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To amend title 38, United States Code, to provide an enhanced funding process to ensure an adequate level of funding for veterans health care programs of the Department of Veterans Affairs, to establish standards of access to care for veterans seeking health care from the Department of Veterans Affairs, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 11, 2009

Mr. SMITH of New Jersey introduced the following bill; which was referred to the Committee on Veterans' Affairs

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A BILL

To amend title 38, United States Code, to provide an enhanced funding process to ensure an adequate level of funding for veterans health care programs of the Department of Veterans Affairs, to establish standards of access to care for veterans seeking health care from the Department of Veterans Affairs, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Veterans Health Care Full Funding Act''.

SEC. 2. ENHANCED PROCESS FOR FUNDING VETERANS HEALTH CARE PROGRAMS.

(a) IN GENERAL.—(1) Chapter 3 of title 38, United States Code, is amended by adding at the end the following new section:

"§ 323. Enhanced funding process for veterans health care

''(a) In the President's budget for each fiscal year transmitted under section 1105 of title 31, amounts shall be requested for veterans health care programs in accordance with this section. Amounts appropriated for veterans health care programs shall be available for obligation for a period of two consecutive fiscal years.

''(b)(1) For each fiscal year (beginning with fiscal year 2010), the Veterans Health Care Funding Review Board shall determine the level of funding needed for veterans health care programs for that fiscal year and the next fiscal year. The Board shall make such determination, and shall publish such determination in the Federal Register, not later than November 1 of the year preceding the year in which the budget for such fiscal year is transmitted to Congress.

''(2) In making any such determination under paragraph (1), the Board shall take into consideration the most recent information relating to economic assumptions

provided to the Board by the Director of the Office of Management and Budget pursuant to subsection (f)(4)(b).

"(c) The amount determined under subsection (b) for any two-fiscal-year period is the amount needed to be appropriated to the Department for that two-fiscal-year period for veterans health care programs. The President shall include the full amount so determined in the budget transmitted to Congress under section 1105 of title 31 for the first fiscal year in such two-year period and shall include the amount of the second fiscal year as a budget forecast year.

"(d)(1) The Board shall make its determination of the level of funding needed for veterans health care programs for any two-fiscal-year period under subsection (b) based upon an annual review of those programs and of veterans health care needs.

"(2) The Board shall ensure that its determination of the level of funding needed for veterans health care programs for any period is in an amount sufficient to provide for—

"(A) the health care needs of veterans estimated to be enrolled in the Department health care system under section 1705(a) of this title (other than veterans described in paragraph (8) of such section);

"(B) the health care needs of veterans with service-connected disabilities who are not required to enroll in such health care system;

"(C) timely access to health care under standards for access prescribed under section 1703(e)(1) of this title;

"(D) maintenance of capacities of Department nursing home facilities as required by section 1710B(b) of this title and of specialized programs as required by section 1706(b)(1) of this title;

"(E) the health care needs of persons eligible for benefits under chapter 17 of this title based upon subchapter VIII of that chapter;

"(F) the necessary maintenance, improvement, upgrading, expanding, repairing, and replacing of major and minor medical facilities, capital equipment, and systems to ensure that health care facilities of the Department are adequate for the purposes of programs and benefits authorized for the care of veterans under chapter 17 of this title; and

"(G) unanticipated requirements, including—

"(i) changes in benefits;

"(ii) changes in beneficiaries;

"(iii) changes in economic conditions or assumptions; and

"(iv) such other factors as the Board considers appropriate.

"(3) Each such review under paragraph (1) shall consider—

"(A) demographic information;

"(B) utilization and cost trends for veterans enrolled under section 1705 of this title and other Department health-care beneficiaries;

"(C) requirements for support of other core missions of the Department related to health care;

"(D) the degree of efficiency (or the lack of efficiency) by which the Secretary actually delivers health care services to veterans; and

"(E) such other factors as the Board considers appropriate.

"(4)(A) The Board shall submit to Congress an annual report, not later than the date on which the President transmits the budget to Congress under section 1105 of title 31 each year, on its most recent determination under subsection (b) and its most recent review under paragraph (1).

"(B) The report shall include the following:

"(i) A statement of the amount determined for each of the two fiscal years covered by such determination under subsection (b).

"(ii) A description of the economic assumptions and other assumptions made by the Board in making such determination and how that determination was developed.

"(iii) Any recommendations to Congress or the Secretary that the Board considers appropriate concerning the means and methods for the Secretary to achieve optimal efficiencies or savings in delivering health care to veterans.

"(5) Following the submission of the report under paragraph (4) each year, the Board shall review and reconsider the matters contained in the report and shall, during the five-day period ending on May 1 of that year, submit to Congress a report updating the matters in the report submitted under paragraph (4). The Board shall include in that report any revision it considers appropriate to its most recent determination under subsection (b), together with the reasons for any such revision.

"(e) For purposes of this section, the term 'veterans health care programs' means programs, functions, and activities of the Veterans Health Administration other than—

"(1) medical and prosthetic research; and

"(2) grants under subchapter III of chapter 81 of this title.

"(f)(1) There is established in the Department of Veterans Affairs a Veterans Health Care Funding Review Board. The Board shall consist of three members who shall be appointed by the Secretary. Persons appointed to the Board shall have professional backgrounds and experience in health care policy analysis, health care statistics, health care insurance, or health care economics or have similar qualifications considered suitable by the Secretary.

"(2)(A) Except as provided in subparagraph (B), the members of the Board shall serve for a term of 15 years, except that a member of the Board appointed to fill a vacancy occurring before the end of the term for which the member's predecessor was appointed shall only serve until the end of such term. A member may serve after the end of the term of the member until the successor of that member has taken office. A member of the Board may be removed by the Secretary for misconduct or failure to perform functions vested in the Board, and for no other reason.

"(B) Of the members of the Board who are first appointed under this paragraph, one each shall be appointed for terms ending 5, 10, and 15 years, respectively, after the date of appointment, as designated by the Secretary at the time of appointment.

"(3) A member of the Board who is not otherwise an employee of the United States is entitled to receive pay at the daily equivalent of the annual rate of basic pay of the highest rate of basic pay under the General Schedule of subchapter III of chapter 53 of title 5, for each day the member is engaged in the performance of duties vested in the Board, and is entitled to travel expenses, including a per diem allowance, in accordance with section 5703 of title 5.

"(4)(A) The Secretary shall furnish the Board all papers, records, information, and other materials it requires in order to carry out its functions under this section.

"(B) The Director of the Office of Management and Budget shall furnish to the Board complete information on the economic assumptions (including assumptions as to inflation, unemployment, revenues and expenses, and energy costs) that inform or guide the President's overall budgetary presentation to Congress, including those assumptions that would be expected to particularly affect health care costs in the Department, or the cost of care to veterans.

"(5) Funds for the expenses of the Board for any fiscal year shall be provided from amounts available for that fiscal year for veterans health care programs. The

Board shall include consideration of its own budget requirements in determinations under subsection (b).''.

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

''323. Enhanced funding process for veterans health care.''.

(b) EFFECTIVE DATE.—Section 323 of title 38, United States Code, as added by subsection (a), shall take effect on January 1, 2008.

(c) REPEAL OF CONSTRUCTION AUTHORIZATION REQUIREMENT.—Effective October 1, 2008, subsections (a), (b), (c), and (d) of section 8104 of title 38, United States Code, are repealed.

(d) APPOINTMENT OF INITIAL MEMBERS OF BOARD.—The initial appointment of the members of the Board established under subsection (f) of section 323 of title 38, United States Code, as added by subsection (a), shall be completed not later than 90 days after the date of the enactment of this Act.

(e) INITIAL FUNDING FOR BOARD.—For fiscal year 2008, the Secretary of Veterans Affairs shall provide amounts needed for the operation of the Board established under subsection (f) of section 321 of title 38, United States Code, as added by subsection (a), in a total amount not to exceed $2,000,000, from amounts appropriated to

1 the Department of Veterans Affairs for that fiscal year
2 for Medical Care.

3 **SEC. 3. ACCESS TO CARE STANDARDS.**

4 (a) REQUIRED STANDARD FOR ACCESS TO CARE.—
5 Section 1703 of title 38, United States Code, is amended
6 by adding at the end the following new subsection:

7 ''(e)(1) The following are the standards for access to
8 care for the Department:

9 ''(A) For a veteran seeking primary care, the
10 standard for access is 30 days, determined from the
11 date on which the veteran contacts the Department
12 seeking an appointment until the date on which a
13 visit with a primary care provider is completed.

14 ''(B) For a veteran seeking specialized care, the
15 standard for access is 30 days, determined from the
16 date on which the veteran is referred for specialty
17 care by a primary care provider until the date on
18 which a visit with an appropriate specialty primary
19 care provider is completed.

20 ''(2) The Secretary shall develop and disseminate an
21 appropriate standard of waiting time, determined from the
22 time at which the veteran's visit is scheduled until the vet-
23 eran is seen by the provider. The Secretary shall periodi-
24 cally review performance of Department facilities com-
25 pared to that standard. The Secretary shall annually re-

port to the Committees on Veterans' Affairs of the Senate and House of Representatives an assessment of the Department's performance against that standard.

"(3) In a case in which the Secretary is unable to meet the standard for access to care, the Secretary shall use the authority of subsection (a) to furnish health care and services for that veteran in a non-Department facility.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the first day of the first month beginning more than six months after the date of the enactment of this Act.

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