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4 OVERSIGHT HEARING ON FISCAL YEAR 2013 BUDGET
5 OF THE VETERANS BENEFIT ADMINISTRATION, NATIONAL CEMETERY
6 ADMINISTRATION, AND RELATED AGENCIES
7 Thursday, February 16, 2012
8 House of Representatives
9 Subcommittee on Disability Assistance and Memorial Affairs
10 Committee on Veterans' Affairs
11 Washington, D.C.

12 The Subcommittee met, pursuant to notice, at 10:07 a.m.,
13 in Room 334, Cannon House Office Building, Hon. Jon Runyan,
14 [Chairman of the Subcommittee] presiding.

15 Present: Representatives Runyan, Lamborn, Buerkle,
16 Stutzman, Turner, McNerney, Barrow, Michaud, and Walz.

17 Mr. RUNYAN. Good morning. I think we can manage this
18 for a little bit. Good morning, everyone and I want to
19 welcome everyone to this hearing on the budget for fiscal
20 year 2013 as it pertains to the Veterans Benefit
21 Administration, National Cemetery Administration, the U.S.
22 Court of Appeals for Veterans Claims, and American Battle
23 Monuments Commission.

24 Last year this subcommittee held its first hearing of
25 the 112th Congress and I made my intentions and hopes clear
26 that as Chairman of this Subcommittee, my priority would be a
27 laser focus on tackling the size of the back log of claims
28 for disability benefits.

29 Over the past year, the VA has demonstrated their desire
30 and commitment to be partners in bringing the VA into the
31 21st Century, as reflected in the 2013 budget. I support the
32 VA's goal of completing 1.4 million disability compensation
33 and pension claims, marking an increase of 36 percent over
34 2011.

35 I can assure the administration that this subcommittee
36 will vigorously pursue the necessary oversight to ensure this
37 goal becomes a reality for all of our nation's veterans.

38 In these uncertain and turbulent economic times, it is
39 the duty of all of us here and those that we represent to
40 ensure that benefits earned by our nation's heroes are
41 administered as efficiently and timely as possible.

42 Justice delayed is justice denied and benefits delayed
43 are benefits denied. To this end, I note the forthcoming
44 role out of the VBMS program, which I believe signifies a
45 turning point for the claims backlog. In addition to the
46 VBMS program, the VA has also recently launched several pilot
47 programs, and consolidated its pension and fiduciary
48 programs.

49 However, technology alone will not solve the issues
50 pertaining to the backlog. It is our solemn responsibility
51 to remain vigilant. We will continue to oversee these
52 programs to ensure that they are operating efficiently, while
53 also serving the needs of our nation's veterans.

54 Although VA continues to emphasize its initiatives in
55 the area of people, progress, and technology, it is important
56 that VA follow through on these programs while not forgetting
57 its primary goal of providing timely, quality benefits to our
58 veterans.

59 A second major area I'd like to discuss involves the
60 final resting grounds of our nation's veterans. The National
61 Cemetery Administration provides the invaluable role of
62 serving veterans and their families during this burial
63 process and maintaining our national shrines and cemeteries.

64 However, like every human institution, mistakes and
65 oversights are made from time to time. In November, the NCA
66 self-reported to this committee of misalignment of a row of

67 | head stones at the Fort Sam Houston National Cemetery.

68 | Families of those affected were notified and a nationwide
69 | audit began.

70 | Initial reports from the audit, which are still ongoing,
71 | have identified similar issues of at least five other
72 | national cemeteries in just the first phase of the audit.
73 | These errors appear to have a common origin that they all
74 | occurred during raise and realignments projects performed by
75 | outside contractors.

76 | The reason this is relevant to a budget hearing is
77 | because in most of these cases, the contractors' work was
78 | approved and payment made without adequate oversight of
79 | review to ensure the quality and accuracy of the work done.
80 | Because of an omission of fiscal oversight, the work has to
81 | be done right the second time, and a nationwide audit at
82 | great expense.

83 | Statistically, less than 60 percent of discrepancies
84 | reported after auditing almost 1.5 million grave sites
85 | computes to a tiny fraction of one percent. The NCA,
86 | however, is not in the business of percentages and
87 | statistics. They're in the business of providing the final
88 | resting place of honor and dignity for our national heroes.

89 | While I commend the NCA's initiative and quick response
90 | in identifying and addressing the situation, I must reiterate
91 | my resolve that no mistake going forward will be acceptable.

92 | We owe it to our veterans and their families to get it right
93 | the first time, every time. Anything less, regardless of the
94 | statistic, is unacceptable.

95 | Toward this end, I want to ensure that America's most
96 | valuable memorials to its honored and dead have the necessary
97 | amount of resources and institutional oversight going forward
98 | to prevent such problems from occurring. While we must do so
99 | mindful of the budget deficit crisis we have at hand, we must
100 | continue to ensure that the sacred grounds be-- are well
101 | prepared for current and future generations of veterans and
102 | their families.

103 | Finally, it is my hope that the NCA continues to move
104 | closer to near universal veteran access to burial options
105 | around this nation.

106 | This hearing will also take a look at the budgets of the
107 | Court of Appeals for veterans claims and the American Battle
108 | Monuments Commission. While I do not anticipate many
109 | controversial issues within these budgets, I would like to
110 | express my hope that they too reflect the trying times we
111 | face, and will strive for increased efficiency over waste and
112 | better performance of tradition solely-- better performance
113 | over tradition solely for tradition's sake.

114 | And I appreciate everyone's attendance at this hearing
115 | and I will now call on the ranking member, Mr. McNerney, for
116 | any opening comment. I think the mics are fixed.

117 [The statement of Chairman Runyan appears on p.]

118 *****INSERT*****

119 | Mr. MCNERNEY. Should I try the mic? Good morning. It's
120 | still pretty loud. Is that acceptable?

121 | Well, good morning and welcome to our hearing this
122 | morning. Thank you all for extending both panels and the
123 | witnesses. I want to thank the Chairman for holding this
124 | hearing today. The goal to these hearings is to examine the
125 | various fiscal-- it's kind of echoing in here-- to examine
126 | the various fiscal year 2013 budget requests of the agencies
127 | over which the Disability Assistance and Memorial Affairs
128 | Subcommittee has jurisdiction of those organizations who were
129 | identified by the Chairman.

130 | But they also receive many major benefit services and
131 | protections for our nation's veterans, their families and
132 | survivors, raising from pension compensation and burial
133 | benefits to ensuring appellate rights to maintaining our
134 | national shrine requirements both here and abroad.

135 | I look forward to hearing how these benefits and
136 | services will be administered with the optimum level of
137 | efficiency and effectiveness within the new budget request.
138 | Today's hearing is an important one. As all of you know,
139 | Congress is working hard to balance our budget and reduce the
140 | deficit, while at the same time provide earned and needed
141 | benefits to our veterans and their families.

142 | The overall fiscal 2013 VA budget requested is \$143
143 | million, of the totals, department budget requests, 76.3

144 million or 54.4 percent is designated for mandatory funding
145 to pay for and administer benefits to veterans, their
146 families, and survivors.

147 So this subcommittee has the largest stack of the VA
148 pie. This represents a 16.2 increase in the 2012 level of
149 \$70.6 billion. This shows the administration is committed to
150 supporting our troops and our veterans. It's not just a
151 slogan.

152 Like many of the DSOs and other stakeholders who
153 represent our veterans, one of my top priorities is to
154 continue to address the glacial nature of the claims
155 processes and suspended challenges of accuracy and
156 accountabilities. It's a disgrace that we have such a large
157 claims backlog, and it's an insult to the veterans who have
158 served our nation. And we're going to continue to work with
159 the VA to make sure that we reduce that backlog. There's no
160 valid reason why we are still processing claims with 20th
161 Century technology and paradigms. And I really mean early
162 20th Century technology.

163 I agree with Secretary Shinseki, that we need to get our
164 claims processing under control to deliver these benefits in
165 the 21st Century in a better and focused manner. Getting the
166 claims right the first time and don't sacrifice quality for
167 quantity.

168 The VA reports that it's making progress on this front,

169 and the budget seems to support that commitment, particularly
170 on the IT front. However, I don't want to confuse activities
171 on the one hand with progress on the other. Further, I don't
172 want the VA to place the problems of new technology at the
173 top of a flawed system, because that will just make-- that
174 will just result in inaccuracies being rendered more quickly.
175 Comprehensive reform is what we need here.

176 Finally, I also want to know more about the budgetary
177 implications of the contacts with the ACS Incorporated to
178 develop hundreds of thousands of pending claims. With that,
179 I look forward to hearing from all the witnesses today. And
180 I particularly want to thank the VSO members of the
181 independent budget for your diligence, commitment in helping
182 to ensure that the VA's budget is sufficient to meet the
183 needs of our veterans. I welcome the opportunity to work
184 closely with all of you, and with all of my colleagues, to
185 make sure that the needs of our veterans, those returning
186 from Iraq and Afghanistan and those that are in previous
187 conflicts are met. Thank you, Mr. Chairman, I yield back.

188 Mr. RUNYAN. We're going to try and get these mics
189 working. One, two, three, four. Is that good? Thank you.

190 At this time, I'd like to welcome the first panel to the
191 table. First, we have Ms. Diana Rubens, the Deputy Under
192 Secretary for Field Operations for the Veterans Benefits
193 Administration. She is also accompanied by Mr. Jamie Manker,

194 | the CFO of the Veterans Benefits Administration.

195 | And next, we welcome the Honorable Steve Muro, the Under
196 | Secretary for Memorial Affairs of the National Cemetery
197 | Administration. And he is accompanied by Mr. Ronald Walters,
198 | the Acting Principal Deputy Under Secretary for Finance and
199 | Planning in the National Cemetery Administration.

200 | All of your complete written statements will be entered
201 | into the hearing record, and with that, Ms. Rubens, we will
202 | start with you for your oral testimony.

203 STATEMENT OF DIANE RUBENS, DEPUTY UNDER SECRETARY FOR FIELD
204 OPERATIONS FOR THE VETERANS BENEFITS ADMINISTRATION,
205 ACCOMPANIED BY JAMIE MANKER, CFO OF VETERANS BENEFITS
206 ADMINISTRATION; HONORABLE STEVEN MURO, UNDER SECRETARY FOR
207 MEMORIAL AFFAIRS OF THE NATIONAL CEMETERY ADMINISTRATION,
208 ACCOMPANIED BY RONALD WALTER, ACTING PRINCIPAL DEPUTY UNDER
209 SECRETARY FOR FINANCE AND PLANNING IN THE NATIONAL CEMETERY
210 ADMINISTRATION

211 STATEMENT OF DIANE RUBENS

212 Ms. RUBENS. Chairman Runyan, ranking member McNerney,
213 members of the subcommittee, thank you for the opportunity to
214 discuss the fiscal year budget for Veterans Benefits
215 Administration. As you mentioned, Chairman Runyan, I'm
216 accompanied by Jamie Manker, our Chief Financial Officer.

217 Under the leadership of Secretary Shinseki, we're
218 working to transform VA into a 21st Century organization,
219 that is people centric results driven and forward looking.
220 We've disciplined ourselves to understand that successful
221 execution of our vital mission requires that we continually
222 improve our stewardship of the resources entrusted to us by
223 Congress.

224 Accountability and efficiency are practices consistent
225 with our philosophy of leadership and management.
226 Approximately 97 percent of the nearly 77 billion in
227 appropriated funds requested for VBA are for direct payments
228 to veterans, their dependents, and their survivors. The
229 remaining three percent is dedicated to administering VBA's
230 benefits programs.

231 VBA's budget request also directly supports VA's three
232 key priorities: Improving access to benefits and services,
233 eliminating the claims backlog and improving that decision
234 accuracy to 98 percent, and ending veteran homelessness in
235 2015.

236 The disability claims workload from the newest
237 generation of returning war veterans, as well as from
238 veterans of earlier periods, continues to increase. The
239 growth and disability claims volume is driven by a number of
240 factors, including our successful outreach efforts, increased
241 demand as a result of ten years at war, improved access to
242 benefits through joint VA and DOD pre-discharge programs.

243 Other major factors includes the Agent Orange
244 presumptive disabilities, the aging of our veteran
245 population, new regulations for processing certain claims
246 related to Gulf War service, traumatic brain injuries, Post
247 Traumatic Stress Disorder, and the impact of a difficult
248 economy.

249 The complexity of that workload also continues to
250 rapidly increase as veterans claim greater numbers of
251 disabilities, and the nature of those disabilities become
252 increasingly complex.

253 Last year, the number of disabilities claimed by
254 veterans who had served in Iraq and Afghanistan averaged 8.5
255 issues per claim, a dramatic difference when we look at
256 veterans of earlier eras. Wherein, in World War II, we saw
257 veterans claim an average of two and a half disabilities, and
258 even the more recent Gulf War conflict veterans who claimed
259 4.3 disabilities per claim.

260 I would tell you that even with this unprecedented
261 workload increase, VBA has achieved a 15 percent increase in
262 output over the last four years, completing over one million
263 disability claims in each of the past two years.

264 VBA recognizes that it must do all it can to simplify
265 and expedite the claims process for our veterans and
266 beneficiaries. We're committed to and are actively pursuing
267 comprehensive improvements to the process and to the systems
268 used to access and for our employees to deliver those
269 benefits and services. We know we must do better, and that's
270 why we're undergoing this large scale transformation.

271 In 2013, general operating express budget request of
272 \$2.2 billion is vital to that transformation strategy that
273 will drive our performance improvements. VBA does plan to

274 | process a record 1.4 million compensation claims in 2013, and
275 | we're pursuing transformational changes that will enable us
276 | to meet those emerging needs of veterans and their families.

277 | This transformation plan is a series of tightly
278 | integrated people, process and technology initiatives. The
279 | people focused initiatives recognize that our employees are
280 | the key to the success, that we're strengthening the
281 | expertise of our workforce by changing the way we are
282 | organized and trained to do the work.

283 | A new standardized operating model is being implemented
284 | in all regional offices, beginning this year, that
285 | incorporates a case management approach to claims processing.
286 | Additionally, process improvement initiatives have been
287 | pursued through a design team concept, to support the
288 | transformation of business processes.

289 | Using design teams, VBA is conducting rapid development
290 | and testing of process changes, automated processing tools,
291 | and innovating incentives in the workplace to ensure that the
292 | changes will be actionable and effective before they're
293 | implemented nationally.

294 | Some initial process improvements include quality review
295 | teams, a simplified rating and notification process, rules
296 | based calculators, and disability benefits questionnaires.

297 | We're also pursuing technology initiatives, key to our
298 | transformation, ending the reliance on the out-moded paper

299 intensive process, that often thwart timely and accurate
300 claims processing. VBA will deploy technology solutions that
301 improve access, drive automation, reduce variance, enable
302 faster and more efficient operations.

303 Our transformation plan includes the following major
304 technology initiatives: The veterans relationship management
305 initiative, our eBenefits portal, and the veterans benefits
306 management system.

307 We appreciate the opportunity to provide additional
308 information on the budget request, and to share with you the
309 progress we are making in transforming the delivery of
310 benefits and services for our veterans, their families, and
311 survivors. We recognize there's still a tremendous amount of
312 work to be done. I assure you of our commitment to achieving
313 fundamental and dramatic improvements that will expedite the
314 delivery of benefits, improved quality, and ensure we're
315 providing timely, accurate, and comprehensive information and
316 assistance to all those we serve.

317 I'm happy to respond to any questions you or members of
318 the subcommittee might have.

319 Mr. RUNYAN. Thank you, Ms. Rubens, and with that, we'll
320 recognize the Under Secretary, Mr. Muro for his oral
321 testimony.

322 [The statement of Diana Rubens appears on p.]

323 | *****INSERT*****

324 STATEMENT OF STEVEN MURO

325 Mr. MURO. Thank you, Mr. Runyan, ranking member-- thank
326 you, Chairman Runyan, Ranking Member McNerney, and members of
327 the subcommittee. Thank you for asking me to provide an
328 overview of fiscal year 2013 budget for the National Cemetery
329 Administration.

330 A hundred and fifty years ago this July, Congress
331 authorized President Abraham Lincoln to purchase grounds for
332 the use of national cemeteries. From that day to this, we,
333 and all the cemeterians who preceded us have considered
334 ourselves the keepers of a sacred trust. Our mission of
335 honoring veterans and their families with a final resting
336 place and national shrines has not changed significantly
337 since President Lincoln's time, but the technology, and the
338 expectation of operations of national cemeteries certainly
339 have.

340 Currently we are conducting a self-initiated audit of
341 the entire inventory of 3.1 million grave sites. Phase I of
342 the examination of 1.4 million grave sites in sections where
343 raise and realign projects were completed by contractors. As
344 a result, we have reset or replaced 119 headstones and
345 markers, and relocated eight remains. We acknowledged this
346 problem immediately, we reached out to the affected families,

347 | and we corrected the errors.

348 | We then set forth a motion for Phase II of the audit, to
349 | examine 1.7 million of the other rest of the grave sites. We
350 | expect to complete this review in 2012, and we will share our
351 | findings with you.

352 | I will make no excuses for these mistakes, but I would
353 | like to tell you about the procedures we have and are putting
354 | in place to minimize these types of errors.

355 | First, we have implemented a stricter accountability
356 | procedures for remains introduced this last spring. Secondly,
357 | we are requiring the contractors to keep the headstones and
358 | markers at the grave sites during renovation. And third, we
359 | are hiring contracting officer representatives at each of our
360 | five memorial service network offices to provide additional
361 | oversight.

362 | I want to again express our regret over these errors,
363 | and I emphasize our continuous commitment to providing
364 | excellent service to the veterans and their families. And
365 | that brings me to the budget of FY 13.

366 | The President's budget request of 372 million for NCA's
367 | discretionary benefit programs, allows us to meet an
368 | increasing demand for benefits and services while maintaining
369 | outstanding customer service.

370 | Of this amount 258 million is included for operation and
371 | maintenance. This includes nearly 32.9 million for projects

372 | to raise, realign, clean headstones and markers, and repair
373 | sunken graves. 9.6 million is requested for major
374 | construction and 58 million for minor construction.

375 | The requested budget moves us down the path towards our
376 | 2015 target of providing 95 percent of the veterans with a
377 | burial option in a national, state, or tribal veteran's
378 | cemetery within 75 miles of their home. The budget continues
379 | our initiative to build column bearing only satellite
380 | cemeteries in five urban locations. We are requesting
381 | funding for the New York City area in FY 13.

382 | The budget provides for a new rural burial initiative,
383 | as well to provide 132,000 currently unserved veterans in
384 | eight states with a convenient burial option. These national
385 | veteran's burial plots will be in public or private
386 | cemeteries, but owned and managed by the National Cemetery
387 | Administration. The budget request of 46 million for the
388 | veterans cemetery grants program to construct, improve state
389 | and tribal cemeteries.

390 | In support of the goal to end veteran's homelessness,
391 | NCA will provide employment opportunities through a new paid
392 | apprenticeship program for our homeless veterans. We also
393 | remain committed to hiring veterans returning from Iraq and
394 | Afghanistan.

395 | Since 2009, we have hired 257 veterans from these
396 | conflicts. Today, 73.5 percent of NCA employees and 80

397 | percent of my cemetery directors are veterans. NCA's budget
398 | request for 2013 will help end homeless veterans, and
399 | increase veteran's access to benefits they have earned. Your
400 | continued support will enable us to build on recent
401 | improvements, and the appearance and operation of our
402 | national cemeteries, and to serve our veterans as well as
403 | they have served us. Thank you and I'm ready for any
404 | questions.

405 | [The statement of Steven Muro appears on p.]

406 | *****INSERT*****

407 Mr. RUNYAN. Thank you very much and we'll begin the
408 questioning round.

409 Mr. Muro, since 2001, with the raise and realignment and
410 in the contracts and/or they were paid for by ACE NCA, how
411 many of those were contracted and/or paid for, and how many
412 of them have been completed since '01?

413 Mr. MURO. We have about 90 cemeteries that had raise
414 and realign projects, and of those 90, I would say about 40
415 percent of them have a complete project done, and we've
416 audited those and are double-checking the audit to make sure
417 we're accurate with what we did, and they were paid.

418 We have ongoing projects right now that we are managing
419 and reviewing, and we've actually revising some of the specs
420 to ensure that they don't take the headstones off the grave.

421 Mr. RUNYAN. That was my next question, to make sure you
422 were implementing lessons learned--

423 Mr. MURO. Yes.

424 Mr. RUNYAN. --in the current, in that manner.

425 Ms. Rubens, other than encouraging our VSOs to reach out
426 to our veterans and, you know, make some of its own
427 initiatives to encourage veterans enroll in eBenefits, what
428 has the VA done to help bolster that sign-up?

429 Ms. RUBENS. Chairman Runyan, we've actually taken a
430 number of initiatives to pursue access to eBenefits.
431 Obviously we're very much partnered up with our VSOs. But we

432 | have also worked with hiring opportunities and job fairs that
433 | we've held to encourage applicants to sign up for eBenefits.

434 | As part of our national call center script, when
435 | veterans call looking for information about their claims, we
436 | will also encourage them to take advantage of the opportunity
437 | that eBenefits has, and actually have the ability now to
438 | enroll callers into our eBenefits system there on the phone.
439 | At every opportunity where we do outreach efforts,
440 | stand-downs, we do those same kinds of efforts to ensure that
441 | they're signing up for eBenefits.

442 | And, of course, as part of the VOW Act, as we begin to
443 | implement that, coming through a TAP Program will be
444 | mandatory for all service members as they're departing from
445 | service. That's actually the easiest and fastest way for us
446 | to enroll them. We will be working to encourage them and
447 | require them to also put that CAC Card in the reader and get
448 | them assigned up for an eBenefits account right there before
449 | they ever get out of service.

450 | Mr. RUNYAN. Is there a current reach back to the DOD to
451 | get our current veterans transitioning, to help them get or
452 | is that part of the process already?

453 | Ms. RUBENS. That's part of the process, as they're
454 | coming through and getting any kind of transition briefing,
455 | we'll encourage them to sign up. We are also using our
456 | servicemen group life insurance sign-up as the opportunity

457 | for when they're going in and establishing that, to also
458 | establish their eBenefits account.

459 | And we're very closely engaged with every bit of
460 | outreach, DOD and ensuring that we have opportunities to get
461 | them access to eBenefits.

462 | Mr. RUNYAN. I know the ranking member commented a
463 | little bit on continuing to hire people, and making sure that
464 | we're not repeating the same mistakes other-- that we have in
465 | the past, but other than the VBMS, how is the VA planning to
466 | achieve its goal of 1.4 million compensation claims in 2013?
467 | Because that's a big number we're trying to tackle. Because
468 | I believe we've said we're going to actually process more
469 | than we take in this year?

470 | Ms. RUBENS. Our goal is to begin to take--process more
471 | than we take in, yes, sir. Ranking Member McNerney's points
472 | I think were right on and lined up with our transformation
473 | plan, in terms of you can't just automate the process we've
474 | got. We recognize we need to make changes in the process.

475 | That is why the component around the process, changes
476 | are so important, looking for things that we can change,
477 | ensuring that they are, if you will, lined up to take even
478 | better advantage of technology, but recognizing we can't just
479 | automate the way we do business today and expect a better
480 | outcome.

481 | Mr. RUNYAN. Thank you. That's all I have right now for

482 | this witness. I'll recognize the ranking member.

483 | Mr. MCNERNEY. Thank you, Mr. Chairman. Ms. Rubens, you
484 | mentioned early in your testimony that there's eight
485 | disability claims, eight disabilities per claim, whereas in
486 | past conflicts, there were four in the earlier Gulf War and
487 | two in World II, what do you mean by eight disabilities per
488 | claim? What is that? What would an example of that be?

489 | Ms. RUBENS. Certainly. So it may be that at the end of
490 | World War II when a serviceman or a veteran when they were
491 | applying got out, they might have applied for two separate
492 | conditions, a knee condition and a shoulder condition.

493 | Our discharging Iraq and Afghanistan veterans are now,
494 | when they apply, coming in and claiming, an average eight and
495 | a half conditions. And so it may be that knee and that
496 | shoulder, but it also might include a TBI and PTSD and an
497 | ankle and a back. And so there are a lot more individual
498 | decisions on each veteran's claim, that as we review their
499 | records, we're having to make in terms of identifying the
500 | occurrence in service, connecting the occurrence to the
501 | current condition and providing a disability rating.

502 | Mr. MCNERNEY. And so you have to make decisions on each
503 | disability independently basically?

504 | Ms. RUBENS. Yes, sir.

505 | Mr. MCNERNEY. That's a lot of work. So the independent
506 | budget recommends that the VA add forty FTEs to the Board of

507 Appeals. As you know the BVA has its own back log which
508 looks like 800 days or 880 days, yet the VA's budget
509 flatlines the general administration account for the VBA.

510 In light of the recent CVAC's Freeman versus Shinseki
511 decision, it's going to allow beneficiaries to appeal the
512 VBA's appointment of a fiduciary, which is going to add that
513 backlog. So I'm a little concerned about that.

514 Are more FTEs needed or how are we going to address this
515 critical backlog?

516 Ms. RUBENS. Sir, I'm going to tell you that as we look
517 at the Freeman decision, the first part of that appeal will
518 come to the Veterans Benefits Administration to make a
519 decision. I will take, for the record, the need of the Board
520 to add any FTE because I'm not familiar with what their
521 current staffing needs might be.

522 We've not yet seen within VBA tremendous influx from
523 that Freeman decision, but are watching very closely to
524 ensure we're attuned to what we might get from those appeals.

525 Mr. MCNERNEY. Well, I'm going to follow-up on this
526 fiduciary issue a little bit. I was at the hearing last
527 week, and it was just very stark. And I know that there's no
528 maleficence, it's just that there's a miscommunication or
529 something.

530 One of the things that came up was the effectiveness of
531 the Western Hub centralization effort, excuse me, and the

532 | ethicacy of the VA's audit process, it seems that this
533 | program gets short-shrift at the VA, and the results due to
534 | the beneficiaries. What is the level of funding of the VA's
535 | fiduciary program?

536 | Ms. RUBENS. Mr. McNerney, I'm going to defer that to my
537 | friend, the CFO, Jamie Manker.

538 | Mr. MCNERNEY. Well, when you're looking that up, what
539 | are the performance measures of the VA fiduciary program?

540 | Ms. RUBENS. Yes, thank you. I can talk to the
541 | performance measures for our fiduciary program.

542 | As our responsibility for oversight for that veteran who
543 | may be incompetent to handle his or her funds, it is proposed
544 | by a rating specialist, as a result of the information we
545 | received from the medical doctors, we will provide them due
546 | process, make a final determination that they'll be in need
547 | of a fiduciary. And then the fiduciary hub in Salt Lake, for
548 | instance, will get the final decision that the veteran needs
549 | to have a fiduciary established.

550 | They have 45 days to do an initial visit and assign and
551 | appoint an initial fiduciary. When we do that, we will have
552 | already released the initial payment. If there's a
553 | retroactive payment due to that veteran, we'll wait until we
554 | get a fiduciary appointed to ensure those funds are
555 | appropriately disbursed.

556 | Excuse me. We also have a process that requires

557 follow-on field exams from every one to three years, to
558 ensure that fiduciary continues to adequately disburse those
559 funds.

560 During that time, we'll also conduct an annual
561 accounting of the records to ensure the funds are being
562 appropriately disbursed. And so we've got the 45 day mark
563 for an initial appointment, and the follow-up field exams
564 within 120 days.

565 For the annual--

566 Mr. MCNERNEY. These aren't qualitative or quantitative
567 performance measures that you're describing? You're
568 describing how the system works, and I think that's great,
569 it's a-- you know, I need to know that as well. But how-- is
570 there any way in place to judge the quality of the
571 performance of the fiduciaries?

572 Ms. RUBENS. I would tell you that our annual accounting
573 reviews is set to look at the quality, if you will, of the
574 disbursement that that fiduciary does on behalf of that
575 veteran.

576 And so if we find discrepancies within the bank accounts
577 from the veteran and the expenditures as we have set up for
578 how those funds should be disbursed, we will raise that to a
579 higher lever review.

580 I will also tell you that the accounting reviews that we
581 do, looking at how that fiduciary is managing that money, is

582 | also reviewed by a quality review staff from the Pension and
583 | Fiduciary Service to ensure as we're doing oversight to the
584 | fiduciaries, we're looking to make sure that they are
585 | applying the appropriate rules to ensure those funds are
586 | disbursed appropriately.

587 | Mr. MCNERNEY. Okay. Well, what I would recommend is a
588 | systematic quality review program, so that you can come in
589 | here and say, well, here's our quality measures next year
590 | when you give us this presentation.

591 | Ms. RUBENS. Absolutely. And I will tell you that the
592 | Pension and Fiduciary Service, having been stood up last
593 | year, is working closely with us out in the field to ensure
594 | that we've got the best guidance, the best training, and make
595 | sure that we're focused on the best quality outcomes to
596 | protect that veteran.

597 | Mr. MANKER. And, Mr. McNerney, to answer your question,
598 | we have roughly 673 FTE dedicated to fiduciary program, and
599 | as well as three million in non-pay activity for that, so the
600 | pay associated was 673 FTE and then three million additional
601 | dollars.

602 | Mr. MCNERNEY. Okay. Well, we need--continue to need to
603 | work on revising this program.

604 | Ms. RUBENS. And, sir, we'd be happy to come in and talk
605 | with your staff at any time about the quality review process
606 | that we've got in place to ensure a good oversight of the

607 veterans' funds as well as a review of our process.

608 Mr. MCNERNEY. Okay. Thank you.

609 Mr. RUNYAN. Thank you, Mr. McNerney. Mr. Stutzman.

610 Mr. STUTZMAN. Thank you, Mr. Chairman. And thank you
611 to you all for your work and what you do. And it's obviously
612 very, very important for our veterans, as well as for our
613 country.

614 But I'd like to talk just a little bit or ask a couple
615 of questions about-- to Mr. Muro. Is that-- that's a bad
616 echo, is there a way to-- it's still too loud? All right.
617 I'm just going to turn the microphone off.

618 Mr. Muro, the situation in--at Fort Sam Houston,
619 national cemetery in Texas, you obviously were over it, you
620 ordered the audit, and what went with the original raise and
621 realignment done there? And who did that project?

622 Mr. MURO. Thank you for the question, Congressman. The
623 project was back in 2001. It was done by a contractor, 2001,
624 2002. They started in 1 and moved on in 2, by a contractor
625 that was hired to do the raise and realign, it's in a flat
626 marker section. We had staff that was overseeing the
627 contract, to ensure the work was done, and it appears that
628 they missed 47 stones that were placed one off in that row.

629 Mr. STUTZMAN. So the misalignment of headstones, that
630 was discovered in 2001?

631 Mr. MURO. No, it was discovered in October of 2011.

632 Mr. STUTZMAN. 2011?

633 Mr. MURO. Right. The new director that arrived to Fort
634 Sam Cemetery was auditing the sections with the new maps and
635 updating them, and he came across the error and he
636 immediately notified us. And then we put a plan in place to
637 notify Congress, notify the family members, and we made the
638 corrections for that.

639 Mr. STUTZMAN. When was that correction actually taken?
640 And has that been completed?

641 Mr. MURO. Yes. It was completed--we actually did it, I
642 believe, in October, we completed the work for that. We
643 contacted the family members, we hired a funeral director to
644 be present if the family so desired to do the relocation of
645 the full remains.

646 The remains were actually--what happened after the
647 renovation, they were later-- second interments that were
648 completed, and that's where the forward-- and all of that has
649 been corrected, yeah.

650 Mr. STUTZMAN. Thank you. Ms. Rubens, what feedback
651 have you received on the use of the disabilities benefits
652 questionnaires thus far?

653 Ms. RUBENS. Thus far, there are largely DBQs being used
654 internally by VHA doctors. At this point, we've got a
655 limited number of them that have been out and released from
656 the public for any length of time.

657 Over the last year, we did over 500,000 DBQs within VHA
658 and have seen an improvement in five days in terms of the
659 timeliness to return exams. VBA and VHA did some joint
660 training last fall to ensure the awareness of the DBQs, the
661 how to use them has been out there.

662 Largely, I would tell you that they've been received
663 favorably, and any kind of, I'll say, constructive criticism,
664 we've worked to incorporate into making improvements, not
665 only to the paper forms, but as we look to find a way to get
666 them into an electronic environment as well.

667 Mr. STUTZMAN. What kind of--how do you encourage
668 veterans to-- how do they know that the DBQs are available?
669 Do you have a doctor, do you have other ways they communicate
670 to them? And also, is there an on-line access for them?

671 Ms. RUBENS. We are. So for the first three DBQs that
672 were made available, they were associated with the three new
673 presumptive conditions that we did last year as part of the
674 Agent Orange addition of ischemic heart disease, Parkinson
675 and the Leukemias. They were incorporated into the external
676 facing fast track system that was out there for any Vietnam
677 era veteran that wanted to apply for one of those three
678 disabilities, as a result of the exposure to Agent Orange.

679 As we move forward, we are looking at how best to
680 incorporate those into our electronic environment, which will
681 also be available then through eBenefits, and our on-line

682 application process as we look forward to the spring to get
683 VONAPP Direct Connect established and incorporated to that
684 on-line accessibility.

685 Mr. STUTZMAN. Are you seeing any interest from veterans
686 using eBenefits?

687 Ms. RUBENS. We are seeing interest in veterans using
688 eBenefits. We have over 1.3 million users signed up today. I
689 will tell you that as we look at not only eBenefits as an
690 access channel, but also our telephone structure.

691 What we've seen since '09 is an increase in contacts, up
692 from over 9 million to up over 14 million, whether it's
693 on-line access through eBenefits, whether it's through our
694 telephone system. And so we are seeing more contact from
695 veterans.

696 Mr. STUTZMAN. Thank you. I yield back.

697 Mr. RUNYAN. Thank you, Mr. Stutzman. Mr. Barrow?

698 Mr. BARROW. I thank the chair. First off, I want to
699 apologize to the witnesses and to my colleagues in my
700 tardiness this morning, it's because I'm double booked this
701 morning. And unlike a United States Senator, I can't be in
702 two places at once. I'm still trying to work on
703 tri-location, much less bi-location.

704 Second, I want to acknowledge the presence of our next
705 panel of a real American hero, and a hero of mine, and a fine
706 public servant, the Secretary of the American Battle

707 | Monuments Commission, former Senator Max Cleland, a great
708 | friend of mine. I would be remiss if I didn't-- he's a panel
709 | all unto himself coming up. And with that, Mr. Chairman,
710 | what I want to do is yield the balance of my time to the
711 | ranking member of the subcommittee in deference to his rank,
712 | and the fact that he's been here from the beginning of this
713 | hearing.

714 | Mr. RUNYAN. Well--

715 | Mr. MCNERNEY. I thank the gentleman from Georgia, I
716 | didn't know it was that rank, sir.

717 | Ms. Rubens, I'd like to explore the claims processing
718 | initiative involving the ACS, Incorporated, which is a
719 | private contractor.

720 | A recent project on government oversight, also known as
721 | POGO, had a study that issued-- that it issued on 9/11-- on
722 | 9/13/11 indicating that contractors cost more than federal
723 | employees. On average, it says the contractors are paid 1.83
724 | times as much as federal employees. And, in fact, the claims
725 | processing contractors are the most expensive, in this case,
726 | for claims assistance and examination work at 57,000 compared
727 | to 75,000 for contractors doing the same job.

728 | So why is it necessary for us to go to private
729 | contractors for this sort of work, and could you elaborate on
730 | that, please?

731 | Ms. RUBENS. Ranking Member McNerney, I will profess my

732 | ignorance about the study to which you refer, but I will tell
733 | you that the ACS contract for us, really is to help us
734 | address the backlog as VBA is working through several items.

735 | I would point to the increasing receipts that we are
736 | continuing to see, the fact that we have this burgeoning
737 | workload, and quite frankly, the opportunity for us to use a
738 | short-term help as we move through a transformation to offset
739 | any training deficit that we see, as we build new skill sets
740 | in our own employees.

741 | It's meant to do a rapid development of roughly 300,000
742 | claims from increased claims for benefits, to initial
743 | compensation claims, pension claims, as well as dependency
744 | issues.

745 | We are also taking advantage of this contract to
746 | encourage veterans to sign up for eBenefits. We are also
747 | using ACS to look at our processes to ensure that we're using
748 | the most efficient process. And so it is around several
749 | areas that we think that the short term one year contract
750 | will help us as we move through transformation to encourage
751 | our resources to be as effective and efficient as they can,
752 | in an effort to most timely and accurately serve veterans.

753 | Mr. MCNERNEY. So it sounds like you're looking at this
754 | as a temporary situation?

755 | Ms. RUBENS. Yes, sir.

756 | Mr. MCNERNEY. And you mentioned a number, 300,000

757 | claims, so that's sort of your goal, and I'd like to see that
758 | number remain, that number-- or get smaller, not get bigger.

759 | Ms. RUBENS. And that actually is a high water mark,
760 | sir, as we work with ACS to get that development done in
761 | those four areas. We are looking for an opportunity to help
762 | as we move through transformation to see what kinds of
763 | technology they use, to see what good ideas they might have,
764 | and incorporate that into the system that we have. This is
765 | only a one year shot in the arm, if you will.

766 | Mr. MCNERNEY. And during that time, you're going to be
767 | training-- it's kind of almost like out-sourcing, you're
768 | going to ask them to train our-- your employees, your federal
769 | employees; is that right?

770 | Ms. RUBENS. No, sir. They're doing the development for
771 | us. We provided them some initial training, to help them
772 | understand our process, and have had one person on the ground
773 | with ACS to ensure quality reviews are done of the work that
774 | they're completing. But they are then going to provide those
775 | ready-for-decision claims back to us, and our employees will
776 | make those decisions using our systems, using our own
777 | technology.

778 | Mr. MCNERNEY. But you're not--you said you're using
779 | them as an opportunity to look at what technology might be
780 | used to improve your own processes.

781 | Ms. RUBENS. And use any ideas that they might have

782 developed to help improve our VBMS system, and our VRM
783 systems to ensure that we've got the best tools in the hands
784 of our employees.

785 Mr. MCNERNEY. So you're training them, and then they're
786 going to train our folks as well. Is there any reverse
787 training? Are they going to be training our folks at all?

788 Ms. RUBENS. No, sir. And we train them in our process.
789 They largely built their own system. We've got somebody on
790 the ground to make sure that the development work, the
791 gathering of evidence, if you will, that they're doing in
792 association with these claims, meets the quality and the
793 requirements that we need then to make a good decision for
794 our veteran.

795 Mr. MCNERNEY. Okay. Well, we're going to keep an eye
796 on that. That's--

797 Ms. RUBENS. Yes, sir.

798 Mr. MCNERNEY. There's a lot of opportunity there for
799 abuse and there's a lot of opportunity for gain as well. So
800 thank you, Mr. Chairman.

801 Mr. RUNYAN. Thank you. And I think I have a few more
802 questions. So we'll start a second round pertaining to VBMS.
803 Do you have an approximate date of the nationwide roll-out
804 coming this year, or excuse me, in '13?

805 Ms. RUBENS. Thank you, Chairman Runyan. We will
806 begin-- as you know, we've got Phase I that was released in

807 Providence, and we've got Phase II that went to Salt Lake
808 last fall. Phase III is scheduled for release in May of this
809 year. We will then begin a phase roll-out to the nation in
810 July, after we finish testing, user acceptance testing, make
811 sure it does all that we would like it to do.

812 Because of the concern about the volume of work that
813 we've got, we want to make sure that we don't throw everybody
814 into a state of change at once, and so it will be a phased
815 roll-out through the end of 2012, and through 2013, as we get
816 it into each and every regional office.

817 Mr. RUNYAN. Thank you. And my next question again is
818 for the Under Secretary Muro. There's two categories that
819 both receive increases in your budget. I'd like you to kind
820 of define what they are. You have personal services and
821 other accounts, and the rationalization behind them?

822 Mr. MURO. The increases in our budget are for increased
823 workload that we are having to-- were increased for FTEE, to
824 cover the workload that we have there, and then the expansion
825 of grave sites, maintenance of the amount of graves that
826 we're going to maintain.

827 We did 117,000 burials this past year. We expect to do
828 119,000 plus in 2013, so there is a growth in acreage
829 maintained, and a growth of graze maintained. With all that
830 maintenance, and with all the workload, we're only increasing
831 the 4 FTE for that.

832 Mr. RUNYAN. Well, and talking about workload, obviously
833 the audit you're undertaking is a tremendous lift. Where is
834 that fitting into your budget, and is that actually--are we
835 going to have to address this again next year as you continue
836 to dig through that process?

837 Mr. MURO. No, because the workload there is picked up
838 by the cemetery directors. We're requiring the directors to
839 actually go out with their foremans with maps, and the
840 ledgers, and walk all the graves. So it's not an increased
841 FTE or workload, we're doing it in-house, doing the audit
842 completely.

843 Mr. RUNYAN. Okay. That's all I have. Mr. McNerney, do
844 you have anything else?

845 Mr. MCNERNEY. Yes, Mr. Chairman, I have one single
846 question.

847 Concerning the use of flat-fast track for the Agent
848 Orange claims, is this being effective, is it-- how much does
849 it cost, and do you plan on using it for any other purpose?
850 Ms. Rubens?

851 Ms. RUBENS. Yes, sir, Ranking Member McNerney, I will
852 have to take the costs for the record and come back to you
853 with that information.

854 Mr. MCNERNEY. Sure.

855 Ms. RUBENS. We have seen a great deal of our namer
856 Agent Orange veterans utilize that fast track system. I will

857 | need to bring you the specific numbers for the record.

858 | Mr. MCNERNEY. Are they finding it satisfactory?

859 | Ms. RUBENS. I think that they are. The challenge, of
860 | course, is it's-- when they bring all the things that we need
861 | and they put it into the electronic system, it'll go much
862 | more quickly. If they, for instance, still require a medical
863 | examination, we'll still need to do that for them, to ensure
864 | that we've got all the relevant information to make the
865 | decision.

866 | Mr. MCNERNEY. And do you plan on sort of expanding the
867 | use of that system if it's successful in the operating--

868 | Ms. RUBENS. If the concepts behind the fast track
869 | system have been incorporated in a lot of ways to, I would
870 | say not only our VBMS system, but our Veterans Relation
871 | Management System, as it incorporates the VONAPP Direct
872 | Connect on-line application process, enhancing the ability
873 | for a veteran or a service member as we get ready to roll out
874 | that compensation application later this spring, that we'll
875 | put it into a, I'm going to use, TurboTax-like environment
876 | that is a question and answer, to ease the burden of applying
877 | for benefits.

878 | So that if there are sections of an application, that
879 | they don't need to complete, it will skip those and walk them
880 | through only the information that we need.

881 | Mr. MCNERNEY. Thank you, Mr. Chairman, I yield back.

882 Mr. RUNYAN. Thank you, Mr. McNerney. Mr. Barrow, do
883 you have anything further?

884 Well, with that, on behalf of the subcommittee, I thank
885 all of you for your testimony and we do look forward to
886 working with you as we take care of our national heroes,
887 whether they're fallen and deceased, or they're currently
888 with us in the administration. So I thank you and you're
889 excused.

890 I'd like to ask our second panel to come to the table.
891 We welcome the Honorable Max Cleland, the Secretary of the
892 American Battle Monuments Commission.

893 | STATEMENT OF MAX CLELAND, SECRETARY OF THE AMERICAN BATTLE
894 | MONUMENTS COMMISSION

895 | Mr. CLELAND. Thank you, Mr. Chairman.

896 | Mr. RUNYAN. Sir, you--thank you very much for being
897 | here, and you are recognized for your oral testimony.

898 | Mr. CLELAND. Thank you, Mr. Chairman, and thank you for
899 | those kind words from the gentleman from Georgia. We thank
900 | you very much. Thanks.

901 | I thought I was going to be on a panel with the DAV. I
902 | was going to say that the DAV gave a half a million dollars
903 | to our World War II Memorial fund-raising campaign, and I
904 | thought the AMVETS were going to be here. If they're in the
905 | audience, I'd just like to recognize them for their national
906 | service foundation contribution. They give a carol-on to--
907 | each year to each one of our commemorative cemeteries abroad.

908 | I would like to also say that--echoing the comments of
909 | the ranking member that I was head of the VA in the 20th
910 | Century, back when putting claims processing, the GI Bill
911 | compensation and pension benefits on a computer was a new
912 | idea. I'm kind of glad hearing the challenges of our VA
913 | friends, that I'm not the head of the VA now. I'm glad I'm a
914 | former head of the VA.

915 | I'm the Secretary of America's commemorative agency, the

916 American Battle Monuments Commission. We commemorate through
917 commemorative cemeteries and markers in fourteen different
918 nations, American battles from the Mexican War, the Spanish
919 American War, World War I, and World War II, that's basically
920 our mission.

921 We maintain commemorative cemeteries, 24 of them, and we
922 maintain 25 markers throughout the world. So we have three
923 markers or memorials in the United States. One is the East
924 Coast Memorial, marking the names of the missing from World
925 War II in the coastal waters of the Atlantic. That's located
926 in Battery Park in Manhattan.

927 We have a commemorative memorial marking the loss of
928 life of the names of the missing, and the names of the
929 missing from the Pacific waters, the coastal waters of the
930 United States. And we have a memorial at the Punch Bowl
931 Cemetery. The cemetery is run by the VA, but we have a
932 memorial there.

933 And we have the names of the missing from the Nimitz
934 theater of operations from World War II, Korea, and Vietnam.
935 Soon we'll be dedicating the battle maps and pavilions for
936 the Vietnam memorial. Soon, we will be dedicating this year
937 a marker, a memorial, in Pusan, Korea marking the American
938 participation in the Korean War, sixty years after the truce.
939 So we are still engaged in marking America's battles.

940 Our budget has declined about five percent over the last

941 | couple of years, so we're losing money and people. We're
942 | still able to do our job of commemoration, but it's getting
943 | tighter and tighter. So with that, Mr. Chairman, I'd like to
944 | open the discussion for questions.

945 | [The statement of Max Cleland appears on p.]

946 | *****INSERT*****

947 Mr. RUNYAN. Thank you, and I guess I'll start right
948 there, and I know I asked you this question last year because
949 currently, and I commend you for your leadership again,
950 because I know you're requesting a \$2 million cut in your
951 overall FY 13 budget. And it's-- I commend you for that
952 aspect of being fiscally conservative, but at the same light,
953 are we-- again, I'll ask quick, are we able to maintain this
954 in the long term or are we creating a bigger problem down the
955 road?

956 Mr. CLELAND. We're not severely conservative.

957 Mr. RUNYAN. But again, you said you--

958 Mr. CLELAND. We can--

959 Mr. RUNYAN. But again, you just said you had budget
960 shortfalls.

961 Mr. CLELAND. We can do our job. But this can't go on
962 forever, Mr. Chairman. I told our appropriations
963 subcommittee on the House side last year, that when it came
964 to that point where we couldn't do our job, then I would be
965 ranting and raving on his desk and on yours about that.
966 Because I can't be a participant, and you can't be a
967 participant in something where the American Battle Monuments
968 Commission can't do its job.

969 But there are ways with which we can tighten up and
970 we're doing that. I think in terms of, shall we say,
971 deferred maintenance, we are-- have a better handle on what

972 | we need to do with our memorial-- commemorative memorial
973 | cemeteries and our markers than we've ever had, and we're
974 | able to deal with that. We have controls put in place for
975 | major construction projects that only I can approve, and we
976 | are also very sensitive about not messing up what has already
977 | been there. We call it our historical assets program. Making
978 | sure that we don't paper over or screw up history.

979 | So we're all right. We're okay. But this five percent
980 | cut every two years can't go on forever, because ultimately
981 | we wouldn't be able to do our work.

982 | Mr. RUNYAN. And going down that same line, and you want
983 | to talk about the former currency fluctuations account,
984 | obviously with the volatility of the dollar against other
985 | currencies, are we in the same boat on that line also?

986 | Mr. CLELAND. We're okay. We don't know whether the
987 | European Union is going to disband. We don't know whether
988 | the euro is going to explode. That's why we have about, I
989 | don't know, a 10 to \$15 million foreign currency account with
990 | the Department of Treasury, so that if a really great
991 | weirdness breaks out in France, Luxemburg, Belgium, Italy,
992 | the Netherlands, and so forth, we can handle it. We can
993 | adjust it. So we have about 15 million in the foreign
994 | currency account.

995 | The dollar seems to be okay. It's the euro that's in
996 | trouble now, so. But we were able to monitor that, and we

997 | have flexibility to handle that, so I think we're good in
998 | terms of the foreign currency account. I really don't
999 | anticipate any problem with that.

1000 | Now, if the euro just goes belly up, every--all those
1001 | European nations start their own currency, you know, we-- if
1002 | we get in trouble, we'll be back to you.

1003 | Mr. RUNYAN. In dealing with modernizing how we do this,
1004 | what kind of resources are you doing, say website, mobile
1005 | phone apps to, I guess, educate the people?

1006 | Mr. CLELAND. Well, you put your finger on it. One of
1007 | the problems of growing up in the 20th Century is that you're
1008 | pretty much stuck in the 20th Century. So I, myself, have
1009 | had to adjust to the 21st Century, and the incredible
1010 | technology available out there, the worldwide technology,
1011 | through the internet, Facebook, Twitter and so forth, in
1012 | which you communicate or can communicate with people.

1013 | So we have brought on, in terms of telling our story,
1014 | we've brought on a-- what I call a web guru, someone who-- a
1015 | young person who really understands that world, and I'm
1016 | getting educated.

1017 | We are--we have a Facebook page, and as we monitor that
1018 | Facebook page daily, we get our usage going up, more and more
1019 | people are hearing about us. We're also going into
1020 | interactive videos, where you-- right now we have up on our
1021 | website, an interactive video about the Normandy Invasion and

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1022 | the taking of the cliffs at Pointe du Hoc. But we hope to
1023 | have over the next few years, about forty some odd
1024 | interactive videos.

1025 | So that if you're sitting somewhere in the world and
1026 | have access to the internet, you can access our website, and
1027 | learn the story of these American battles in forty different
1028 | locations.

1029 | We have the, shall we say, the spinal column, or the
1030 | theme of World War I already coming up in the next few months
1031 | on our website. So-- and we have the commemoration of World
1032 | War I, which is big in Europe, it may not be big here, but
1033 | it's big in Europe. World War I started a hundred years ago
1034 | come August 2014. So we are heavily engaged with those
1035 | countries that were heavily engaged in that, France, Belgium,
1036 | and England, with our World War I commemorations, and our
1037 | World War I commemorative cemeteries.

1038 | We will--we are more and more putting stuff on line, on
1039 | Facebook, and more and more reaching out to people. That is
1040 | the cutting edge of what we're trying to do. So we can--
1041 | we're doing that, we're able to do that, and that's an
1042 | initiative we're able to execute.

1043 | Mr. RUNYAN. I have one final question, and it seems
1044 | that at some point, there's going to be people pounding on
1045 | the table like yourself saying we need help. And this kind
1046 | of-- I ask that question right here, in the anticipation and

1047 creation of the United States memorial at the UN Cemetery in
1048 Korea, what do you anticipate coming down the pipeline there
1049 as a cost factor?

1050 Mr. CLELAND. Well, it's just about 2 or \$300,000, we
1051 can handle that. We've already got the design. We're
1052 planning it for a dedication some time this summer. We've
1053 got that one in our budget, we're okay on that.

1054 Mr. RUNYAN. Thank you very much.

1055 Mr. CLELAND. It'll be at Pusan, Korea, as a matter of
1056 fact, sir. And the only UN cemetery that the United Nations
1057 has. Out of the eleven nations that fought the Korean War,
1058 ten have a memorial there. We don't. And we want to correct
1059 that, and that's what we do, and we will do that this summer,
1060 and we can handle it within our budget. We've already
1061 planned for it.

1062 Mr. RUNYAN. Thank you very much. Mr. McNerney?

1063 Mr. MCNERNEY. Thank you, Mr. Chairman. I want to join
1064 my colleague in-- from Georgia in congratulating the current
1065 panelist for your service and current service as well. And
1066 I'm also glad to hear that you're not severely conservative.

1067 So at our budget hearing last year, you mentioned that
1068 the American Battle Monuments Commission had an effort to
1069 standardize its operations across all the cemeteries. Can
1070 you give us a little update on that effort?

1071 Mr. CLELAND. The gut part of that, sir, is what we call

1072 | our new financial management system. If anybody says to you,
1073 | we're going to put in a new computer plan, run. Don't walk,
1074 | run. But we had to because the other financial management
1075 | system really wasn't a financial management system. It was
1076 | held together by adhesive tape and chewing gum, and just it
1077 | was going to pot real fast.

1078 | So we have a brand new financial management system,
1079 | which is standardizing our financial management at every one
1080 | of our locations, whether it's central office here in
1081 | Arlington or our commemorative cemeteries.

1082 | So, you know, garbage in/garbage out. The challenge of
1083 | this new system is that we make sure that people know how to
1084 | use it, so we have to become a little bit more user-friendly
1085 | with it, but that happens with any computer system.
1086 | Ultimately, however, that becomes the backbone by which we
1087 | manage effectively and efficiently, and in terms of
1088 | accountability, the entire worldwide system. So that's the
1089 | backbone of it.

1090 | I would say another part of it, too, is that we have
1091 | centralized, I have centralized the operations in Paris with
1092 | the implementation of five regional directors, which then
1093 | relate to our twenty-four superintendents, all of which
1094 | happen to be, believe it or not, retired military veterans.

1095 | So we feel that organizationally, we pretty much got a
1096 | handle on it now. And financially, we've got a world class

1097 | 21st Century financial management system now. And as we go
1098 | through the peaks and valleys of bringing both those new
1099 | systems in, we'll get better and better, and we're able to
1100 | account to you and to the country better.

1101 | Mr. MCNERNEY. Thank you. You've mentioned the time
1102 | spans of fifteen to twenty years to get projects completed.
1103 | What's your target timeline to fully complete the renovations
1104 | to accommodate the state of the art interpretive exhibits?

1105 | Mr. CLELAND. Our whole focus on that has been adjusted
1106 | due to the access to the internet which we're now doing. We
1107 | are going to do some interpretive centers, like at Cambridge,
1108 | and England, and at Sicily, Rome in Italy. I would say we'll
1109 | complete about five of those over the next four or five
1110 | years. However, in two years, we should have all of our
1111 | commemorative cemeteries up with some interpretive
1112 | capability.

1113 | For instance, we don't have to bend--build brand new,
1114 | shall we say boxes at a particular cemetery, we can use some
1115 | of the existing buildings. For instance, at Meuse-Argonne,
1116 | which is the biggest cemetery in Europe from World War I,
1117 | we're using an existing building and making sure we provide
1118 | some interpretive capability there. The French like that
1119 | because they want to capitalize on the tourism coming to-- in
1120 | terms of World War I.

1121 | But at most other sites, we don't need a big box, we

1122 | don't need even a minor adjustment, we just need to make sure
1123 | that there's some interpretive capability there.

1124 | So I would say, sir, that in the space of two years, all
1125 | of our commemorative cemeteries will have the capability of
1126 | interpreting the battles and why that cemetery is there. And
1127 | within the space of five years, we should have all of our
1128 | boxes, all of our major interpretive centers up and running.

1129 | Mr. MCNERNEY. Thank you. I'm going to yield back.

1130 | Mr. RUNYAN. Thank you, Mr. McNerney. Mr. Walz.

1131 | Mr. WALZ. Thank you, Mr. Chairman.

1132 | Mr. RUNYAN. We've been having that problem all day.

1133 | Mr. WALZ. Thank you. It wasn't just me. Well, thank
1134 | you for coming, and as I'm sure my colleagues said, I'll echo
1135 | those sentiments, thank you to your service--

1136 | Mr. CLELAND. Thank you.

1137 | Mr. WALTZ. --both in uniform and as we've said here,
1138 | and I would like to point out I know we certainly-- began the
1139 | flag ship of the VA healthcare system since that multi-trauma
1140 | center in Minneapolis, Minnesota that was built during your
1141 | time as VA Secretary. So as someone who understands legacy,
1142 | someone who understands many years later and several wars
1143 | later, that that facility has continued to serve our
1144 | veterans. And so I, for one, certainly rest assured knowing
1145 | you're out there protecting the sacred grounds for our
1146 | families and for future generations.

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1147 Mr. CLELAND. Thank you, sir.

1148 Mr. WALZ. I also appreciate listening to the Chairman's
1149 questions, Senator, your candidness about making this work,
1150 and I think that at least helps us know where the line is at,
1151 to know that when you tell us you can't sustain this for
1152 years, because looking at your plan of 15 to 20 year
1153 projects, whatever, we've got to make sure there's a
1154 consistency in that funding to allow you to do that.

1155 Mr. CLELAND. Right.

1156 Mr. WALZ. So I for one, I have no questions, other than
1157 just to say thank you for this, leave it to your expertise
1158 and I-- having you as the guardian certainly makes me sleep
1159 well at night, so--

1160 Mr. CLELAND. Thank you.

1161 Mr. WALZ. --with that, I yield back.

1162 Mr. CLELAND. Thank you, sir.

1163 Mr. RUNYAN. Thank you, Mr. Walz, and I do have one more
1164 question, and we'll go through the members again if they do.
1165 But concerning some of our cemeteries in places like Tunisia
1166 and Mexico City, you know, what is the state of security for
1167 those that are interred there and, you know, our American
1168 veterans that are buried there?

1169 Mr. CLELAND. Tunisia. I never thought that I would
1170 have to give an award for courage to a foreman who kept a
1171 cemetery going when the tanks and machine guns were right

1172 outside the gate. And he kept it going, and he kept the
1173 employees paid, and I've personally given him an award for
1174 courage and merit for keeping that going. I never thought
1175 I'd ever have to do that in terms of a cemetery foreman. But
1176 in that case, in Tunisia, I did.

1177 We are actually not only in good shape in Tunisia, with
1178 a great leadership team, but we are actually doing about a
1179 million dollar's worth of improvements there in Tunisia.
1180 During the, shall we say, the revolution, we were okay. As a
1181 matter of fact, we worked closely with the State Department
1182 because if the State Department had to evacuate, they were
1183 going to land their helicopters on our grounds. So I never
1184 realized that I'd ever have to plan for an evacuation of
1185 anybody, but in Tunisia, we had to go through all that
1186 process.

1187 Our grounds were not invaded. They were not put upon,
1188 and our foreman and our team there kept it altogether, and
1189 for which, we've honored them.

1190 In terms of Mexico City, we had to reduce not because of
1191 any disturbance or whatever, but it went from about two acres
1192 to one acre, we consolidated our operations. And we lean on
1193 the background information from the Army that took it over in
1194 1851 after the Mexican War, then it was run by the State
1195 Department, then we took it over.

1196 So we are okay in terms of Mexico City. They'll soon

1197 | have in the next couple of years, some interpretive
1198 | capability. And so if-- these are soldiers, a small number
1199 | of soldiers, 750 in commingled remains there from the Mexican
1200 | War, but we have a good cemetery and a good cemetery leader
1201 | there.

1202 | Mr. RUNYAN. Thank you for that. Mr. McNerney, anything
1203 | further?

1204 | Mr. MCNERNEY. I have nothing else.

1205 | Mr. RUNYAN. Mr. Walz?

1206 | Mr. WALZ. No.

1207 | Mr. RUNYAN. Well, Mr. Secretary, I thank you for your
1208 | service on every level. I appreciate you coming in and being
1209 | honest and straight-forward and giving us the heads up that
1210 | you'll be pounding on that table some time in the near future
1211 | so--

1212 | Mr. CLELAND. Thank you, sir.

1213 | Mr. RUNYAN. --thank you and you're excused.

1214 | Mr. CLELAND. Thank you, sir.

1215 | Mr. RUNYAN. I now would like to welcome Chief Justice
1216 | Bruce Kasold of the United States Court of Appeals for
1217 | Veterans Claims. We appreciate your attendance today and you
1218 | are now recognized for five minutes for your oral testimony.

1219 | STATEMENT OF CHIEF JUSTICE BRUCE E. KASOLD OF THE UNITED
1220 | STATES COURT OF APPEALS FOR VETERANS CLAIMS.

1221 | Mr. KASOLD. Thank you, Mr. Chairman. It's a pleasure
1222 | to be before you today and your committee. I will do a
1223 | summary here at the same time as submit for the record.

1224 | The fiscal year 2013 budget request by the United States
1225 | Court of Appeals-- sorry, for veterans' claims is 32,480,000.
1226 | It comes in two separate parts. If you'll recall, one is the
1227 | courts' operations, which are 29,754,000 and the veterans
1228 | consortium pro bono program, which is 2.7 million, and that's
1229 | just a flow-through our budget and appropriation.

1230 | The overall request is 1.7 million above the FY 12
1231 | appropriation. The court is one of the busiest federal
1232 | appellate courts based on the number of appeals, filed, and
1233 | decided per judge. We currently have six active judges with
1234 | one permanent and two temporary authorizations still vacant.
1235 | We have six senior judges, all of whom have been recalled to
1236 | serve this past year, and they perform about a quarter of the
1237 | workload of the rest of the judges.

1238 | In response to our heavy case load, we've identified
1239 | ways to gain efficiency, while preserving for all veterans
1240 | the right to a full and fair decision on their appeals. The
1241 | measures we have employed include making administrative

1242 adjustments and hiring some temporary staff to assist
1243 chambers, in providing the prompt judicial review, adjusting
1244 the task assigned to our central legal staff attorneys, to
1245 allow them to concentrate their efforts on the pre-briefing
1246 conferencing that we've established that my predecessor Chief
1247 Judge Green, and to assist our recalled senior judges.

1248 We streamlined the decision process for cases where the
1249 parties are both represented by counsel and are fully
1250 briefed, and we continue to adapt our electronic case
1251 management case filing system.

1252 Above all, I can assure you that being down to three
1253 judges, it's the tireless effort and focus of our active
1254 judges, our six senior judges, and everybody at the court,
1255 that has allowed us to continue to function as efficiently as
1256 we have.

1257 We continue to encourage the appointment of a commission
1258 to evaluate the costs and benefits of the unique two-tiered
1259 federal appellate review system that we have for the
1260 veteran's benefit decisions, and I've said more in my
1261 statement that I submitted, and I can answer questions as we
1262 go further.

1263 We remain the only federal appellate courthouse in
1264 leased commercial office building, to my knowledge. We are,
1265 however, mindful of the budget constraints faced by Congress
1266 and this committee, and we, however, strongly urge that if

1267 federal courthouses are going to be built, that the committee
1268 authorize and ultimately appropriate funds for our
1269 courthouse, but we understand the dynamics perhaps of this
1270 year, and we'll stay on top of that as best we can.

1271 One thing I would like to report to you, I mentioned
1272 when I became the chief judge last year, that there were two
1273 areas that I identified fairly soon after becoming chief
1274 judge of unprogrammed delays. One was the number of cases
1275 that were in the chambers and how long it was taking to get
1276 them out, and I'm pleased to report that that number is
1277 significantly down in all cases, virtually are being decided
1278 within 30 days of going to chambers, unless they're at panel,
1279 or stayed for cases at panel.

1280 The other was a number of cases that had finished the
1281 briefing, finished the conferencing, and were waiting for our
1282 essential legal staff to prepare the memorandum that went
1283 with the case to chambers. And that number was around in the
1284 neighborhood of 700, and that's down below 400 now. So we've
1285 made some improvements on that, but the number of cases in
1286 the court total for all the briefing and everything else,
1287 over 18 months is significantly down. The number of cases
1288 actually in the court is also down somewhat.

1289 So it--we've identified some areas that we could make
1290 some work on. I think we're finally squeezing as much as we
1291 can though and we know that there are two nominees pending,

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1292 | there were three, as you know, one pulled out. There are two
1293 | nominees pending. I believe they're going to have a hearing
1294 | in March, and we anxiously await their appointment. And with
1295 | that, Mr. Chairman, I'll turn it over for questions.

1296 | [The statement of Chief Justice Bruce E. Kasold appears
1297 | on p.]

1298 | *****INSERT*****

1299 Mr. RUNYAN. Thank you. The one, and you probably
1300 anticipate this being the first question, but nearly all of
1301 the additional funding you've requested for the-- is for the
1302 contribution of the court's retirement fund.

1303 Can you explain in more detail why you feel that such a
1304 substantial increase to the fund is necessary?

1305 Mr. KASOLD. Yes. Because for a number of years that I
1306 can go back looking at the requests made for the-- in our
1307 budget requests, at the end of the year, there was always a
1308 million or some odd dollars being added. As you know, we
1309 have statutory authorization to use funds that have not been
1310 expended, to keep the retirement fund at a fully funded
1311 level.

1312 This past year, we ended up adding a little bit more
1313 than a million dollars. With that, and I mentioned last
1314 year, that we'd taken a look at the process and the actuaries
1315 are required to evaluate the amount of money in the fund, and
1316 any increases over the future have a five percent rate. We're
1317 getting a .025, which means it's about \$20 million, a little
1318 bit more than that, but about \$20 million. You have a
1319 million dollar shortfall going at the beginning every single
1320 time that happens.

1321 The second thing were the number of estimates that were
1322 used to determine the participants in the program, and we
1323 discussed them, and we refined them to try and reduce the

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1324 amount of money that would go in at the end of the year to
1325 bring it up to full funding.

1326 Now, full funding is basically at the year of the
1327 fifteen year term of a judge, what would be the amount of
1328 money that would allow to pay the retirement until their
1329 death. It will continue to adjust over time, obviously,
1330 depending on the death rate, whether there are survivor
1331 benefits, whether there's increases to salaries, whether
1332 there's inflation or not inflation, so it will continue, but
1333 the full funding picture is at that time.

1334 So over the fifteen year term, you put in the funds to
1335 bring it to that point for full funding. And these are
1336 adjustments. I'm just trying to be transparency in the
1337 budget, if you will, to identify the amount that it takes to
1338 keep that at full funding, and reduce at the end of the year.

1339 It doesn't mean we won't look at the end of the year,
1340 because these are all-- there are a whole lot of estimates
1341 that go into this. So we will look again at the end of the
1342 year, but I'm anticipating that at the end of 2013-- actually
1343 I'm anticipating at the end of this year, it will be less,
1344 because I think last year we were already adjusting for the
1345 five percent interest rate differential.

1346 And I'm anticipating at the end of 2013 that we would
1347 have a much significant smaller number to transfer over, if
1348 anything.

1349 Mr. RUNYAN. What steps has the court taken to promote
1350 more efficiency in the operations and to help cut costs?

1351 Mr. KASOLD. Well in the costs?

1352 Mr. RUNYAN. And to help cut costs.

1353 Mr. KASOLD. To help cut costs. You have continuing
1354 cost. One example would be we've delayed-- the court had
1355 been on a three-year program of replacing its computer
1356 equipment. We delayed that one year. We've also had
1357 transitions in our IT department, and we're delaying that
1358 another year. So there's an area where somewhere in the
1359 neighborhood of 300, \$400,000.

1360 At the same time, however, we have additional expenses
1361 that we've identified in the COOP Arena. Our COOP Arena is
1362 not programmed to permit participation off site. And on
1363 site, it only has fourteen people that would be allowed on
1364 site. So taking care of the COOP issue, we had asked for
1365 funding. Is that an area you could delay? You could I
1366 suppose, it depends on how much you want to support the COOP
1367 program.

1368 So you had some offset, some savings in the computer
1369 arena, some offsets in the other arena. I think the
1370 increases that you see in here on the court, outside of the
1371 judge's fund, is about a half a million dollars as I recall,
1372 and it's directly related to the compensation for the
1373 employees and the normal step increases, the participation

1374 | that might occur in the Thrift Savings Program, which is an
1375 | estimate you have to make, and just the normal increases, the
1376 | health insurance, any cost that could go with that. There is
1377 | no other increase in this budget, other than that judge's
1378 | fund in that.

1379 | Mr. RUNYAN. And one last one. In your capacity as the
1380 | Chief Judge, what are your observations about the overall
1381 | efficiency of the veteran's consortium on the pro bono
1382 | program?

1383 | Mr. KASOLD. I can speak to the program in that I think
1384 | it's helpful. Over 60 percent of the cases filed at court
1385 | are still pro se. But about 25 percent are pro se as it goes
1386 | through the process, and the pro bono consortium, I believe,
1387 | is responsible for assisting on that.

1388 | On actual dollars, I don't get into and look at that. It
1389 | goes through our budget over to legal services, if I'm not
1390 | mistaken, down into the consortium, and I defer to them
1391 | coming in and explaining their particular program. But I
1392 | think that they have been very helpful in that number of 60
1393 | down to 20.

1394 | I know they have an extensive training program because
1395 | all the judges-- we support that, and they have a training
1396 | program throughout the nation. Some of our travel expenses,
1397 | by the way, are judges going out to the training program to
1398 | speak to them, to let them know how important the program is.

1399 | Mr. RUNYAN. Okay. Thank you. Mr. McNerney.

1400 | Mr. MCNERNEY. Well, thank you. Thank the witness for
1401 | appearing before us today.

1402 | You noted a down tick in appeals of at least 400 cases,
1403 | fewer than last year. Could you explain that reduction?

1404 | Mr. KASOLD. I think it's a consequence of the number of
1405 | decisions at the Board, and the number, in particular, of
1406 | denials at the Board. I haven't gone into the actual Board
1407 | numbers to study them, but there appears to be a direct
1408 | relation to those decisions from the Board that are negative
1409 | obviously, and the appeals to the court.

1410 | Whether or not there was a greater--we've talked
1411 | analytically, whether or not there's a greater effort by the
1412 | Board to remand before they come up to court, I don't know
1413 | that for sure. In fact, I've got a meeting tentatively
1414 | scheduled in March with the Secretary and members of the Bar
1415 | and the court, to discuss some of those particular issues.
1416 | But I believe it's the number at the Board.

1417 | They also had, if I'm not mistaken, a hiring freeze at
1418 | the Board, and I think they're reduced a team or two, and
1419 | that would affect the numbers that they do.

1420 | Mr. MCNERNEY. Is the Court still remanding 50 to 60
1421 | percent?

1422 | Mr. KASOLD. About--well--

1423 | Mr. MCNERNEY. I think--

1424 Mr. KASOLD. I think it's higher than that overall, but
1425 the conferencing program that was established two or three
1426 years ago is working very, very well. And about 50 percent--
1427 well, all the cases that are-- you have representation of
1428 counsel go through that conferencing program. So it's about
1429 70, 75 percent by the end of the day.

1430 And we have about a 50 percent remand rate, which is
1431 agreed to by the parties, by the secretary who reviews it,
1432 and agrees to a remand, you know, his representation, his
1433 counsel representatives agreed to a remand, and they go back.

1434 Then you have the rest of the cases that go into
1435 chambers and you have a number of them. And the total
1436 number, I believe, is still around 70 percent. I didn't
1437 specifically look at it before coming, but I believe it's
1438 still around 70 percent of the overall cases.

1439 Mr. MCNERNEY. So that number hasn't changed in the last
1440 few years?

1441 Mr. KASOLD. I'll get back to your staff to confirm it,
1442 but I believe it's still about 70 percent. The 50 percent
1443 has not changed, that one I do know, and I believe the
1444 chambers are still about the same. So the total is about 70,
1445 but I will confirm it back with staff, sir.

1446 Mr. MCNERNEY. Well, with the down tick in appeals, do
1447 you still believe that it's necessary to add two additional
1448 judges as currently authorized?

1449 Mr. KASOLD. My understanding of the request for judges
1450 and the need for judges was premised on the continued growth
1451 of claims at VA, which I understand in looking is like going
1452 to 1.4 million. Those-- if they get appealed to the Board,
1453 and the Board gets the staffing to make the decision, so that
1454 you get increased numbers from the Board, I would anticipate
1455 that the appeals to the court would continue to grow.

1456 I'll also say that we cannot do what we're doing now
1457 without the recall of our senior judges. So when you look at
1458 that particular program, they actually are retired, but we
1459 have recalled them all. If you take them off the table, the
1460 numbers that I've given you are going to go up significantly.

1461 Part of the program that we did that I mentioned before,
1462 about the unprogrammed delays, was a reduction in the type of
1463 briefing that was done internally by our central legal staff
1464 into the chambers. That released a number of our essential
1465 legal staff to assist the judges and prepare the cases that
1466 they have. And we've also directed them to review these
1467 cases ahead of time, so that when the judges come on board,
1468 they're ready to go, and process cases. And so that's been
1469 an efficiency also that we've had.

1470 But it really comes down to one of those policy calls
1471 when you have a senior judge who is retired, as long as they
1472 continue to come back, you're going to get productivity from
1473 them, about a quarter of the case load. If they were to

1474 retire, we've lost--

1475 Mr. MCNERNEY. They will retire.

1476 Mr. KASOLD. We have six, we've lost two judges right
1477 there. I'm already down to six. We absolutely need seven,
1478 in my view. And then if we get any increase in these cases,
1479 the additional that are authorized, I believe will be needed.

1480 Now, that, as you recall, is a temporary authorization.
1481 They have to be filled by the end of this year. And even if
1482 filled, they will go away at the end of the next two judges
1483 leaving the court, and that, as I understand it, was for the
1484 court and the committee to review the continued need of say
1485 nine judges versus the seven that are permanently authorized.

1486 So I think it's a good plan. And I think if we get the
1487 two, I know definitely the one filling the permanent
1488 position, if we get the two, I think it'll be good for the
1489 court.

1490 We still have about 4,000 cases in the court. Now,
1491 often a lot of those in the court are in the processing, but
1492 we still have-- I don't remember the exact number-- the
1493 panel-- the cases pending decision-- the in-processing is
1494 about 3,000 cases, but that would be in-processing. But
1495 before judges, we have about 400 cases pending.

1496 And so if you think the flow is kind of steady now,
1497 you're going to have about 400 cases in that arena, and each
1498 judge does in the neighborhood of 200 to 250 give or take,

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1499 | depending on the-- how difficult they are also.

1500 | Mr. MCNERNEY. Okay. Well, thank you. Yield.

1501 | Mr. RUNYAN. Thank you, Mr. McNerney. Mr. Walz,
1502 | nothing?

1503 | Mr. WALZ. Nothing.

1504 | Mr. RUNYAN. I have actually one more question, just
1505 | going back to talking about the two additional justices being
1506 | authorized.

1507 | Aside from staff, and obviously their position, is there
1508 | any other fluctuation in the court's budget by bringing them
1509 | on?

1510 | Mr. KASOLD. We have budgeted for the last two years, if
1511 | I'm not mistaken, for these additional chambers. Judge Green
1512 | retired the year before, so we were budgeting for two
1513 | additional chambers. Frankly, this past year, we budgeted
1514 | for three that have not been filled.

1515 | You're talking about three judges, three secretaries,
1516 | and four clerks, so it's twelve-- eighteen people, and we
1517 | returned like three and a half million dollars from our
1518 | budget last year. So the budget is there for the fully
1519 | staffed chambers.

1520 | Obviously, this fiscal year, we will be returning funds
1521 | again because we'll have half of the year or maybe two-thirds
1522 | of a year or maybe three-quarters of a year or maybe a whole
1523 | year where we don't fund those particular chambers. So we

1524 | have requested the funding for them.

1525 | Mr. RUNYAN. Thank you. Anything further?

1526 | I guess that's all we have. Again, thank you for your
1527 | testimony. We thank you for your service in making sure we
1528 | get our veterans taken care of, and appreciate you coming and
1529 | your testimony here today. So you're excused.

1530 | Mr. KASOLD. Thank you very much. And the court, on
1531 | behalf of the Board of Judges, and all the court, we really
1532 | appreciate the support from Congress. It's been very good.
1533 | Thank you very much.

1534 | Mr. RUNYAN. Thank you.

1535 | And finally, I would like to invite the witness to--of
1536 | our last panel to the table. First, we have Mr. Jeffery
1537 | Hall, who's the Assistant National Legislative Director for
1538 | Disabled American Veterans, who will be followed by Ms. Diane
1539 | Zumatto, the National Legislative Director for AMVETS. Mr.
1540 | Hall, we will start with you. You're recognized for five
1541 | minutes for your statement.

1542 STATEMENT OF JEFFREY HALL, ASSISTANT NATIONAL LEGISLATIVE
1543 DIRECTOR FOR DISABLED AMERICAN VETERANS, AND DIANE ZUMATTO,
1544 NATIONAL LEGISLATIVE DIRECTOR FOR AMVETS

1545 STATEMENT OF JEFFREY HALL .

1546 Mr. HALL. Thank you, Mr. Chairman. Good morning to you
1547 and Ranking Member McNerney, and other members of the
1548 subcommittee. On behalf of the DAV and it's 1.2 million
1549 members, I'm pleased to be here today to offer DAV's views
1550 and recommendations regarding the budget for FY 2013 as it
1551 relates to veterans' benefits programs, judicial review, and
1552 the Veterans Benefits Administration.

1553 Mr. Chairman, now in the third year of VBA's latest
1554 effort to transform its outdated and inefficient claims
1555 processing system into a modern rules-based digital system.

1556 Over the next year, we will begin to see whether their
1557 strategies to transform the people, processes, and
1558 technologies will finally result in a cultural shift away
1559 from focusing on speed and production, to a business culture
1560 of quality and accuracy. Which is the only way to truly get
1561 the backlog under control.

1562 Although we have been very pleased with VBA's increased

1563 | and collaboration with VSO stakeholders, we urge this
1564 | committee to provide constant and aggressive oversight of the
1565 | many transformation activities taking place throughout this
1566 | year.

1567 | Perhaps the most important initiative is the new
1568 | Veterans Benefits Management System, or VBMS, which will
1569 | begin rolling out in June with full deployment planned to
1570 | occur by the end of 2013. As VBA works to complete, perfect,
1571 | and deploy this vital new IT system, it is absolutely crucial
1572 | that sufficient resources are provided and protected.

1573 | We note that the budget for VBMS drops down from \$148
1574 | million in FY 2012 to \$128 million in FY 2013. We hope the
1575 | committee will thoroughly examine whether that level of
1576 | funding is sufficient.

1577 | In order to sustain VBA's transformation efforts during
1578 | FY 2013, DAV recommends maintaining current staffing levels
1579 | in most business lines. Given the large increases in claims
1580 | processors over the past few years, we believe that VBA's
1581 | focus should now be on properly training new and existing
1582 | employees, which is why we're concerned about recent reports
1583 | from the field, indicating that VBA is already short on
1584 | training dollars, and cutting back on challenge training done
1585 | through its centralized academy.

1586 | Yet, at the same time, we've heard that VBA is
1587 | instituting a new round of mandatory overtime for

1588 compensation service employees, which at time and a half
1589 would have significant cost implications. We hope the
1590 committee shares our concerns and will look into these
1591 reports to ensure that VBA's focus remains on quality and
1592 accuracy and not just production.

1593 Mr. Chairman, the VR&E budget proposal for FY 2013 does
1594 request funding for approximately 150 new counselors
1595 designated for expansion into the integrated disability
1596 evaluation system, and for the vet success on campus program.
1597 And we support both of these increases and programs. However,
1598 in order to reach the target of having one counselor for 125
1599 veterans served, they will need approximately 195 additional
1600 counselors for FY 2013, in order to meet the projected
1601 workload increase.

1602 DAV also recommends a staffing increase for the Board of
1603 Veterans Appeals. Although the Board is currently authorized
1604 to have 544 full time employee equivalents, its adopted
1605 budget for FY 2012 only supports 532. And for FY 2013, the
1606 budget requests would further reduce that to 527 full time
1607 employee equivalents.

1608 In looking at historical appeal rates, and the rising
1609 number of original compensation claims, DAV recommends that
1610 the Board of Veterans Appeals be given sufficient funding for
1611 an authorized workforce in FY 2013 of at least 585 full time
1612 employee equivalents.

1613 Mr. Chairman, DAV also recommends that Congress this
1614 year finally enact legislation to repeal the inequitable
1615 requirement that veterans military longevity retirement paid
1616 be offset by an amount equal to their disability compensation
1617 if graded less than 50 percent.

1618 We also recommend that Congress eliminate the SBP and
1619 DIC offset. This offset is inequitable because there is no
1620 duplication of benefits since payments under the SBP and DIC
1621 programs are made for different purposes.

1622 And finally, Mr. Chairman, DAV strongly recommends that
1623 Congress and VA come together to determine the most practical
1624 and equitable manner of providing compensation for
1625 non-economic loss and loss of quality of life suffered by
1626 service connected disabled veterans, and then move
1627 expeditiously to implement this new component.

1628 The Institute of Medicine, congressionally mandated
1629 Veterans Disability Benefits Commission, as well as the
1630 Dole-Shalala Commission all recommended the current
1631 disability benefit system be reformed, and include
1632 non-economic loss and quality of life loss as factors in
1633 compensation.

1634 Both the Canadian and Australian disability compensation
1635 programs already do that, and it is time that we did the same
1636 for the brave Americans who have suffered permanent
1637 disabilities affecting their entire lives in service to this

1638 | great nation. Mr. Chairman, this concludes my statement,

1639 | I'll be happy to answer any questions.

1640 | [The statement of Jeffery Hall appears on p.]

1641 | *****INSERT*****

1642 Mr. RUNYAN. Thank you, Mr. Hall. Ms. Zumatto, you're
1643 now recognized for five minutes for your statement.

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1644 STATEMENT OF DIANE ZUMATTO

1645 Ms. ZUMATTO. Good morning, Chairman Runyan, Ranking
1646 Member McNerney, and Congressman Walz. I thank you for this
1647 opportunity to share AMVETS' recommendations in what we
1648 believe to be the most financially responsible way while
1649 ensuring the quality and integrity of the care and benefits
1650 earned by American veterans.

1651 In light of this nation's unresolved fiscal crisis,
1652 AMVETS has concerns about the potential reductions in VA
1653 spending, which will seriously impact our veterans, their
1654 families, and survivors. That being said, my main focus
1655 today will be the NCA or National Cemetery Administration.

1656 The single most important obligation of the NCA is to
1657 honor the memory, achievements, and sacrifices of our
1658 veterans, who so nobly served in this nation's armed forces.
1659 These acts of self-sacrifice by our veterans obligate America
1660 to preserve, rehabilitate, and expand our national cemetery
1661 system as necessary.

1662 These venerable and commemorative spaces are part of
1663 America's historic material culture. They are museums of art
1664 and American history. They are fields of honor and hallowed
1665 grounds, and they deserve our most respectful stewardship.

1666 The sacred tradition of our national cemeteries spans

1667 | roughly 150 years back to the time when the earliest military
1668 | graveyards were situated at battle sites, at field, or
1669 | general hospitals, and at former prisoner-of-war sites.

1670 | The NCA currently maintains stewardship of 131 of the
1671 | nation's 147 national cemeteries, as well as 33 soldiers'
1672 | lots. Since 1862, when President Lincoln signed the first
1673 | legislation establishing the National Cemetery concept, more
1674 | than three million burials have taken place in national
1675 | cemeteries, which are currently located in 39 states and
1676 | Puerto Rico.

1677 | As of late 2010, there were more than 20,021 acres of
1678 | historic landscape, funerary monuments and other
1679 | architectural features included within established NCA sites.
1680 | VA estimates that of the roughly 22.4 million veterans alive
1681 | today, that approximately 14.4 percent of them will choose a
1682 | national or state veteran's cemetery as their final resting
1683 | place.

1684 | With the transition of an additional one million service
1685 | members into veterans status over the next twelve months,
1686 | this number is expected to continue rising until
1687 | approximately 2017.

1688 | The NCA, which is the nation's largest cemetery system
1689 | invested an estimated \$31.4 million into the national shrine
1690 | initiative from 2011 funding in its efforts to improve the
1691 | appearance of our national cemeteries. While a NCA survey

1692 | conducted in October 2011, indicated that progress continues
1693 | to be made in reaching its performance measures, more needs
1694 | to be done.

1695 | In order to adequately meet the needs for interment,
1696 | grave site maintenance and related essential elements of
1697 | separate cemetery operations, AMVETS recommends \$280 million
1698 | for the NCA's operation and maintenance budget in FY 13 with
1699 | an annual increase of 20 million until the national shrine
1700 | commitment goals regarding the height and alignment of
1701 | headstones and markers and the appearance of grave sites are
1702 | reached.

1703 | Finally, AMVETS calls on the administration and Congress
1704 | to provide the resources needed to meet the sensitive and
1705 | critical nature of the NCA's mission, and to fulfill the
1706 | nation's commitment to all veterans, who have served their
1707 | country so honorably and faithfully.

1708 | The State Cemetery Grants Program compliments the NCA's
1709 | mission by establishing grave sites for veterans in areas
1710 | unable to fulfill veteran burial needs. In FY 2011, the
1711 | State Grants Program budget was \$46 million, and it funded
1712 | sixteen cemeteries, including establishing five new ones.
1713 | AMVETS recommends an increase to \$51 million for 2013, in
1714 | order to meet the rising demands, which should peak in 2017.

1715 | Since burial benefits were first introduced in 1917,
1716 | they have continually evolved, and this process needs to

1717 | continue in order to-- in order for this benefit to meet 21st
1718 | Century needs and expenses. Benefits should be split into
1719 | two categories, veterans within the accessibility model, and
1720 | those outside the accessibility model.

1721 | Plot allowances as well as burial benefits for both
1722 | service and non-service connected veterans need to be
1723 | increased to meet rising costs. And that's the end of my
1724 | statement.

1725 | [The statement of Diane Zumatto appears on p.]

1726 | *****INSERT*****

1727 Mr. RUNYAN. Thank you very much and I'll begin the
1728 round of questioning with Mr. Hall actually.

1729 In your experience, is it true that it takes a new VSR a
1730 full two years to be able to work independently with both the
1731 speed and accuracy, and is this because of inadequacies in
1732 VA's training program, or the complexity of the subject
1733 matter?

1734 Mr. HALL. I believe--personally I believe--first, yes,
1735 it takes approximately two years for that person to become at
1736 the fully trained level to perform those duties, an
1737 additional two years for an RVSR. But looking specifically,
1738 I believe it's a combination, but the complexity of the
1739 material, there's a lot that goes into being a VSR, a lot
1740 that goes-- a lot more that goes into being an RVSR.

1741 So I would say that while it's shared jointly between
1742 the complexity of the job itself, and the training, we just
1743 must make sure that the training that is being provided is
1744 adequate and appropriate, one, for the position, and two, for
1745 the level of experience of the individual.

1746 Mr. RUNYAN. Thank you. And I know we've brought this
1747 up in a few hearings in the last month in talking about
1748 metrics and how we measure a lot of different things. What
1749 factors would you ask the VBA to emphasize if they were to
1750 initiate a scientific study to determine the workforce
1751 necessary to effectively manage its rising workload? What

1752 | are those factors? Because obviously both sides of the
1753 | equation have different responses to that.

1754 | Mr. HALL. Well, we--they have to look at people and
1755 | processes first. And again, just to digress to the fact that
1756 | there's a lot of things going on in transformation in VBA
1757 | right now. A lot of good initiatives going on.

1758 | If they're going to measure it, they have to be able to
1759 | have a system. We think VBMS will do this later on down the
1760 | road to be able to aggregate data and best practices, things
1761 | like that, discovery of error, the SCAR program is another
1762 | major aspect to a quality review to be able to identify error
1763 | trends and such.

1764 | The quality review team, something that we're learning
1765 | something more about now, will also be able to help VBA
1766 | identify those problem areas.

1767 | Mr. RUNYAN. And as we roll out VBMS, do you believe
1768 | there will be a significant effect on the backlog and what
1769 | warning signs would you give the VA as this happens to see--
1770 | what do you see coming down the road as we try to roll this
1771 | out in this transitional period?

1772 | Mr. HALL. First, let me say that we really appreciate
1773 | the collaboration that VBA has demonstrated towards the VSOs,
1774 | especially with something as important, probably the most
1775 | important initiative going on in VBA right now, which is the
1776 | VBMS.

1777 We will--we hope that they continue that outreach and
1778 collaboration with the VSOs. Do we think that it'll have an
1779 immediate impact on the backlog? Probably not, not an
1780 immediate one. Because it's such a complex system. And
1781 again, remember, we are talking about completely changing how
1782 they approach claims and how they process claims. VBMS being
1783 a paperless system, there's so many things that are involved
1784 with that.

1785 So I would say first and foremost, they must always have
1786 the stakeholders, VSO and stakeholders involved into the
1787 collaboration process, whether it's during the development
1788 and implementation periods as they have been doing. We can
1789 offer expertise along the way to help them in problem areas
1790 or identify certain things that might be able to be changed
1791 before it gets to the full implementation phase, and then
1792 maybe not be able to be changed.

1793 Mr. RUNYAN. Thank you. Mr. McNerney.

1794 Mr. MCNERNEY. Thank you, Mr. Chairman. Mr. Hall, what
1795 do you think of the VA's goal of 125 days at 98 percent
1796 accuracy?

1797 Mr. HALL. It's an ambitious goal.

1798 Mr. MCNERNEY. Do you think it's achievable?

1799 Mr. HALL. But it's an attainable goal, I think.

1800 Mr. MCNERNEY. You think it's achievable--attainable?

1801 Mr. HALL. I think it's--it is achievable. There's just

1802 | so many things that can affect what is going on right now.
1803 | Because we're pushing VA to reduce the backlog of claims.
1804 | Our clients, your constituents, the veterans they serve,
1805 | everybody's concerned about the backlog, let's reduce the
1806 | backlog. And it's not as simple as reducing the backlog.

1807 | There's no one in VBA right now that doesn't want to
1808 | reduce the backlog. However, having an ambitious goal in
1809 | front of you of 125 days when I think it's in the past year,
1810 | that's increased or out of the roughly 900,000 claims that
1811 | are pending right now, roughly 600,000 are over 125 days.
1812 | That's not far off of where we were from a year ago.

1813 | So--but I also know that it's not as simple as looking
1814 | at it saying well you haven't made any progress on the
1815 | backlog. The accuracy is equally important. If VA-- if VBA
1816 | puts it out there and says 125 days, 98 percent accuracy, we
1817 | believe that they can achieve it. But right now it's just
1818 | simply too difficult to tell where they're going to be a year
1819 | from now without the full implementation of things like VBMS,
1820 | which is going to have a major impact, eBenefits, VRM, those
1821 | things will all have a major impact. So right now it's just
1822 | too soon to tell where they're going to be.

1823 | Mr. MCNERNEY. Is the funding in the budget adequate to
1824 | continue to improve that backlog?

1825 | Mr. HALL. Overall. I think the biggest concern as I
1826 | had mentioned earlier, the biggest concern is in the

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1827 transformation process. I'm not sure about the overall
1828 budget, whether it's adequate or it's not adequate. But the
1829 VBMS or the IT really, I don't want to just limit it to VBMS,
1830 because it's the overall IT.

1831 But looking, if there's any cuts in that or a reduction
1832 I should say in the budget, we would encourage you as well,
1833 we're going to be looking at it. We just received it. To
1834 look and see where-- why that money's been reduced and is
1835 that going to have a significant impact, especially adversely
1836 on the ability to complete these IT initiatives, which will
1837 then come back to whether or not the backlog can be reduced.

1838 Mr. MCNERNEY. Do you have any final recommendations for
1839 what the VA should be doing to reform and modernize its claim
1840 processing system?

1841 Mr. HALL. We think that they're doing a lot of great
1842 things, as I mentioned. So I think they need to keep moving
1843 forward. With so many-- again, with so many different things
1844 that they do have in motion right now, a simple
1845 recommendation would be to continue working, primarily
1846 working towards their goal, but also including VSO
1847 stakeholders into the process at the earliest stage and
1848 throughout the process, and not just picking certain aspects
1849 of where they reach out to us. Because it has a major affect
1850 again on whether or not that we can offer guidance, advice,
1851 expertise in the process.

1852 And again, I would just say that VBA leadership, while
1853 we appreciate their collaboration that they're demonstrating
1854 at this particular level at the headquarters level, we want
1855 to ensure that that also occurs all the way down to the VA
1856 regional office level.

1857 And just finally on that, speed and production in this
1858 cultural shift, it must happen. Equal weight has got to be
1859 given, at least equal weight has to be given to quality and
1860 accuracy, as it is being given to speed and production.
1861 Otherwise, they may just end up with short-term gains, but
1862 miss out on the long term reform necessary.

1863 Mr. MCNERNEY. Ms. Zumatto, thank you for your
1864 contribution in the independent budget, and for your in-depth
1865 analysis of the National Cemetery Administration. Do you
1866 believe the NCA has sufficient funds to carry out its
1867 mission?

1868 Ms. ZUMATTO. I certainly hope that they do. We are
1869 recommending some increases. I-- as you probably know, I
1870 don't have a wealth of expertise. I'm fairly new in this
1871 area, and it might be more beneficial to step back and
1872 perhaps provide a more in-depth answer, you know, to you in
1873 writing after the fact.

1874 Mr. MCNERNEY. That's acceptable. I yield back.

1875 Mr. RUNYAN. Thank you, Mr. McNerney. Mr. Walz, do you
1876 have anything?

1877 I actually have one more question for Ms. Zumatto.
1878 Pertaining to your statistical analysis of the grave sites
1879 that we're going to need, and you'll probably have to respond
1880 to this in writing also, but as the Under Secretary said in
1881 his testimony, they like to keep them close to home, in a
1882 kind of a-- on a more regional basis.

1883 Where are we lacking in those abilities? And obviously
1884 yours was nationwide, and I'm sure there's some areas that,
1885 you know, we could look into, where we could really give
1886 direction to the Cemetery Administration to really look at
1887 that as you can anticipate through your VSOs and knowing
1888 where people live and where they reside, and where they would
1889 actually like to be-- would like to be buried. So I'd
1890 appreciate if you could get that to us.

1891 Ms. ZUMATTO. Okay. I can do that.

1892 Mr. RUNYAN. Thank you very much. Mr. McNerney,
1893 anything further?

1894 Mr. MCNERNEY. Yeah. I'd like to reserve the right to
1895 submit questions to the VA for later response.

1896 Mr. RUNYAN. Without objection, so moved.

1897 Do you have a closing statement?

1898 Then--well, on behalf of the subcommittee, I would thank
1899 both of you for your testimony, and we look forward to
1900 working with you on the future on these issues. And you are
1901 both excused.

1902 I would like to conclude this budget hearing by
1903 recognizing the reality of times laid before us. We face a
1904 deficit crisis and we must act to be prudent stewards of our
1905 budget for generations yet born to ensure the survival of our
1906 common American values. But this should not and will not
1907 come at the expense of our nation's heroes and the sacrifices
1908 they made to ensure we remain strong and the freest country
1909 on the face of the Earth. I'll stand ready to work with both
1910 sides of the aisle fulfilling this commitment, as we move
1911 forward for the remainder of this session.

1912 I ask unanimous consent that all members have five
1913 legislative days to revise and extend their remarks, and
1914 include extraneous material. Hearing no objection, so
1915 ordered.

1916 I thank the members for their attendance today and this
1917 hearing is now adjourned.

1918 [Whereupon, at 11:59 a.m. the Subcommittee was
1919 adjourned.]

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