and prosecution of the claim, and the Department was obligated to give the veteran the benefit of the doubt in deciding the claim. Thus, the historical justification of the fee limit was to retain this non-adversarial nature and to protect veterans from predatory attorneys.

This justification began to change when the *Veterans' Judicial Review Act of 1988* was enacted. Even though this law codified the non-adversarial nature of the relationship between the VA and veterans, it also acknowledged that legal expertise was

occasionally a necessity in this process. This was particularly apparent in cases when the VA initiated a debt collection proceeding, as they were by their very nature adversarial. This was acknowledged by the VA for a number of years, as it had allowed veterans access to lawyers when they were subject to adverse actions and were prohibited from using lawyers when they were pursuing a claim for benefits. For the past three years, however, veterans had been subject to the often complicated and traumatic procedures of debt collection with virtually no ability to hire a lawyer. As one of your staffers noted at the time, very rarely could veterans get a lawyer for free, because those cases were not a priority for legal aid lawyers who were overwhelmed with work on countless other issues and pressing needs.

You agreed to attempt to get the VA to reverse this decision, raising this issue twice with Secretary Derwinski. After you first brought it up during a courtesy visit before his confirmation hearing, you also directed the Committee to look into the issue seriously. You had hoped to get the VA to return to its pre-1986 policy of allowing veterans to hire attorneys in debt collection cases. At the time, you were not trying to make far-reaching changes, but rather making the basic point that veterans should be able to hire an attorney when action is being taken against them, particularly when the VA had full access to its own lawyers. Therefore, this was an issue about equal rights for the veteran and the VA when they were “adversaries.” You pointed out that the VA can make mistakes and that these cases often involved complex or confusing issues. You knew quite well from black lung cases how traumatic it could be for someone to suddenly be told to “pay up.”

You made clear that you were naturally inclined to do this with the support and input of Secretary Derwinski, but when that approach was not forthcoming, you worked with Senator Cranston to craft legislation to address this issue. The two of you introduced S. 2615, which authorized the payment of a fee to an attorney for services in situations in which the VA sought to recover a debt related to VA benefits. It also removed the $10 free limitation in these situations. While this bill was unsuccessful in the 101st Congress, it eventually passed as a provision of the *Veterans' Medical Programs Amendments of 1992*.

Your Work & The U.S. Court of Appeals for Veterans Claims

During your time as Chairman and Ranking Member of the Committee, former staffers related that you became the "go-to" Senator for modifications to the U.S. Court of Appeals for Veterans Claims. In 1997, you helped push through Congress a bill authorizing the VA to review otherwise final Board of Veterans' Appeals decisions on the basis of clear and unmistakable error. In 2000, you championed legislation that restored the VA's "duty to assist" veterans in developing their compensation claims.

After the U.S. Court of Appeals for Veterans Claims was created in 1988, it attempted to give meaning to define a number of concepts relating to the VA's relationship with veterans. In *Caluza v. Brown*, it identified three requirements that would be necessary to establish a well-grounded claim, which the Court viewed as a prerequisite to the VA's duty to assist. These requirements were a medical diagnosis of a current disability, medical or lay evidence

of the in-service occurrence or aggravation of a disease or injury; and medical evidence of a nexus or link between an in-service injury or disease and the current disability. Through a series of cases, the Court ruled that the VA had no authority to develop claims that were not “well-grounded.” Former staffers explained that this series of decisions created a threshold before the VA’s “duty to assist” kicked in. Unfortunately, as this threshold was fairly high, a veteran essentially had to win a claim before he or she received help to win the claim. This resulted in an undesirable change of practice where the VA no longer sought records or offered medical examinations and opinions to assist veterans.

Veterans’ advocates and members of Congress grew concerned over this situation, as many veterans’ claims began to be denied as not well-grounded. You helped put together a compromise bill that reflected these concerns, obligating the VA to notify claimants about what was needed to establish a claim and what additional evidence as required before the VA could make its decision. It also sought to help the VA develop claims properly from the beginning, yielding more accurate and efficient initial decisions and thus reducing appeals. Speaking on the floor after passage of the bill, you said, “It is critical that we honor our commitment to veterans and their families. We should not create technicalities and bureaucratic hoops for them to jump through.” This bill effectively reset the VA’s paternalistic duty to veterans.

In June 2001, you introduced several bills to improve and assist the U.S. Court of Veterans Appeals. Both pieces of legislation were eventually included in the *Veterans Education and Benefits Expansion Act of 2001*, which was signed into law on December

27, 2001. The first bill dealt with the use of registration fees. At the time, lawyers were required to pay a fee when they signed up to represent clients in front of the Court. Your bill simply gave the Court the ability to use these fees for a number of different activities designed to support and foster communication and for the study, understanding, and improvement of veterans' law.

The second bill you introduced in 2001 dealt with the appointment of judges to the Court, as you and your staff had grown increasingly concerned about the term limits of the judges on the Court. In 1988, when Congress first created the Court, it stipulated that each of its seven judges would serve fifteen year terms. As a result of the vagaries of the Senate confirmation process, many of these judges were confirmed around the same time, and whose term limits were ending at roughly the same time. This unfortunately coincided with an election year, making for a potentially contentious situation that would have adverse effects on veterans. Your bill addressed this issue by temporarily increasing the number of judges on the Court to nine and requiring a staggered appointment process moving forward. Your staff argued that this was a significant accomplishment, as the volume of cases would soon go up dramatically as a result of the wars in Iraq and Afghanistan. Had you not precluded this unfortunate circumstance, it could have been very damaging to the appeals process.

One of your most enduring accomplishments with regards to the U.S. Court of Appeals for Veterans Claims sits on the Court today. Judge Mary Schoelen, your former staffer on the Senate Veterans' Affairs Committee, stated unequivocally that she owes

you and your staff everything for her position on the Court. Ellen Doneski also remembers this fight well, telling me that it was strange how difficult it was to get Judge Schoelen on the Court, which at the time was packed with old, white men. You believed strongly that diversity was needed, particularly as the number of women was increasing rapidly in the military.

Judge Schoelen was only 35 at the time of her nomination, but she was imminently qualified for the position and you fought hard to get her on the Court. The Court was designed to be bipartisan, but the Bush Administration was simply refusing to place Democrats in Democratic openings, so it was extremely difficult getting nominations through a Republican White House and a Republican Senate. In response, you held up “everything”, as Judge Schoelen related, including Senator Specter’s nominations until the White House moved on her nomination. You knew that you would likely lose any possible leverage if the Senate acted on Senator Specter’s pick. Ellen remembers that Senator Specter was furious and yelled at you and your staff. You held firm, however, and continued to make the case that it was embarrassing acting as if women weren’t veterans and wouldn’t need care and assistance, too. Eventually, the White House capitulated and Judge Schoelen was appointed to the Court. Because of your work, the Court today has a long-standing judge that understands the needs of all veterans and continues to influence and improve the decisions it makes every day.

The Disability Claims Backlog

Even as you were working diligently to augment and enhance the highest court for veterans' appeals, you also put pressure on the VA and the Armed Services to improve their processing of veterans' claims. In February 2001, you announced that announced that the Secretaries of the Air Force and the Navy had agreed, at your request, to assign additional staff to the Armed Services Center for Unit Records Research to help speed processing of veterans' disability claims. Delays in obtaining records from the Center often compound the already lengthy waits veterans face at VA.

Following the release of a Government Accountability Office (GAO) report outlining the VA's efforts to implement the *Veterans Claims Assistance Act of 2000*, you commended the VA on its progress but expressed concern to VA Secretary Principi about the problems revealed by the report regarding quality and uniform decision making. You asked the Secretary for a timeline for solving these problems and vowed to keep a watchful eye on its progress.

The same year, you requested that volunteer attorneys be provided with a daylong seminar giving them the necessary training to argue in front of the U.S. Court of Appeals for Veterans Claims. As Chairman of the Veterans' Affairs Committee, you requested this training because of your concern that very few veterans had representation for their appeals court cases, noting that for the 20,000 appeals that had been filed since 1998, 70 percent of veterans and their widows had not been able to afford

representation for their case. In November 2002, fifteen more West Virginia lawyers were trained to provide free representation to veterans and their widows appealing benefits claims.

You continued to keep the Administration accountable for their inability or refusal to address the veterans' disability claims backlog. In 2004, you wrote to President Bush questioning why his budget called for the elimination of 540 employees. News reports had indicated that the VA had a backlog of 326,000 unprocessed claims, 76,000 more than existed at the end of 2003. At a hearing on the claims backlog in 2005, you asked VA officials how to solve this problem, telling them, "I have offices throughout West Virginia with dedicated caseworkers who try to help veterans secure all the benefits they have earned. My caseworkers report that VA claims represent more than one-third of our casework, and most cases can take from 6 months to 18 months for an initial decision." You made clear that this was unacceptable, particularly for soldiers with PTSD.

In 2008, you voted for passage of legislation increasing funding for the VA, overriding the objections of the President. While this bill had a number of helpful provisions for veterans, it also added 2000 additional claims processors to on the backlog of benefits claims and reduce the time to process new claims. In 2012, you voted for bipartisan legislation that aimed to improve the claims processing times by waiving the initial review of claimants' new evidence unless specifically requested. While technical, this provision was estimated to prevent approximately 1600 remands from the Board of Veterans' Appeals per year, allowing it focus on the backlog of appeals.

Continued Efforts and Conclusion

It is no great truth to say that the benefit claims process can be time consuming and frustrating for veterans. This is why, throughout the years, you have continued to press the VA to move more quickly to provide our veterans with the benefits they deserve. In addition to the countless bills you have introduced and supported on this subject, you have also ensured that West Virginians have support at home by employing a number of caseworkers to help with particular claims.

Despite the many years you have devoted to this issue, your work remains ongoing. Just last year, you joined with a group of several other Senators in March to write a letter to Secretary Hagel pressing the Pentagon to work more closely with the VA to facilitate the electronic transfer of service treatment records. Following up on that letter at a Veterans' Affairs Committee hearing the next month, you urged VA Secretary Shinseki to work more quickly in processing veterans' claims, saying, "Veterans returning home from Iraq and Afghanistan are experiencing delays in getting the care they need, and I was very clear when I met with Secretary Shinseki last week that the VA must do a better job." The doggedness you have displayed – and will surely continue to display – have driven that point home again and again to your constituents and to the Department of Veterans Affairs.

JOBS, TRAINING, EDUCATION, & HOUSING

Introduction

> *"Whether a person is suffering from PTSD or simply has trouble getting back on his or her feet, it affects the daily lives of not only our veterans, but also the family and loves ones surrounding them … When our troops return home from abroad to make the transition back into their lives, the least we can do is help them find a good job and land on their feet."*
>
> Fourth of July Editorial for the Martinsburg Journal
> July 4, 2011

The transition from military service to civilian life can be difficult. Often, new skills must be learned in order to fit into a competitive work environment, and preconceived notions can disadvantage veterans in the workplace. That is why you have worked throughout your career to secure jobs, training, education, and housing for veterans as they make the complicated transition into civilian life.

Jobs & Training

The first major initiative you undertook in the Senate on behalf of veterans was an effort to secure jobs and training for veterans. You have worked hard on this issue ever since. You led the successful effort to extend the Veterans Job Training Program and provide it with an additional $55 million in funding. You also pursued a number of small-scale tweaks that benefited veterans in this arena, as well.

In July 1985, you offered a successful amendment to S. 408, Senator Weicker's bill authorizing the Small Business Administration's programs for fiscal years 1986, 1987, and 1988. This amendment was aimed at spurring the Small Business Administration (SBA) to be more responsive to the employment and business needs of Vietnam-era veterans by directing it to be more aggressive in assisting states in the establishment of Veterans Business Resource Councils. By establishing consortiums of like-minded veterans, these councils gave experienced, successful veterans the opportunity to help fellow veterans get started in business. However, at the time of your amendment, they existed in only ten states. Your amendment ensured that the SBA took an active role in establishing more across the country. Interestingly, this concept was first developed by a West Virginian, the late Stephen Mollett, who served as director of the SBA's Office of Veterans' Affairs.

Despite the successful effort to extend the Veterans Job Training Program just a few years before, you were aware that many in the Congress and the Administration were looking to close down the program. On March 2, 1986, you told the VFW National Committee that the employment situation of veterans concerned you greatly, as "the Administration and others argue that we have reached a time to close out our involvement in assisting un- and under-employed veterans to obtain appropriate, steady work." You contended instead, "My view is that we may be abandoning some of those who need job training the most – studies indicate that many of the still-unemployed Vietnam veterans, for example, require counseling, further education, training, or a mix of these, to gain the employment they desire."

This speech proved to be perceptive, as it accurately foretold an effort the next year to abolish the Veterans' Job Training Act. However, you led the successful opposition to this effort in 1987, as your bill to extend and improve the program was incorporated into larger veterans' benefits legislation that was later enacted into law. As a result of your efforts, hundreds of unemployed veterans in West Virginia were given employment and on-the-job training through the program.

On August 12, 1987, you received a letter from the Executive Office of the Veterans of Foreign Wars (VFW) thanking you on behalf of its more than two million members for your efforts to reauthorize the Veterans' Job Training Act. He said, "This critical program is presently the only on-the-job training program specifically designed for veterans. The stability this reauthorization provides to this vital program will help overcome past administrative deficiencies and provide much needed employment and training to our nation's veterans." This was especially notable, as Tamera Luzzatto said at the time that this was the first time the head of the VFW had written to you to give such praise.

You continued to be engaged on this topic, even as you began to take on more diverse responsibilities on the Veterans' Affairs Committee. You introduced a joint resolution designating the week beginning November 10, 1991, as "Hire a Veteran Week," in order to promote employment opportunities for veterans. This successful legislation was enacted in 1992, as well.

After becoming Chairman of the Veterans Affairs Committee in 1993, you introduced a successful bill to improve reemployment rights and benefits of veterans and other employment benefits for certain members of the Armed Forces. This legislation also included another original bill you authored that increased the amount of loan guaranty for loans for the purchase or construction of homes.

Education

You have long understood that education is critical to giving veterans the opportunities they need to succeed. It does little to help veterans with employment if they do not have the skills or education necessary for the jobs they want. That is why in 1999 you authored a provision that required the VA to pay veterans' costs for courses preparing them for tests that are necessary for entrance to college or graduate school, such as the SAT or GRE. You were also successful in reinstating benefits for remarried surviving spouses of veterans upon the termination of a remarriage. These additional benefits included the Civilian Health and Medical Program of the Department of Veterans Affairs (CHAMPVA), educational assistance, and home loan guarantees.

The next year, Congress passed – with your support – a broad veterans' benefits bill that included significant enhancements to veterans' educational benefits. Among other improvements, the bill included an increase in basic Montgomery GI Bill benefits from $536 per month to $650 per month. It also allowed participating service members to contribute up to $600 extra prior to leaving service, to be matched by the VA at the rate of $4 for every $1

contributed. Finally, it authorized the VA to pay for certification and licensure tests and extended VA payment to include preparatory courses for college and grad school entrance exams (such as the SATs and GREs) for survivors of deceased active duty members and dependents of 100% disabled veterans.

You followed up on this effort by authoring legislation allowing veterans to apply their Montgomery G.I. Bill educational benefits toward short-term, high technology courses. These courses provided the kind of nontraditional training that frequently leads to technology careers. You also supported legislation to increase the basic monthly G.I. Bill benefit and to restore previously lost education benefits to certain Vietnam-era veterans who reenlisted. These provisions were combined in a single benefits bill that was signed into law on December 27, 2001.

Finally, you cosponsored the *Post 9/11 Veterans Educational Assistance Act*, which marked the biggest expansion to the G.I. Bill since World War II. This legislation covered full tuition, housing and fees at any public university or technical school for four years. To help defray the rising cost of books and other college fees, the bill provided for a $1,000 stipend each semester. Additionally, it also extended coverage to costs for tutors, as well as licensure and certification tests. Finally, it also extended the time a soldier or veteran could collect education benefits from 10 to15 years.

Homeless Veterans & Housing

Owning your own home is, quite simply, an integral part of the American Dream. For veterans that are struggling to find a job or trying to take care of their family, it can also seem like an insurmountable weight. Even worse, through any number of circumstances – be it mental illness or simply the inability to find gainful employment – veterans sometimes find themselves without a home at all. You have consistently been a leader on this issue in the Senate and have sponsored successful legislation making it easier for veterans to own a home and homeless veterans to find one.

In 2000, you authored a successful bill that removed the limit on adaptive housing grants to disabled veterans who owned their home with someone other than a spouse, such as a sibling or a parent. These grants allowed veterans to alter their homes in order to better accommodate their disabilities. Because veterans often own homes with relatives, the previous law was a major hindrance to their ability to make necessary alterations and improve their quality of life.

Recognizing that the price of homes in major metropolitan areas had increased significantly while the VA home loan guaranty amount had not increased since 1993, you sponsored provisions that increased the VA guaranty to keep pace with these increases, allowing a home loan of up to $240,000. You also moved legislation to extend the Native American veterans housing loan program, extending the authority for housing loan guaranties for eligible reservists. These provisions were included

in an omnibus veterans' benefits bill that was signed into law in December 2001.

At the same time, you also worked hard to increase services to homeless veterans through community- and veterans-based programs. As Chairman of the Committee, you held a number of hearings to bring attention to this important issue in the veterans' community. On July 19, 2001, you held a hearing on a bill that enhanced and funded many programs the VA administers to homeless veterans. VA officials and community-level service-providers for homeless veterans presented testimony at the hearing. Based in part on the testimony received, the bill was amended, passed, and signed into law on December 21, 2001. It contained a number of important provisions, including a new dental benefit for homeless veterans enrolled in a VA recovery program; extensive provisions on outreach to veterans, both those at risk of homelessness, as well as those currently homeless; and increased funding for proven, successful programs such as the Grant and Per Diem and Homeless Veterans Reintegration Programs.

In 2006, you pushed for a bill that increased the cost-of-living-adjustment (COLA) for service-connected veterans. Importantly, this bill also included important provisions for homeless veterans, providing a $5 million pilot to provide care-giver assistance and non-institutional care services. Finally, in 2008, you cosponsored successful legislation that provided $1.2 billion in tax relief to benefit veterans and military families nationwide. This law extended a provision that gave retired veterans more time to claim a tax refund on some types of disability benefit payments,

provided authority for the IRS to treat gifts of thanks from states to veterans—such as payments of excess state revenue—as nontaxable gifts, and established a permanent allowance for all veterans to use qualified mortgage bonds to purchase their homes.