

**AMENDMENT TO H.R. 5136, AS REPORTED**  
**OFFERED BY MR. SESSIONS OF TEXAS**

At the end of subtitle C of title VII, insert the following:

1 **SEC. 7** . **PILOT PROGRAM ON PAYMENT FOR TREATMENT**  
2 **OF MEMBERS OF THE ARMED FORCES AND**  
3 **VETERANS FOR TRAUMATIC BRAIN INJURY**  
4 **AND POST-TRAUMATIC STRESS DISORDER.**

5 (a) **PAYMENT PROCESS.**—The Secretary of Defense  
6 and the Secretary of Veterans Affairs shall carry out a  
7 five-year pilot program under which each such Secretary  
8 shall establish a process through which each Secretary  
9 shall provide payment for treatments (including diagnostic  
10 testing) of traumatic brain injury or post-traumatic stress  
11 disorder received by members of the Armed Forces and  
12 veterans in health care facilities other than military treat-  
13 ment facilities or Department of Veterans Affairs medical  
14 facilities. Such process shall provide that payment be  
15 made directly to the health care facility furnishing the  
16 treatment.

17 (b) **CONDITIONS FOR PAYMENT.**—The approval by a  
18 Secretary for payment for a treatment pursuant to sub-  
19 section (a) shall be subject to the following conditions:

1           (1) Any drug or device used in the treatment  
2           must be approved or cleared by the Food and Drug  
3           Administration for any purpose.

4           (2) The treatment or study protocol used in  
5           treating the member or veteran must have been ap-  
6           proved by an institutional review board operating in  
7           accordance with regulations issued by the Secretary  
8           of Health and Human Services.

9           (3) The approved treatment or study protocol  
10          (including any patient disclosure requirements) must  
11          be used by the health care provider delivering the  
12          treatment.

13          (4) The patient receiving the treatment or  
14          study protocol must demonstrate an improvement as  
15          a result of the treatment on one or more of the fol-  
16          lowing:

17                (A) Standardized independent pre-treat-  
18                ment and post-treatment neuropsychological  
19                testing.

20                (B) Accepted survey instruments.

21                (C) Neurological imaging.

22                (D) Clinical examination.

23          (5) The patient receiving the treatment or  
24          study protocol must be receiving the treatment vol-  
25          untarily.

1           (6) The patient receiving the treatment may not  
2           be a retired member of the uniformed services or of  
3           the Armed Forces who is entitled to benefits under  
4           part A, or eligible to enroll under part B, of title  
5           XVIII of the Social Security Act.

6           (c) **ADDITIONAL RESTRICTIONS PROHIBITED.**—Ex-  
7           cept as provided in this subsection (b), no restriction or  
8           condition for reimbursement may be placed on any health  
9           care provider that is operating lawfully under the laws of  
10          the State in which the provider is located with respect to  
11          the receipt of payment under this Act.

12          (d) **PAYMENT DEADLINE.**—The Secretary of Defense  
13          and the Secretary of Veterans Affairs shall make a pay-  
14          ment for a treatment or study protocol pursuant to sub-  
15          section (a) not later than 30 days after a member of the  
16          Armed Forces or veteran (or health care provider on be-  
17          half of such member or veteran) submits to the Secretary  
18          documentation regarding the treatment or study protocol.  
19          The Secretary of Defense and the Secretary of Veterans  
20          Affairs shall ensure that the documentation required  
21          under this subsection may not be an undue burden on the  
22          member of the Armed Forces or veteran or on the health  
23          care provider.

24          (e) **PAYMENT SOURCE.**—Subsection (c)(1) of section  
25          1074 of title 10, United States Code, shall apply with re-

1 spect to the payment by the Secretary of Defense for  
2 treatment or study protocols pursuant to subsection (a)  
3 of traumatic brain injury and post-traumatic stress dis-  
4 order received by members of the Armed Forces.

5 (f) PAYMENT AMOUNT.—A payment under this Act  
6 shall be made at the equivalent Centers for Medicare and  
7 Medicaid Services reimbursement rate in effect for appro-  
8 priate treatment codes for the State or territory in which  
9 the treatment or study protocol is received. If no such rate  
10 is in effect, payment shall be made at a fair market rate,  
11 as determined by the Secretary of Defense, in consultation  
12 with the Secretary of Health and Human Services, with  
13 respect to a patient who is a member of the Armed Forces  
14 or the Secretary of Veterans Affairs with respect to a pa-  
15 tient who is a veteran.

16 (g) DATA COLLECTION AND AVAILABILITY.—

17 (1) IN GENERAL.—The Secretary of Defense  
18 and the Secretary of Veterans Affairs shall jointly  
19 develop and maintain a database containing data  
20 from each patient case involving the use of a treat-  
21 ment under this section. The Secretaries shall en-  
22 sure that the database preserves confidentiality and  
23 be made available only—

24 (A) for third-party payer examination;

1 (B) to the appropriate congressional com-  
2 mittees and employees of the Department of  
3 Defense, the Department of Veterans Affairs,  
4 the Department of Health and Human Services,  
5 and appropriate State agencies; and

6 (C) to the primary investigator of the insti-  
7 tutional review board that approved the treat-  
8 ment or study protocol, in the case of data re-  
9 lating to a patient case involving the use of  
10 such treatment or study protocol.

11 (2) ENROLLMENT IN INSTITUTIONAL REVIEW  
12 BOARD STUDY.—In the case of a patient enrolled in  
13 a registered institutional review board study, results  
14 may be publically distributable in accordance with  
15 the regulations prescribed pursuant to the Health  
16 Insurance Portability and Accountability Act of  
17 1996 (Public Law 104–191) and other regulations  
18 and practices in effect as of the date of the enact-  
19 ment of this Act.

20 (3) QUALIFIED INSTITUTIONAL REVIEW  
21 BOARDS.—The Secretary of Defense and the Sec-  
22 retary of Veterans Affairs shall each ensure that the  
23 Internet website of their respective departments in-  
24 cludes a list of all civilian institutional review board  
25 studies that have received a payment under this Act.

1 (h) ASSISTANCE FOR MEMBERS TO OBTAIN TREAT-  
2 MENT.—

3 (1) ASSIGNMENT TO TEMPORARY DUTY.—The  
4 Secretary of a military department may assign a  
5 member of the Armed Forces under the jurisdiction  
6 of the Secretary to temporary duty or allow the  
7 member a permissive temporary duty in order to  
8 permit the member to receive treatment or study  
9 protocol for traumatic brain injury or post-traumatic  
10 stress disorder, for which payments shall be made  
11 under subsection (a), at a location beyond reason-  
12 able commuting distance of the member's permanent  
13 duty station.

14 (2) PAYMENT OF PER DIEM.—A member who is  
15 away from the member's permanent station may be  
16 paid a per diem in lieu of subsistence in an amount  
17 not more than the amount to which the member  
18 would be entitled if the member were performing  
19 travel in connection with a temporary duty assign-  
20 ment.

21 (3) GIFT RULE WAIVER.—Notwithstanding any  
22 rule of any department or agency with respect to  
23 ethics or the receipt of gifts, any assistance provided  
24 to a member of the Armed Forces with a service-  
25 connected injury or disability for travel, meals, or

1 entertainment incidental to receiving treatment or  
2 study protocol under this Act, or for the provision  
3 of such treatment or study protocol, shall not be  
4 subject to or covered by any such rule.

5 (i) RETALIATION PROHIBITED.—No retaliation may  
6 be made against any member of the Armed Forces or vet-  
7 eran who receives treatment or study protocol as part of  
8 registered institutional review board study carried out by  
9 a civilian health care practitioner.

10 (j) TREATMENT OF UNIVERSITY AND NATIONALLY  
11 ACCREDITED INSTITUTIONAL REVIEW BOARDS.—For  
12 purposes of this Act, a university-affiliated or nationally  
13 accredited institutional review board shall be treated in the  
14 same manner as a Government institutional review board.

15 (k) MEMORANDA OF UNDERSTANDING.—The Sec-  
16 retary of Defense and the Secretary of Veterans Affairs  
17 shall seek to expeditiously enter into memoranda of under-  
18 standings with civilian institutional review boards de-  
19 scribed in subsection (j) for the purpose of providing for  
20 members of the Armed Forces and veterans to receive  
21 treatment carried out by civilian health care practitioners  
22 under a treatment or study protocol approved by and  
23 under the oversight of civilian institutional review boards  
24 that would qualify for payment under this Act.

25 (l) OUTREACH REQUIRED.—

1           (1) OUTREACH TO VETERANS.—The Secretary  
2 of Veterans Affairs shall notify each veteran with a  
3 service-connected injury or disability of the oppor-  
4 tunity to receive treatment or study protocol pursu-  
5 ant to this Act.

6           (2) OUTREACH TO MEMBERS OF THE ARMED  
7 FORCES.—The Secretary of Defense shall notify  
8 each member of the Armed Forces with a service-  
9 connected injury or disability of the opportunity to  
10 receive treatment or study protocol pursuant to this  
11 Act.

12          (m) REPORT TO CONGRESS.—Not later than 30 days  
13 after the last day of each fiscal year during which the Sec-  
14 retary of Defense and the Secretary of Veterans Affairs  
15 are authorized to make payments under this Act, the Sec-  
16 retaries shall jointly submit to Congress an annual report  
17 on the implementation of this Act. Such report shall in-  
18 clude each of the following for that fiscal year:

19           (1) The number of individuals for whom the  
20 Secretary has provided payments under this Act.

21           (2) The condition for which each such indi-  
22 vidual receives treatment for which payment is pro-  
23 vided under this Act and the success rate of each  
24 such treatment.

1           (3) Treatment methods that are used by enti-  
2 ties receiving payment provided under this Act and  
3 the respective rate of success of each such method.

4           (4) The recommendations of the Secretaries  
5 with respect to the integration of treatment methods  
6 for which payment is provided under this Act into  
7 facilities of the Department of Defense and Depart-  
8 ment of Veterans Affairs.

9           (n) TERMINATION.—The authority to make a pay-  
10 ment under this Act shall terminate on the date that is  
11 five years after the date of the enactment of this Act.

12           (o) AUTHORIZATION OF APPROPRIATIONS.—There is  
13 authorized to be appropriated to carry out this Act  
14 \$10,000,000 for each fiscal year during which the Sec-  
15 retary of Veterans Affairs and the Secretary of Defense  
16 are authorized to make payments under this Act.

