



**Statement of the
Fleet Reserve Association
on its
2017 Legislative Goals**

**Presented to the:
U.S. House of Representatives and
United States Senate
Veterans' Affairs Committees**

**By
FRA National President
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March 22, 2017

The FRA

The Fleet Reserve Association (FRA) is the oldest and largest organization serving enlisted men and women in the active, Reserve, and retired communities plus veterans of the Navy, Marine Corps, and Coast Guard. The Association is Congressionally Chartered, recognized by the Department of Veterans Affairs (VA) and entrusted to serve all veterans who seek its help.

FRA was started in 1924 and its name is derived from the Navy's program for personnel transferring to the Fleet Reserve or Fleet Marine Corps Reserve after 20 or more years of active duty, but less than 30 years for retirement purposes. During the required period of service in the Fleet Reserve, assigned personnel earn retainer pay and are subject to recall by the Secretary of the Navy.

The Association testifies regularly before the House and Senate Veterans' Affairs Committees, and the Association is actively involved in the Veterans Affairs Voluntary Services (VAVS) program. A member of the National Headquarters' staff serves as FRA's National Veterans Service Officer (NVSVO) and as a representative on the VAVS National Advisory Committee (NAC). FRA's NVSVO also oversees the Association's Veterans Service Officer Program and represents veterans throughout the claims process and before the Board of Veteran's Appeals.

FRA became a member of the Veterans Day National Committee in August 2007, joining 24 other nationally recognized Veterans Service Organizations (VSO) on this important committee that coordinates National Veterans' Day ceremonies at Arlington National Cemetery. The Association is a leading organization in The Military Coalition (TMC), a group of 33 nationally recognized military and veteran's organizations collectively representing the concerns of over five million members. FRA senior staff members also serve in a number of TMC leadership positions.

The Association's motto is "Loyalty, Protection, and Service."

Certification of Non-Receipt of Federal Funds

Pursuant to the requirements of House Rule XI, the Fleet Reserve Association has not received any federal grant or contract during the current fiscal year or either of the two previous fiscal years.

Introduction

Distinguished Chairmen, Ranking Members and other members of the Committees, thank you for the opportunity to present the FRA's 2017 legislative goals to the Committees. FRA wants to note that veteran's benefits are earned through service and sacrifice in the defense of this great Nation and are not "entitlements" or "social welfare" programs. FRA will oppose any across-the-board budget driven cuts that lumps veteran's programs with unrelated civilian programs and completely rejects any efforts that would ask veterans to do their "fair share" in deficit reduction.

IB and the FY 2018 VA Budget

The Administration has yet to release a FY 2018 budget request, which is normally presented the first week of February, but such a delay is not uncommon in the first year of a new president. "VA, with 360,000 employees, a \$180 billion budget, and a sprawling system of 1,700 medical centers, has proven one of the toughest corners to run-and run well. Its daily operations are tested by the burdens of 15 years of war in Iraq and Afghanistan and increasing medical demands from older veterans who fought in Vietnam, Korea, and World War II."¹ The VA budget totals \$176.9 billion for FY 2017, almost twice the budget total when President Obama took office in FY 2009 (\$93.7 billion) and almost four times the total when the war in Afghanistan began in FY 2001 (\$48.7 billion). Roughly 9 million veterans were enrolled in VA health care at the end of FY 2016, about 42 percent of the nation's veteran's population. That number was 7.8 million in FY 2009, roughly 33 percent of the total U.S. veteran's population at the time. Part of the increase is due to troops returning from wars in Iraq and Afghanistan, but the VA has also seen increases in the usage rate from older generations. About 58 million medical appointments were scheduled by VA in FY 2016, an increase of almost six percent in two years. Almost a third of those appointments were scheduled with doctors working outside the VA system, in private clinics.

FRA supports the Independent Budget (IB) framework for veteran's health care reform which was recently released co-authored by Disabled American Veterans (DAV), Paralyzed Veterans of America (PVA) and the Veterans of Foreign Wars (VFW). The IB has served as a guide for funding the VA for 30 years and this framework will help to meet the challenges of serving America's veterans. The FY 2018 IB recommends the following:

- \$88.9 billion in overall discretionary budget authority for VA — an approximate 10 percent increase over FY 2017;
- \$76.9 billion for veterans' medical care funding for FY 2018 — a \$5.9 billion or 8.3 percent increase over FY 2017;
- \$82.8 billion for veterans medical care for FY 2019 advance appropriations — a 7.6 percent

¹ Trump Struggles to Find Right Leader for Veterans Affairs, Washington Post Jan. 10, 2017, A13 Lisa Rein

increase over the IB's FY 2018 recommendation;

- \$3.1 billion for the Veterans Benefits Administration — a \$278 million or 9.7 percent increase over FY 2017;

- \$2.5 billion for VA construction programs to repair, renovate, expand and replace VA's aging infrastructure — a \$1.5 billion increase over FY 2017; and

- \$713 million for medical and prosthetic research — a \$38 million or 5.6 percent increase over FY 2017, as well as an additional \$75 million to support the Million Veteran Program.

The recommendations are meant to inform Congress and the Administration of the needs of all veterans, and to offer substantive solutions to address the many health care and other benefit challenges they face.

Agent Orange/Blue Water Navy Reform

Presumption of service connection exists for Vietnam veterans who served in country, on land and inland waterways. Enactment of H.R. 299/S. 422 will bring a degree of justice to several thousand Navy personnel who have been denied service connection by the VA since 2002. They no longer will have to prove direct exposure to Agent Orange, and they will receive expedited consideration for VA benefits if they are afflicted with any of the health conditions associated with exposure to this defoliant. The herbicide was used to destroy foliage on river shore used by the Viet Cong to hide in and shoot at ships passing by. The chemical got into rivers that ran out to sea. Ships used water for bathing and drinking. It has been proven that desalinization process for water intensified toxicity of the small amounts of herbicide in water.

Last year the House version of the FY 2017 Military Construction and Department of Veterans Affairs (MilCon/VA) appropriations passed the House (H.R. 4974) included an FRA-supported amendment that would extend presumptive service-connection for conditions associated with Agent Orange exposure to Blue Water Navy Vietnam Veterans. The final bill drafted by a conference committee dropped this provision. That was as close as this issue got to being enacted into law. The Association notes that the House bill had more co-sponsors than any other bill in the 114th Congress.

FRA is grateful to the 14 Senators who sent a letter last year to VA Secretary Bob McDonald requesting that the VA reconsider its ban on presumption for anyone who did not serve on the ground of the Republic of Vietnam because it is too restrictive. The Association totally agrees with this letter. The letter references the recent *Gray v McDonald* decision by the Court of Appeals for Veterans Claims that found that VA's exclusion of Da Nang Harbor from the definition of "inland waterways" to be arbitrary and capricious.

The Association is disappointed, but not surprised, that the VA issued a "clarified" definition of inland waterways for purposes of determining presumption for coverage of ailments associated

with the Agent Orange herbicide that still excludes the so-called “Blue Water” Vietnam veterans. A federal court had ordered the VA to reevaluate its policy of denying Agent Orange benefits to Navy sailors who served in the Vietnam War on the ships off the coast of Vietnam (Gray v. McDonald case - 04/23/15). In response to the limited reply to the court order the FRA National Executive Director (NED) Thomas Snee said “To state with such confidence that the toxin, Agent Orange, could not cross from inland water ways or harbors into open seas is a rejection of the laws of nature: As if some imaginary line drawn across the mouth of a river or bay had the ability to stop ocean currents from flowing.” The Association continues to seek a legislative remedy to reverse current policy that discriminates against these veterans who have health problems commonly associated with herbicide exposure and make them eligible for service-related VA medical and disability benefits.

Veterans Health Care Access and Reform

In FRA’s recent survey (January/February 2017) nearly 81 percent of veterans see quality of VA health care benefits as “Very Important” (the highest rating). The past three years VA and specifically the Veterans Health Administration (VHA) have been embroiled in controversy and scandal. Since the Phoenix waiting list scandal was uncovered by Congress a robust debate has ensued on how to reform VHA to ensure it can provide timely, comprehensive and veteran-centric health care to veterans in need. At a recent House Veterans Affairs Committee (HVAC) hearing VA Secretary Shulken claimed that VA community care appointments have increased by 61percent overall since Choice was created and, last year, 30 percent of all VA appointments were held in the community rather than in VA medical facilities.

FRA supports the IB Framework for veteran’s healthcare reform, and wants the Choice program at the very least should be extended. The Association believes that the “Choice” program has merit, but will require significant oversight by these committees to ensure it is effective. VA must ensure that Non-VA Care Coordination teams are adequately staffed and funded to be capable of handling the workload. Outsourced care has been available for many years but has not been well-planned or coordinated with VA care. A restructuring of VHA, as called for by the Commission on Care, should be considered. Congress should provide a transformational change of VA health care by creating an integrated network of VA and community health care providers, with the VA serving as the coordinator and primary care provider. The networks could make decisions about access to community care based on clinical determinations and veterans preferences, rather than subjective time and distance as is the current practice in the choice program.

FRA urges full implementation of the VA Caregivers Law (P.L. 111-163), and supports extension of this Act to full-time caregivers of catastrophically disabled veterans conflicts before September 11, 2001. Nearly 72 percent of veterans surveyed see the caregivers program as

“Very Important” or “Somewhat important.” That is why FRA is supporting the “The Military and Veteran Caregiver Services Improvement Act” (H.R. 1472/S. 591) that has been introduced in the House and Senate (sponsored by Rep. Jim Langevin-RI and Sen. Patty Murray-WA respectively) to expand the VA Caregivers program to include veterans catastrophically disabled before September 11, 2001. The current program applies to veterans disabled on or after September 11, 2001. A 2014 RAND study commissioned by the Elizabeth Dole Foundation estimates the services they provide save our nation \$13.6 billion annually, yet these caregivers too often pay a price, suffering physical and emotional stress and illnesses; difficulty maintaining employment; financial, legal and family strains; and isolation. Military caregivers shoulder the everyday responsibilities of providing care to those who suffered the emotional and physical tolls of war. These dedicated individuals make many sacrifices to care for their loved ones, and they deserve our support. This bill will expand access to services for caregivers and help ensure they have the resource they need to care for these severely disabled veterans.

VA should also emphasize programs for women veterans with special needs, including rural, homebound, and aging veterans. The Association supports increased funding for the VA Office of Rural Health to help veterans in remote areas. The Association also supports making permanent VA health care enrollment eligibility for all veterans who served in a combat theatre.

FRA is grateful for the Committees continued oversight in trying to achieve seamless transition from the DoD to the VA. These efforts have made progress in helping wounded, ill, injured, and disabled populations. Yet more needs to be done.

The Military Compensation and Retirement Modernization Commission (MCRMC) final report (January 2015) emphasized the lack in coordination and recommended improved collaboration between VA and DoD. FRA strongly supports efforts to create an integrated Electronic Health Record (iEHR) for every service member which would be a major step towards the Association’s long-standing goal of a truly seamless transition from military to veteran status for all service members. This would permit DoD, the VA, and private health care providers immediate access to health data. FRA was thankful that the 2016 National Defense Authorization Act (NDAA) provided for an establishment of a joint formulary for pain and psychiatric drugs for transitioning new veterans. The importance of fully implemented interoperability of electronic medical records cannot be overstated.

FRA strongly supports the “CHAMPVA Children’s Care Protection Act” (HR 92/S.423) sponsored in the Senate by Sen. Jon Tester (MT), and in the House by Rep. Julia Brownley (CA), would allow children eligible for CHAMPVA to maintain their coverage until their 26th birthday, bringing the program in line with private insurance plans and the Department of Defense TRICARE Program as currently provided under the Patient Protection and Affordable Care Act of 2010. A child would be ineligible for CHAMPVA if he or she is eligible for coverage in an employer-sponsored health care plan. Those eligible would include adult children of:

- Veterans rated permanently and totally disabled for a service-connected disability;
- Veterans who have died from service-connected disabilities;
- Veterans who were totally disabled from a service-connected disease at the time of their death; and,
- Military members who have died in the line of duty.

This legislation will provide a great deal of comfort and peace of mind to veteran families.

Commission on Care

The Commission on Care released its final report on June 30, 2016. That report notes that the VA delivers high-quality health care but is inconsistent from one site to the next, and problems with access remain. Congress created the 12-member panel as part of the FRA-supported “Veterans Access, Choice, and Accountability Act of 2014” in response to wait-time scandal, which also revealed that VA employees were covering up chronic delays with false paperwork and secret waiting lists. As many as 40 veterans died while awaiting care at the Phoenix VA hospital, according to an investigation by the VA's inspector general. Section 202 of the Act created the Commission, charging it to examine veterans’ access to VA health care and to examine strategically how best to organize the VHA, locate health resources, and deliver health care to veterans during the next 20 years. The report claims that the VA has a long way to go and singled out the "Choice Program," authorized by Congress to make it easier for veterans to get private care, as significantly flawed. FRA supports the following 2016 VA Commission on Care Report recommendations:

- Establish a five-year term for the Under Secretary of VA Health Administration (VHA) to provide greater continuity in health care operations.
- VA should provide overall health care coordination and navigation support for veterans.
- Further study and evaluation of VA’s current process for adjudicating Other-Than-Honorable (OTH) Discharges is needed to provide more information on the current scope of the problem, potential costs and the impact on the VHA before implementing the Commission’s recommendation to provide a streamlined path to eligibility for health care for those veterans with OTH discharge who have substantial honorable service.
- Establish an enterprise-wide strategy and budget for reforming VA IT, human capital and financial systems, investing necessary resources to innovate, recruit, retain, train, develop, and sustain a viable workforce.

- Require VA to implement robust leadership and management plans to meet evolving health care system requirements.

FRA believes that for the VA to complete these ambitious goals will require significant oversight by these Committees.

Extend Veterans Choice Program

FRA supports the legislation (H.R. 369-S. 86) extending the sunset on the Veterans Access, Choice and Accountability Act (VACAA) that became law in 2014, because the VA's first priority must be to ensure that all veterans currently waiting for treatment are provided timely access.

This law gives veterans who have waited more than 30 days for an appointment—or who live more than 40 miles from a VA medical facility—the choice to seek VA-funded care outside of the VA system. About 58 million medical appointments were scheduled by VA in fiscal 2016, an increase of almost six percent in less than two years. Almost a third of those appointments were scheduled with doctors working outside the VA system, in private clinics. 8,481 patients on VA lists have been waiting more than four months for appointment requests, a number that swelled to more than 10,000 in early 2016.

Over the past two years, the House and Senate Veterans Affairs Committees have been holding hearings to ensure the Veterans Choice Program is implemented by the VA in accordance with the intent of the legislation. Until proposed reforms by the Commission on Care (see above) are enacted and implemented, it is imperative that this program provide veterans with timely, high-quality medical care. FRA recommends that the Choice program be reauthorized and improved upon to serve veterans better and offer them choice.

Disability Claims Backlog

FRA urges Congress should to pass legislation that requires VA be held accountable for achieving the VA Secretary's stated goal to achieve an operational state for VA in which no claim is pending over 125 days and all claims have an accuracy rate of 98 percent or higher.

According to the VA about 93 percent of veterans medical appointments are being scheduled within 30 days (data from December 2016). That's down about 1 percent from fall 2014, when department officials began tracking patient wait times in the wake of nationwide scandals about delayed appointments and cover ups.

More than 542,000 veterans were rated as 100 percent disabled at the end of fiscal 2016, giving them access to a wide range of payouts and benefits. In fiscal 2009, that number was 265,000.

Again, part of that increase is attributable to the current wars, but a large part also reflects an aging veteran's population with worsening service-injuries from decades ago.

About 96,000 first-time benefits claims were "backlogged" as of December 31, 2016. A claim is considered overdue if it isn't completed within 125 days.

The previous Administration promised to bring that number down to zero by the start of 2016. The backlog peaked at about 611,000 cases in March 2013 and was down as low as 70,000 cases in fall 2015, when VA officials announced that zeroing out the backlog completely was likely impossible and could unnecessarily rush some cases.

Another 303,673 benefit cases that are pending in the department's appeals system, as of December 31, 2016. That's up from about 181,000 cases at the end of 2009. Appeals typically take three or more years to fully complete.

Mental Health/Suicide

FRA welcomed Secretary Shulkin's recent announcement to expand provisions for urgent mental health care needs to former service members with other-than-honorable (OTH) administrative discharges. This move marks the first time a VA Secretary has implemented an initiative specifically focused on expanding access to assist former OTH service members who are experiencing mental health distress and may be at risk for suicide or other adverse behaviors. FRA wants to also acknowledge that the DoD is renewing its efforts to ensure veterans are aware of the opportunity to have their discharges and military records reviewed.

It's estimated that 39,472 veterans were homeless as of January 2016. That's down from about 75,600 veterans on the streets in 2009, when Obama announced plans to house every veteran in America by the end of 2015. So far, 33 communities and three states have been certified as "effectively" ending veteran's homelessness, meaning they have the resources to rapidly house all veterans in their community facing financial distress.

About 20 veterans a day commit suicide nationwide, according to statistics by the VA released last year. That figure lowers the department's previous estimate of 22 veteran suicides per day. The previous figure was based on data from only 20 states and did not contain full military records from the Pentagon.

The new data shows that the risk of suicide for veterans is 21 percent higher when compared to civilian adults. Veteran suicides increased by more than 32 percent from 2001 to 2014, compared with 23 percent for civilians. In 2014, veterans accounted for 18 percent of suicides nationwide despite making up less than 9 percent of the population.

The risk was more acute for female veterans, whose suicide rates rose 85 percent over that time, compared with 40 percent for civilian women. Among veteran suicides, 65 percent were committed by those 50 years or older, who spent little or no time fighting in the recent wars.

The Association believes that suicide prevention is a high priority, and supports the new VA Suicide Prevention Office efforts to increase behavioral health staff, resources, and crisis line capacity, ensuring outreach efforts are expanded and coordinated with the DoD Suicide Prevention Office, assuring every call to these crisis lines is answered.

Atomic Veterans Need Health Care

Representative Grace Meng (NY) and Senator Al Franken (Minn.) have introduced FRA-supported legislation (H.R. 632 & S. 283 respectively) to bring important health care benefits to "Atomic Veterans" who were exposed to high levels of harmful radiation when assigned to clean up nuclear testing sites during the late 1970s.

The bipartisan legislation "Mark Takai Atomic Veterans Healthcare Parity Act," named after the late Congressman Mark Takai of Hawaii, would designate veterans who participated in the nuclear cleanup of Enewetak Atoll on the Marshall Islands as "radiation-exposed veterans," and make them eligible to receive the same health care benefits given to other service members who were involved in active nuclear tests. Many Navy Seabees were involved in the cleanup effort.

Enewetak Atoll was the site of more than 40 nuclear tests between 1946 and 1958. The service members who participated in cleanup between 1977 and 1980 suffer from high rates of cancers due to their exposure to radiation and nuclear waste. They are currently unable to receive the same treatment and service-related disability presumptions that other "radiation-exposed veterans" receive. This legislation would extend key VA benefits to those who helped clean up the Marshall Islands, which still remains partly uninhabitable due to high levels of radiation.

Oversight of VA IT

The Association believes Congressional oversight of VA technology is vital to ensuring improvements in the system. The Association was delighted that the House Veterans Affairs Committee (HVAC) choose this topic for its first hearing in the 115th Congress.

VA's success over the past few years with its IT improvements and upgrades have been significant. However, it was noted that roughly \$4.5 billion will be spent on IT this year with 86 percent going to maintain the old system and the rest going to development of the new system. Under ideal circumstances 60 percent should be going to maintenance with 40 percent going to development. It was pointed out at the hearing that the old system imposes a security risk and

VA should purchase an “off the shelf” commercial product to update their system. A recent Government Accounting Office report (GAO-17-408T) found that the VA is uncertain of its long-term plan for addressing its electronic health record system needs beyond FY 2018. Beyond modernizing VistA, the VA and the DoD planned acquisition of a commercially available electronic health record system even though both departments have many health care business needs in common. FRA was disappointed in 2014 when DoD and VA abandon efforts to develop a single system in favor of interoperability. FRA is concerned abandoning plans to create a single electronic health record for active duty military and veterans could be viewed as a step backwards.

There is some sharing now between DoD, VA and the private sector, but more needs to be done. Wider expansion of data sharing and exchange agreements between VA, DoD and the private sector is needed.

Increase Veterans Burial Benefits

The VA pays a higher level of burial benefits upon the death of a veteran who dies from a service-connected illness or disability and lesser burial benefits upon the death of a wartime veteran who dies from a non-service-connected illness or disability. The current VA burial expense payment is \$2,000 for a service-connected death and \$300 for a non-service connected death, along with a \$700 plot allowance. At its inception, the payout covered 72 percent of the funeral costs for a service-connected death, 22 percent for a non-service-connected death and 54 percent of the cost of a burial plot. Due to the dramatic increase in private sector funeral expenses, this benefit has been seriously eroded over the years. While these benefits were never intended to cover the full costs of burial, they now pay for only a small fraction of what they covered in 1973 when the VA first started paying burial benefits. and the VA should provide the resources needed to meet increasing private-sector costs of burial.

Congress should increase the plot allowance for all eligible veterans and expand the eligibility for the plot allowance for all veterans who might be eligible for burial in a national cemetery, not just those who served during wartime.

USERRA

FRA supports the enforcement of The Uniformed Services Employment and Reemployment Rights Act (USERRA) which is a federal law intended to ensure that persons who serve or have served in the Armed Forces, Reserves, National Guard or other “uniformed services: (1) are not disadvantaged in their civilian careers because of their service; (2) are promptly reemployed in their civilian jobs upon their return from duty; and (3) are not discriminated against in employment based on past, present, or future military service.

The Association is deeply concerned about The U.S. Court of Appeals for the Fifth Circuit ruling (*Michael T. Garrett v Circuit City Stores Inc.* 04-11360) that states that an arbitration agreement is enforceable in disputes involving USERRA. The case involves Marine Corps reservist who claimed that his civilian employer fired him because he was mobilized and deployed to Afghanistan which is a violation of USERRA. The company successfully argued that an arbitration agreement prevented Garrett from suing the company in court. The company's arbitration agreement provided that claims arising out of termination of employment would be settled by binding arbitration, enforceable by and subject to the Federal Arbitration Act. Circuit City asked a district court to dismiss the lawsuit and compel arbitration.

Garrett argued that USERRA precludes the enforcement of a binding arbitration agreement, and the district court agreed. The company then appealed the ruling before the U.S. Court of Appeals for the Fifth Circuit, which covers Louisiana, Mississippi, and Tennessee.

In arguing his case, Garrett claimed that USERRA guarantees him a right to a federal court trial. However, the appeals court disagreed and said the arbitration agreement is enforceable.

"On the contrary, USERRA provides several means for the resolution of disputes, and there is no guarantee of a federal forum for aggrieved employees," the court wrote.

In reversing the lower court's ruling, the appeals court also said that Garrett failed to show that arbitration under Circuit City's rules would prevent him from having a fair opportunity to present his claims.

The appeals court sent the case back to the lower court for proceedings consistent with the ruling.

Conclusion

In closing, allow me again to express the sincere appreciation of the Association's membership for all that you and the members of both of the House and Senate Veterans' Affairs Committees and your outstanding staffs do for our Nation's veterans.

Our leadership and Legislative Team stand ready to work with the Committees and their staffs to improve benefits for all veterans who have served this great Nation.

FRA National President Donald Larson

Don Larson, a resident of Ingleside, Texas, was recently elected and installed as the 2016-2017 National President (NP) of the Fleet Reserve Association (FRA). The FRA is a congressionally-chartered military and veterans' service organization serving current and former enlisted members of the Navy, Marine Corps and Coast Guard. He was installed during the Association's 89th National Convention in Jacksonville, FL.

NP Larson has been a member of the FRA since 1992, and is currently a member of FRA Branch 94 in Corpus Christi, Texas. He has held numerous leadership positions at the local, regional and national levels of the organization, including his service as Branch President (2002–2006) and as the Association's South Central Regional President (2005–2006 and 2008-2009).

NP Larson graduated from Pecatonica High School (Blanchardville, WI) in 1978. He then enlisted in the U.S. Navy. His military career included assignments in California, Texas, Italy, Diego Garcia, and Japan, as well as aboard four U.S. Naval War Ships. He achieved the rank of Radioman First Class (E-6) before retiring from the Navy in 1998. His personal decorations include the Navy Commendation and Navy achievement (3) medals, and Good Conduct (4) medals. NP Larson is a 2016 graduate from Texas A&M in Corpus Christi, TX with a Bachelor of Arts in Psychology / Social Work. He is married to Gini (Willis) Larson; his wife of 21 years, originally from Boston, MA.