STATEMENT OF
DR. MARIA LLORENTE
ASSISTANT DEPUTY UNDERSECRETARY FOR HEALTH FOR PATIENT CARE SERVICES
VETERANS HEALTH ADMINISTRATION (VHA)
BEFORE THE
HOUSE COMMITTEE ON VETERANS' AFFAIRS

July 23, 2020

Mr. Chairman and Members of the Committee, I am pleased to be here today to provide the views of the Department of Veterans Affairs (VA) on pending legislation affecting VA's programs. Accompanying me today is Dr. Amanda Johnson, Director of Reproductive Health (VHA); Yuri Walker, RN, JD, MPH, Director, Risk Management Program, Office of Integrity (VHA); Beth Murphy, Executive Director of Compensation Service, Veterans Benefits Administration (VBA); Charmain Bogue, Executive Director, Education Service (VBA); and Glenn Powers, Deputy Under Secretary for Field Programs and Cemetery Operations, National Cemetery Administration (NCA).

H.R. 96

H.R. 96 would require VA to provide dental care in the same manner as medical services in the VA medical benefits package phased in by priority group over a 4-year period following enactment, thereby requiring that VA provide all necessary dental services to any Veteran enrolled in VA health care.

H.R. 96 is aligned with the mission of VA Dentistry, which is to honor America’s Veterans by contributing to whole health through the provision of exceptional oral health care. Veterans who are ineligible for dental care through VA may purchase dental insurance at a reduced cost through the VA Dental Insurance Program or may be eligible to participate in the Community Provider Collaborations for Veterans Pilot Program once it begins.

If this bill was enacted, VA expects an initial surge in demand for dental care that would stabilize over time. Only 1.35 million Veterans of the 9.28 million Veterans enrolled for VA health care are currently eligible for dental care. This bill would increase the number of eligible Veterans by 678%, which would create a significant spike in the need for resources to meet the increased demand. While we would expect that demand would level off after this initial spike, the sheer number of newly eligible Veterans would mean that a tremendous increase in the amount of available resources would be needed in the long-term as well. VA's existing resources to provide dental care are at or near full capacity, with some regional variation. As a result, VA does not believe it could provide all this care internally, even with the phased implementation period. Therefore, VA would require an increased use of community resources which would have associated administrative costs, as well as the direct cost of paying community providers, to provide dental care to all enrolled Veterans.

VA estimates that in the first year following enactment, the cost of expanding dental care would be between $6.96 and $7.78 billion. The cost over 5 years is estimated to be between $64.59 and $71.61 billion, and between $159 and $175 billion over 10 years. Given these estimates, VA does not believe that it would have the necessary resources to successfully complete the expansion required by the bill and, therefore, does not support the bill.

H.R. 2435

H.R. 2435, the "Accelerating Veterans Recovery Outdoors Act," would require the Secretary of Veterans Affairs to establish the “Task Force on Outdoor Recreation for Veterans." The Task Force would be co-chaired by the Secretaries of VA and the Interior. The Task Force would be charged with identifying opportunities to formalize coordination between VA, public land agencies and partner organizations regarding the use of public land or other outdoor spaces for medical treatment and recreational therapy for Veterans. The Task Force would be required to identify barriers that exist to providing medical treatment and therapy through the use of outdoor recreation on public lands or other outdoor spaces. Lastly, the Task Force would be required to develop recommendations to better facilitate the use of public lands or other outdoor spaces for preventative care, medical treatment and therapy for Veterans. The chairpersons would be required to submit a preliminary report on the findings of the Task Force within 180 days after the establishment of the Task Force, and a final report would be required 1 year after the submission of the initial report. The Task Force would terminate 1 year after the submission of the final report.

VA supports the concept of increasing access to public lands and outdoor spaces for the purpose of promoting health and wellness. VA believes the intent of this bill is to increase access and accessibility to Federal land for health care providers with their Veteran patients. VA believes this could be advantageous. Many VA health care providers currently engage with Veterans through community integration and community outings in national parks, national forests, national historic sites, wildlife refuges, etc. Identifying barriers to this type of use of public land and outdoor spaces and identifying better ways to coordinate with partner agencies to increase access to these spaces, would benefit providers and Veterans alike.

VA would welcome the opportunity to discuss a few minor technical concerns with the Committee. Costs for this legislation are minimal There are some terms used in this bill that are not defined within the bill. We believe the use of these terms could unnecessarily limit the scope of the Task Force. For instance, “medical treatment,” “recreational therapy” and “therapy” have specific definitions and connotations with regard to delivery of medical care. For example, “recreational therapy” is provided by a Certified Therapeutic Recreation Specialist. VA would not want this bill to be so narrowly focused. It should apply across a broad range of health care services and health care providers. Using the proper terminology will allow the Task Force to consider the full spectrum of situations in which outdoor leisure and recreational experiences might be prescribed and utilized for the therapeutic benefit of patients.

H.R. 2791

H.R. 2791, the "Department of Veterans Affairs Tribal Advisory Committee Act of 2019," would require VA to establish an advisory committee to provide advice and guidance to VA on matters relating to Indian tribes, tribal organizations, and Native American Veterans and to annually report to Congress on the committee's recommendations.

VA supports this bill as an opportunity to strengthen and potentially expand opportunities for partnerships between the Department and tribal governments, provided that Congress appropriates additional funds to support implementation. VA also supports this bill because it would provide a forum in which the Secretary and senior VA leadership could engage with tribal leadership on a scheduled, recurring basis. Native American Veterans may sometimes be viewed as members of a minority group rather than citizens of political entities which should be consulted with and engaged on via a government-to-government basis in regular discussion and partnership. However, many issues involving Native American Veterans are not related to Native American Veterans' minority status, and thus do not fall within the purview of the existing Advisory Committee on Minority Veterans. The committee proposed by this bill would provide a forum for consideration of issues related to the relationship tribal governments have with the United States.

Costs for H.R. 2791 would range between $300,000 and $450,000 annually for committee member travel compensation and compilation and distribution of an annual report.

H.R. 3010

H.R. 3010, the "Honoring All Veterans Act," would amend 38 United States Code (U.S.C.) § 310 to state that the Department's mission is "[t]o fulfill President Lincoln's promise to care for those 'who shall have borne the battle' and for their families, caregivers, and survivors.'' The bill would require VA, within 30 days after enactment, to publish a notice in the Federal Register and on the VA internet website explaining the Department's mission and provide guidance to the Department on the mission, notification explaining the mission statement, instructions and a timeline for updating all previous mission statement references, a method to monitor and evaluate compliance by VA facilities with the guidance, including a reporting mechanism for the facilities to report back on the progress made in updating all non-electronic mission statement references. VA would also have to provide a report to Congress within 180 days containing a review and assessment of the progress of each element of the Department in complying with the guidance.

VA opposes H.R. 3010. Since 1959, the VA motto has been "To care for him who shall have borne the battle and for his widow, and his orphan," which is a quote from President Abraham Lincoln's second inaugural address in 1865, the same year in which he established the first government institution for volunteer soldiers. These words from

the inaugural address, which are inscribed on the north wall of the Lincoln Memorial, are the basis of VA's mission to care for living Veterans and their families. Of course, today our mission is focused more broadly on the men and women Veterans we treat in our medical facilities, provide earned benefits and inter in our national cemeteries.

VA is proud that President Lincoln's words serve as a historic tribute to all Veterans, including women Veterans, whose service and sacrifice inspire us all. President Lincoln's words have stood the test of time, and VA sees no need to enact a new motto for the Department.

H.R. 3228

The proposed legislation would expand the definition of Covered Health Care Professional to authorize a health professional trainee to participate in telemedicine in accordance with 38 U.S.C. § 1730C when working under the clinical supervision of a VA health care professional licensed, registered, or certified in a state.

VA supports the bill as written because it would enhance services to Veterans and support VA's critical education mission by clearly authorizing the participation of health care professional trainees in telehealth, irrespective of location in a state, if under appropriate supervision by a VA employed health care professional who is licensed, registered, or certified in a state. However, we would like the Committee to consider further expanding the definition of health care professional to include health care professionals who meet VA qualification standards but are not licensed, registered, or certified in a state and health care professionals who are employed by VA and working under the clinical supervision of a fully qualified health care professional and who are required to obtain a full and unrestricted licensure, registration, or certification, or meet qualification standards within a specified time frame. Expanding the definition of health care professional in this way would enable VA to integrate telehealth into the capabilities of all VA health care professionals, positioning VA to best leverage all its clinical assets in support of access and Veterans' care. We would be happy to work with the Committee to provide technical assistance.

H.R. 3582

The Advisory Committee on Minority Veterans consists of members appointed by the Secretary from the general public, including representatives of Veterans who are minority group members. H.R. 3582 would amend 38 U.S.C. § 544(d) to define "minority group member" to include lesbian, gay, bisexual, or transgender individuals.
VA does not object to H.R. 3582.

H.R. 4281

H.R. 4281, the ''Access to Contraception Expansion for Veterans Act'' or the ''ACE Veterans Act'' would direct VA to allow a Veteran who is enrolled in VA health care under 38 U.S.C. § 1705 to receive a full year supply of contraceptive pills,

transdermal patches, and vaginal rings.

VA supports the intent of the bill and is committed to provide high quality care to our women Veterans, but does not support H.R. 4281 as written. The bill does not specify that it applies only to contraceptive transdermal patches. Transdermal patches can be used to deliver other medications besides contraceptives. These patches are used to administer medications, such as opiates, nicotine, nitroglycerine, antidepressants, nausea medications, and blood pressure medications. Also, the bill would require VA, upon the request of an enrolled Veteran, to fill prescriptions for these patches for an entire year's supply. Providing full year supplies of non-contraceptive medications on a widespread basis could result in unsafe medication stockpiling, waste, and drug diversion. It could also result in Veterans being disconnected from their care team for extended periods of time. VA welcomes the opportunity to discuss these and other concerns with the Committee.

H.R. 4526

H.R. 4256, the "Brian Tally VA Employment Transparency Act,'' would require VA, not later than 30 days after the date on which a Standard Form (SF) 95, Claim For Damage, Injury, Or Death under the Federal Tort Claims Act (FTCA), is submitted to VA, to notify the claimant of the following: (1) importance of securing legal counsel, including a recommendation that the claimant should secure legal counsel; (2) employment status of any individual listed on the form; and (3) the statute of limitations regarding the claim in the State in which the claim arose if the claim involves a contractor that entered into an agreement with VA.

VA opposes H.R. 4526. VA does not believe that notice of the "importance of securing legal counsel" or a "recommendation that the claimant should secure legal counsel" upon the filing of a FTCA claim would be constructive or necessarily in the claimant's best interests. In fiscal year (FY) 2018 and the first half of FY 2019, over 80% of tort claims received by VA were from claimants who were not represented by legal counsel. Similarly, during the same time span, over 80% of the claims settled by VA were with unrepresented claimants. Particularly for claims settled within VA's delegated settlement authority, recently increased to $500,000, the 20% fee to private counsel could be a substantial portion of a claimant's damage award.

There are some settlements for which State court approval is required, and in such cases, VA advises the claimant to secure legal counsel. In the vast majority of claims, however, the absence of legal counsel has not disadvantaged Veteran tort claimants nor do Veteran-claimants incur private counsel fees. A Veteran may hire an attorney at any time while a claim is pending, and most claimants are both aware of that option and have often consulted attorneys prior to filing their claims. When a claim is not resolved by VA, the Veteran may also retain counsel for filing a lawsuit in Federal district court.

Veteran-claimants usually do not name individuals on their SF-95, and there is no requirement to do so in order to file a FTCA claim. Moreover, it is part of the investigatory process to identify the involved providers and the status of their relationships with VA. Therefore, to the extent that "individuals" refers to providers, the draft bill's notice requirement would be largely ineffective. However, when VA's investigation of a tort claim reveals that a contractor's actions may be responsible for the claimed injury or death, VA policy is to inform both the claimant and the contractor.

As for the requirement that VA advise a claimant as to the statute of limitations if the claim involves a contractor, it is neither legal nor ethical for the Secretary to advise a claimant of the law of a particular jurisdiction. Such notice proffered by a VA paralegal, many of whom adjudicate these claims, could constitute the unauthorized practice of law, and VA attorneys advising a claimant of a State statute of limitations may constitute provision of improper legal advice to claimants with whom VA attorneys do not have an attorney-client relationship. As noted above, VA policy is that if the claim involves a contractor with VA, the claimant and the contractor are both notified of the contractor's status and the claimant is provided the contractor's business information and address.

In addition, each State has its own statutes of limitations with regard to actions for personal injury, property damage, and wrongful death, and in some States, specific statutes of limitations for medical malpractice claims, as well as varying judicial interpretations of these statutes, and it is beyond the Secretary's purview to maintain such information. Claims filed with VA are subject to a Federal statute of limitations and State statutes of limitations are generally not applicable to claims filed under the FTCA. Also, implementing this provision of the bill would be onerous and unlikely to benefit claimants, who are usually advised of the involvement of a contractor as soon as practicable as the claim is investigated.

Finally, VA objects to the requirement that the Department provide notice within 30 days after SF-95 is submitted. Federal law requires that an administrative FTCA claim be "presented" to the appropriate federal Agency before filing suit, 28 U.S.C. § 2675(a), and a claim is considered "presented" if it is received by any office, division or employee of an Agency. For example, with respect to VA, a claim would be "filed" if a SF-95 is hand-delivered, faxed or mailed to a staff registered nurse or a facility management employee or filed along with a disability benefits claim submitted to the Veterans Benefits Administration. As a result, claims sometimes do not reach the Office of General Counsel which adjudicates FTCA claims until weeks or months after they are "filed" pursuant to section 2675(a). Therefore, in many cases, VA would not be able to meet the 30-day requirement in the bill.

H.R. 4908

H.R. 4908, the ''Native American Veteran Parity in Access to Care Today Act'' or ''Native American PACT Act,'' would amend 38 U.S.C. § 1730A to prohibit VA from collecting a health care copayment from a Veteran who is an Indian or urban Indian as those terms are defined in section 4 of the Indian Health Care Improvement Act, Public Law 94–437, 25 U.S.C. § 1603(13) and (28).

VA supports H.R. 4908. VA recognizes the importance of the government-to-government relationship between Indian tribes and the United States, and therefore supports the proposed copayment prohibition for this narrow and targeted population of Indian and urban Indian Veterans. The bill would ensure that VA hospital care and medical services are treated similarly to health care provided by the United States Department of Health and Human Services (HHS) Indian Health Service (IHS), which does not have associated copayment requirements. This consistency would be beneficial given the historic role HHS and IHS have in health care service delivery to enrolled citizens of Federally-recognized Indian tribes.

VA would, however, welcome the opportunity to provide technical assistance on this bill. First, VA believes that the distinction between “Indian” and “urban Indian” could be problematic, and that the intent of the bill could be achieved by referencing only Veterans who meet the definition of “Indian.” There may be administrative barriers to identifying individuals other than those who are members of Federally-recognized Indian tribes. Second, VA believes a delayed effective date in the bill would be appropriate given the amount of time it would take to operationalize and implement this prohibition, including VA information technology system updates to identify covered Veterans. VA would welcome the opportunity to discuss these technical issues and provide technical assistance if requested.

VA estimates this bill could potentially result in a 5-year revenue loss of $25 million (FY 2021 through FY 2025) and $50.8 million over 10 years (FY 2021 through FY 2030). IT costs are still being determined.

H.R. 6039

H.R. 6039 would require VA to submit a report to Congress that analyzes the feasibility and advisability of a no-cost transfer of Mare Island Naval Cemetery from the City of Vallejo, California, to VA for the National Cemetery Administration (NCA) to maintain as a national shrine. The bill would require VA to provide an estimate of direct and indirect costs VA would incur by exercising the transfer authority of all right, title, and interest in Mare Island Naval Cemetery. The report to Congress would be due no later than 180 days following enactment of the bill, and within 180 days after submission of the report, VA would be required to seek to enter into an agreement with the City of Vallejo to complete the cemetery transfer. The transfer agreement would have to be entered into within 1 year of the date of the submission of the report.

VA does not support the bill because the transfer of the Mare Island Naval Cemetery to VA would not align with VA’s current strategic objectives with respect to providing burial access to Veterans and their families, and it would set an unwanted precedent regarding Veterans cemeteries in disrepair managed by localities, allowing them to eschew their responsibility to our Nation’s heroes. We note that Mare Island was a naval base and shipyard that was closed in 1996 and the on-base cemetery was closed to new interments sometime prior to that date. The physical land and facilities,

including the cemetery, were transferred to the City of Vallejo, at its request, under the agreement that the city would maintain the cemetery. Since that time, the City of Vallejo has had the sole responsibility for maintenance of Mare Island, but it has neglected the cemetery's upkeep despite benefiting from the subsequent sale and residential/ commercial development of some of the transferred land. VA has provided technical assistance to the City of Vallejo and is also available to replace Government-furnished headstones or markers in the cemetery, when warranted, as it would in any other private or municipality-owned cemetery. In this way, VA meets our objective to provide lasting tributes to Veterans while holding accountable those responsible for maintaining Veteran gravesites in their cemeteries.

Transfer of the cemetery to VA would not align with VA's strategic objective to provide reasonable access to a burial option to 95% of eligible Veterans and their families. Because this cemetery is closed to new interments, it would not offer new burial options for Veterans, and the transfer of the cemetery to VA would divert resources that should be used to provide additional burial options elsewhere. The service area within which Mare Island is located is already covered by other open VA national cemeteries. For instance, NCA currently operates the Sacramento Valley National Cemetery in Dixon, CA, to serve Veterans and family members in the northern Bay Area. NCA is also seeking to improve burial access in this area with development of a columbaria-only urban cemetery (currently in design) at the new Alameda Point National Cemetery, which will provide enhanced access to burial benefits for approximately 395,585 Veterans, spouses, and other eligible dependents.

Transfer of Mare Island Naval Cemetery to VA would establish an unwanted precedent with respect to Veterans cemeteries managed by localities. VA estimates that over 18 million Veterans are buried in cemeteries that are not managed by VA, a state, or a tribal government. This estimate provides a general sense of the number of Veterans' gravesites for which VA could be asked to assume operational responsibilities. VA does not have the resources to address these requirements. Transfer of a cemetery with no burial options that fell into disrepair due to an owner's neglect would make VA vulnerable to future bail-out requests.

VA has consistently expressed opposition to proposed legislation that would transfer Mare Island to VA. In 2018, VA testified before the Senate Committee on Veterans' Affairs on a similar bill (S. 2881) that would have required VA to enter into an agreement with the City of Vallejo for the no-cost transfer of Mare Island Naval Cemetery to VA, which, if effectuated, would have required NCA to maintain the cemetery as a national shrine. Similarly, VA provided technical assistance on H.R. 578, a bill identical to S. 2881, as well as a cost analysis of H.R. 578 to the Congressional Budget Office estimating VA's costs in assuming control of the cemetery. Although VA could not conduct a technical analysis of Mare Island as it was outside the scope of our authority at the time, we provided a total estimate of necessary repairs that ranged from $1.4 to $3.1 million(depending on the headstone raise/realign projects) with a potential for an additional $15 million to address sinkhole issues. We noted that any efforts to remediate problems encountered at the cemetery would likely require consultation with

the California State Historic Preservation Office for compliance with historic preservation laws. Because the above-referenced issues still exist at Mare Island and may have become exacerbated by sinkholes, wildfires, and severe weather events, the cost of repairs may be higher than previously estimated.

It is important to note that, in August 2018, the Department of Defense (DoD) approved the City of Vallejo's Innovative Readiness Training (IRT) program application to begin repair planning at the cemetery. The IRT program establishes partnerships between DoD and U.S. communities that provide training for Service members while addressing public and civic needs. It is our understanding that Army Reserve Units have already commenced work through the IRT to clear trees and shrubs, prepare for construction of a perimeter fence, and conduct grading and excavation work for watersheds. Further, the Army and the city have developed additional project packages that include flagpole lighting and construction, construction of a concrete drainage ditch, topsoil stabilization and backfill, and fencing replacement and repairs. The IRT began work at the cemetery in late 2019, and work will continue throughout 2020. However, to address coronavirus issues, the IRT stopped work that was planned for execution through March and April 2020, and plans to recommence construction operations in August 2020.

We reiterate that sudden transfer of the cemetery to VA would disrupt and jeopardize these current improvement efforts as DoD has indicated that the city's application for IRT assistance would not transfer to VA should ownership be transferred from the City of Vallejo to VA. Costs of repairs and upkeep for the cemetery would become a VA responsibility, one for which VA has received no appropriation. VA strongly recommends that Congress allow existing efforts of the IRT program to continue and that the City of Vallejo continue to maintain ownership as it agreed to do.

If enacted, VA would need increased funding and additional employee resources to conduct necessary due diligence. However, VA does not have sufficient data to provide a cost estimate at this time.

H.R. 6082

H.R. 6082, the "Forgotten Vietnam Veterans Act," would amend the definition of "Vietnam era" in 38 U.S.C. § 101(29)(A) to mean the period beginning on November 1, 1955, and ending on May 7, 1975, in the case of a Veteran who served in the Republic of Vietnam (RVN) during that period.

VA does not support H.R. 6082 because it does not represent a fair and equitable policy. Under this bill, Veterans who served in Vietnam between November 1, 1955, and February 27, 1961, and their survivors would now be eligible for certain wartime benefits such as non-service-connected pension. VA is concerned about the precedent of amending long-established wartime periods to cover a specific cohort of Veterans. VA notes that other groups of Veterans throughout history have deployed to hostile areas or engaged in combat during peacetime periods but are not otherwise

eligible to received wartime benefits such as pension. For example, U.S. troops were deployed to Grenada in 1983 and Panama in 1989, but such time periods are not considered “wartime,” and therefore Veterans of these conflicts and their survivors are not eligible to receive pension.

The current start date of the Vietnam Era in section 101(29)(A), February 28, 1961, is predicated upon the types of operations performed by the U.S. military in early 1961, including the deployment of rotary-wing aircraft and Special Forces to South Vietnam and the authorization of secret operations against the Viet Cong. U.S. military involvement in RVN prior to 1961 was primarily limited to a support role. VA does not believe the period of the Vietnam era should be expanded based upon this type of service.

With regard to VA disability compensation benefits, the provisions of the bill are not necessary as Veterans who served in Vietnam beginning November 1, 1955, are eligible for disability compensation if they incurred a disability during such period of service. Under 38 U.S.C. § 1137, the same evidentiary standards generally apply to compensation claims based on wartime service or peacetime service after December 31, 1946. Moreover, the lower evidentiary burden for combat Veterans to prove that an event or injury occurred in service under 38 U.S.C. § 1154 applies to any Veteran who served in combat in Vietnam, even those who served outside of the statutorily prescribed Vietnam era, as long as the Veteran establishes that he or she "engaged in combat with the enemy in active service with a military, naval, or air organization of the United States" during a "campaign[] or expedition."

H.R. 6082 would expand the population of beneficiaries eligible for pension and would also potentially increase the number of beneficiaries who require a fiduciary. VA would require additional funding and resources to support this new population of beneficiaries. Benefit costs are estimated to be $196.1 million in 2021, $1.1 billion over five years, and $2.3 billion over ten years. The General Operating Expense (GOE) costs for the first year are estimated to be $5.9 million and include salary, benefits, rent, other services, supplies, and equipment. Five-year costs are estimated to be $8.2 million and 10-year costs are estimated to be $8.7 million. IT costs for the first year are $188 thousand and aligns to the 3-year refresh cycle. Five-year costs are estimated to be $232 thousand and 10-year costs are estimated to be $248 thousand.

H.R. 6141

H.R. 6141, the “Protecting Moms Who Served Act,” would, in section 2, authorize to be appropriated $15 million for FY 2022 to improve maternity care coordination for women Veterans throughout pregnancy and the 1-year postpartum period beginning on the last day of pregnancy. This authorization would be in addition to other funds that may be appropriated for such purpose.

Section 2 would also require the Secretary, not later than 1 year after the date of enactment of the Act, to submit to the House and Senate Committees on Veterans

Affairs a detailed plan to improve maternity care coordination to fulfill the responsibilities and requirements described in the VHA Handbook 1330.03, *Maternity Health Care and Coordination*, or any successor handbook. The plan would have to include the following, among other things:

- Recommendations for the amount of funding determined appropriate to improve maternity care coordination for each of the five fiscal years following the date of the plan;
- A description of how these funds would be used to hire full-time maternity care coordinators, to train maternity care coordinators, and to improve support programs led by maternity care coordinators; and
- In developing the plan, the Secretary would be required to consult with a number of external stakeholders. These would include Veterans service organizations, military service organizations, women's health care providers, and community-based organizations representing women from demographic groups disproportionately impacted by poor maternal health outcomes, that the Secretary determines appropriate.
-

VA does not support section 2 of the bill. This provision is not necessary and problematic for a number of reasons. First, VA is already actively taking measures to achieve the same goals as the legislation. The VHA Executive in Charge established a workgroup to improve services for women Veterans, known as "The Modernization of Women's Health Care Integrated Project Team." It was assembled in the summer of 2019 and charged with looking at capacity, gaps and culture change. The team completed its work and briefed the VHA Governance Board in January 2020. In July 2020, VHA dedicated $50M for women's health hiring initiatives to enhance staffing and care coordination for women Veterans.

VA currently has 134 Maternity Care Coordinators across the system; moreover, only three VA health care facilities currently lack a coordinator. In other words, 140 out of 143 facilities have a coordinator or coordinator coverage. These coordinators support pregnant Veterans throughout their pregnancies and post-partum periods. Key to their role is the screening of pregnant Veterans for conditions such as post-partum depression and intimate partner violence. If screens result in positive findings, they promptly connect the Veteran to needed clinical and other resources.

The coordinators also help this patient cohort to:

- Navigate health care services both inside and outside of VA;
- Access care for their other physical and mental health conditions;
- Connect to community resources;
- Cope with pregnancy loss;
- Connect to needed care after delivery; and
- Obtain answers to their questions about any billing they receive for their pregnancy care.

We also note that the requirement in section 2 for the plan to be developed in consultation with Veterans Service Organizations, Military Service Organizations, women's health care providers, and community-based organizations is impractical and ill-advised. Medical practice and decisions related to the delivery of a service-line across VA's 143 health care facilities cannot be determined by consensus among disparate groups with competing interests and varying levels of expertise. These inherently governmental decisions are properly left to VA and the medical provider. In addition, VA's Center for Women Veterans and the already statutorily established Advisory Committee on Women Veterans (5 U.S.C. § 542) already have the mechanisms (and mandates) in place allowing them to review health care provided to women Veterans and to make recommendations to the Secretary on how to improve its delivery or content, to include maternity care coordination. In fact, the Advisory Committee on Women Veterans includes, among others, women Veterans, individuals who are recognized authorities in fields pertinent to the needs of women Veterans, including the gender-specific health-care needs of women, and representatives of Veterans. Apart from these established venues, VA facilities regularly conduct town-halls at which these and other external stakeholders can raise any concerns they have with the delivery of maternity care (and coordination of this care) at the local level.

Lastly, VA already has reporting on Maternity Care Benefits, Survey, and Education Campaign. We would be glad to discuss with the Committee any specific concerns it has regarding the role of VA maternity care coordinators in our health care system, which this section would seek to remedy. VA estimates the cost of this section to be $15,000,000, the amount that would be authorized to be appropriated.

Section 3 would provide a Sense of Congress that each State list the Veteran status of a mother in fetal death records and in maternal mortality review committee reviews of pregnancy-related deaths and pregnancy-associated deaths. VA defers to the views of the States on this provision, as these types of matters are solely under the control of the States.

Section 4 would require the Comptroller General of the United States to submit, not later than 2 years after the date of the enactment of this bill, a publicly available and highly detailed and data-driven report to the House and Senate Committees on Veterans Affairs on a number of issues related to maternal mortality and severe maternal morbidity among women Veterans. This report would have a particular focus on racial and ethnic disparities in maternal health outcomes for women Veterans.

VA defers to the views of the Comptroller General on this provision but notes that we will gladly cooperate with the Comptroller General with respect to information and data needed to report on VA's maternity care program, operation, and benefits.

H.R. 7111

H.R. 7111, the ‘‘Navy SEAL Chief Petty Officer William ″Bill″ Mulder (Ret.) Veterans Economic Recovery Act of 2020,’’ would direct the Secretary of Veterans Affairs to carry out a retraining assistance program for unemployed Veterans and other employment-related activities.

Section 2 would require VA to carry out a program providing up to 12 months of retraining assistance to no more than 35,000 eligible Veterans for the pursuit of a covered program of education. Eligible Veterans who receive retraining assistance would be permitted to use the assistance to pursue a program of education for training on a full-time or part-time basis that is approved under chapter 36 of title 38, U.S.C., does not lead to a bachelors or graduate degree, and is designed to provide training for a high-demand occupation or is a high technology program of education offered by a qualified provider under section 116 of the Harry W. Colmery Veterans Educational Assistance Act of 2017, Public Law 115–48 (Colmery Act).

The Veterans Employment Through Technology Education Courses (VET TEC) program already has operational infrastructure in place and is experiencing tremendous success. VA recognizes the importance of expanding pathways to jobs beyond a traditional degree program through retraining and appreciates the work of the Committee to expand such opportunities. Following the passage of the VOW to Hire Heroes Act in November 2011, VA had only enrolled one third of the authorized Assistance Program (VRAP) participants nearly 15 months later. If the Committee is interested in helping Veterans return to work as fast as possible, VA recommends modifying the VET TEC program by expanding the eligibility criteria to achieve positive effects in a short timeframe, rather than creating a new short-term program. For example, Congress could amend section 116 of the Colmery Act to provide that, for the period of time contemplated by H.R. 7111, unemployed Veterans who are not eligible for any other VA education benefit may use the VET TEC program, which provides short-time training in high-demand areas.

VA understands Congress’ goal of providing unemployed Veterans with educational benefits to pursue retraining opportunities in high-demand occupations, but has concerns regarding the implementation and administration of H.R. 7111, section 2, and does not support this section as currently written. Section 2(o) would provide that VA may begin providing training assistance 90 days after the date of enactment. To put this provision in perspective, VA typically requires at least 9 months to develop the necessary infrastructure for a new program and implement the program. Lessons learned from VRAP inform us that standing up a short-term program in a very short timeframe was an extremely difficult task with many pitfalls and ultimately unsatisfactory employment outcomes. Data shows that out of the 76,000 participants that received benefits only 2,400, or 3.2 percent, of the Veterans in the VRAP program, completed their program of education during the entire duration of the 21-month program. Since inception (February 2019) of the VET TEC program, 1,544 students have participated and 898, or 97 percent, of those participants who started a program have completed

their program and 268 participants have secured employment, the remaining individuals are either still enrolled in a program or seeking employment within the 180-day window. VA is concerned that the proposed legislation would be vulnerable to the same pitfalls VRAP suffered and is not the most efficient way to expand Veterans' employment opportunities.

Implementation of H.R. 7111 would require significant changes to VA's policy and operational and information technology (IT) systems. VA would incur relatively high IT costs and require major IT system changes in order to make the limited benefit program workable from a systems coding perspective. Further, the bill would not allow enough time for VA to make the necessary IT changes in time for implementation.

Section 2(b)(1) of the bill would define the term ''eligible veteran'' as a Veteran who, as of the date of the submittal of an application for assistance: (A) is 25 to 60 years of age; (B) is unemployed as a result of the covered public health emergency; and (C) is not eligible for educational assistance under chapter 30, 31, 32, 33, or 35 of title 38, U.S.C.; and who also (D) is not enrolled in any Federal or state jobs program; (E) is not in receipt of compensation for a service-connected disability rated totally disabling by reason of unemployability; and (F) will not be in receipt of unemployment compensation, including any cash benefit received pursuant to the Coronavirus Aid, Relief, and Economic Security (CARES) Act as of the first day on which the Veteran would receive a housing stipend payment under this section.

VA has several concerns regarding the definition of the term "eligible veteran" in section 2(b)(1). Section 2(b)(1) would require that a Veteran satisfy the first three eligibility criteria as of the date of submittal of an application for assistance. Currently, a claim for educational assistance is based on the date VA receives the Veteran's application for benefits. Depending on the method by which the application is sent to VA, the date of receipt versus the date of submittal could vary significantly. Further, the date of submittal may be difficult to ascertain in some cases. As such, VA recommends basing the eligibility criteria for the retraining program on the date of receipt to more closely align with VA's current application process.

VA also recommends modifying the minimum eligibility age in section 2(b)(1)(A) to 22 years of age because an individual could complete a four-year tour of duty by age 22, be unemployed, and be in need of the retraining services proposed in this bill.

Section 2(b)(1)(C) does not include educational assistance provided under chapter 1606 of title 10, U.S.C. To prevent duplication of assistance, VA recommends that section 2(b)(1)(C) be revised to provide that "eligible veteran" includes a Veteran who is not eligible to receive educational assistance under chapter 1606 of title 10, U.S.C.

Section 2(c)(1) of the draft bill states that an eligible individual who receives retraining assistance would be able to use the assistance to pursue a program of education on a "full-time or part-time basis." VA recommends that the bill require VA to

define "full-time" in accordance with the parameters in 38 U.S.C. § 3688 to avoid any confusion or conflict with how schools may define this term for their purpose.

Section 2(c)(3)(B) of H.R. 7111 would require VA to enter into an agreement with a Federally-funded research and development corporation or another appropriate entity outside of VA to conduct a study, to be completed within 60 days after the date of enactment of the proposed legislation, to determine which occupations are high demand occupations. However, the bill does not provide for an additional 60 days that would be needed to enter into such a contract. VA therefore recommends using the list of high-demand occupations compiled by the Commissioner of Labor Statistics for the duration of VA's administration of the retraining program.

Section 2(d)(1)(A) would require VA to pay 50% of tuition and fees to the educational institution providing a covered program of education when a Veteran begins the program. As a result, some Veterans could be required to initially pay tuition and fee expenses out of pocket. This is impractical because individuals must also be unemployed to qualify for the retraining program. Section 2(d)(1)(B) and (C) would require VA to pay 25% of tuition and fees when the Veteran completes the program and 25% when the Veteran finds employment in a field related to the program. The payment structure in section 2(d)(1) would be very challenging for VA to implement, as we currently have no system in place to make such payments. On the other hand, VA currently has a system in place to pay similarly incremental percentage levels under the VET TEC program, thereby making adoption of or integration into the VET TEC program a far more efficient alternative.

Under section (2)(d)(4) of the bill, VA would be prohibited from making the final 25% payment to an educational institution if an eligible Veteran who completes or fails to complete a covered program of education fails to find employment in a field related to the program of education within the 180-day period beginning on the date the Veteran withdraws from or completes the program. As a result, VA would be required to hold and monitor claims for 180 days after the completion date or the withdrawal date to release the final payment to the school, which could impact the timeliness for processing Veterans' claims for other VA education programs.

Section 2(n)(2) would authorize $10 million to be appropriated from the funds made available to VA under the CARES Act for administrative costs associated with carrying out section 2. All of the funds appropriated to VA under the CARES Act have been allocated, so VA would require a separate and distinct appropriation to fund the administrative costs required to implement the new retraining program.

VA recommends two technical amendments to section 2(d). VA recommends insertion "of title 38, United States Code," after "section 3313(c)(1)(A)" in section 2(d)(1) and that "program of education" in section 2(d)(2)(C)(ii)(II) be changed to "educational institution."

For section 2, mandatory readjustment benefit costs are estimated to be $586.2 million in 2021. VBA discretionary costs are estimated to be $8.4 million in 2021, $39.7 million over five years, and $79 million over 10 years. Discretionary IT costs are estimated to be $303 thousand in 2021, $1.2 million over five years, and $2.3 million over 10 years.

Section 3 of the bill provides the Secretary of Labor and the Secretary of Veterans Affairs with access to the State Directory of New Hires for purposes of tracking the employment of veterans. The New Hire information that will be provided pursuant to section 3 is limited to verification of an initial hire and does not include the quarterly reports on the wages that may verify earnings and continuing employment. Access to verify initial employment is important, but Federal employment data related to new hires is only reported to the National Directory of New Hires. Not only would the state-level data be missing a critical employment source for veterans, but under this authority the Department of Labor (DOL) and VA would have to establish separate arrangements with each State Directory of New Hires to track the employment of veterans. Under the provisions authorizing the State Directories in the Social Security Act, all the States Directories must submit the information to the National Directory of New Hires (NDNH) maintained by Health and Human Services (HHS) (42 USC 653a(g)(2)). It would be significantly more efficient if the bill is revised to provide the Secretary of Labor and the Secretary of VA access to the NDNH to obtain the information to track the employment of veterans and require only one arrangement with HHS to obtain the relevant information covering all States. DOL therefore recommends that section 3 of the bill amend section 453(j) of the Social Security Act, which governs disclosure of information from the NDNH, to allow the Secretary of Labor and the Secretary of the VA access to the NDNH information needed to track the employment of veterans.

Within the recommended changes described above, VA supports the inclusion in section 3 of information reported by employers for purposes of tracking: (1)employment in the second quarter after exit; (2)employment in the fourth quarter after exit; (3) median earnings in the second quarter after exit; and (4) the percentage of program participants who attain a recognized postsecondary credential within one year after exit. VA takes our responsibility to serve our veterans and safeguard taxpayer money seriously. The lack of quantifiable performance indicators aligned to other Federally-funded job training programs would undermine objective program evaluation and encourage an overreliance on survey data of Veterans. There are no mandatory or discretionary costs associated with this section.

Section 4 of H.R. 7111 would make various amendments to section 116 of the Colmery Act which authorizes the VET TEC program. Section 4(2) would amend the definition of a qualified provider of a high technology program of education to require employment of instructors whom VA determines are experts in their respective fields based upon specified criteria. VA believes it would be more reasonable to expect an educational institution to determine whether instructors are experts based upon the specified criteria, and to require VA to assess the qualifications of the educational institution, rather than its individual instructors.

Section 4(4) would increase the appropriation from $15 million to $45 million for each fiscal year that VA carries out the VET TEC program. Due to the popularity of the VET TEC program, and in part due to COVID-19, VA has used the $15 million budget for the current fiscal year. VA experienced an increase of over 100% in student enrollments in April 2020, and we expect this trend to continue. Consequently, VA is unable to accept new enrollments until October 1, 2020. VA supports Section 4 of the bill and welcomes the increased appropriation which would greatly assist VA in accommodating the demand for this popular program. However, VA recommends increasing the annual funding limit to $60 million rather than $45 million to maximize positive impacts for Veterans.

Finally, VA recommends amending the title of section 4 to reflect that the provision would also expand the category of eligible individuals and prohibit certain accounting of assistance.

VA defers to the Department of Labor regarding section 5 of the bill but notes that it would be duplicative of existing programs. The state workforce system offers assistance through a nationwide network of nearly 2,400 American Job Centers (AJCs), which includes DOL-funded workforce programs, as well as programs funded by other state, local, and Federal partners, including the Department of Education. In Program Year (PY) 2018, 3.8 million Americans, including over 265,000 veterans, received staff-assisted employment assistance at an AJC. This assistance may include job search services, career planning and counseling, job training, or individualized career services for veterans that have a barrier to employment. All veterans also receive Priority of Service, as codified in 38 U.S.C. 4215.

Section 6 would authorize VA to make grants to eligible organizations to provide transition assistance to separated, retired, or discharged members of the Armed Forces. VA and DOL support the concept but believe that DOL is better positioned to administer and integrate this grant program with its duplicative of existing federal employment programs.

The Committee may want to consider expanding the use of the grant funding beyond employment services to avoid duplication and best provide connections to the services needed by each unique individual. The Department previously provided technical assistance on S. 666, “HUBS for Veterans Act of 2019,” which contains provisions similar to section 6 of this draft legislation. In S. 666, the funding would support a leading community model in veteran service delivery that is focused on ensuring veterans are receiving high quality and timely services across a spectrum of already existing programs that provide resume assistance, financial services, legal assistance, educational supportive services, assistance with access to VA benefits, and entrepreneurship training. Local, community-based organizations are best suited to help veterans navigate to the appropriate local government or non-government service providers that can best influence veteran outcomes. by leveraging our nation’s collective efforts to support the employment outcomes of our Veterans.

When implementing the preference in section 6(d)(2) of prioritizing locations for the grants, the bill requires that priority be given to organizations located in states that have a “high rate of usage of unemployment benefits for recently separated members of the Armed Forces.” If the bill is revised to authorize DOL to administer this grant program within existing programs, the Secretary of Labor would implement this requirement by reviewing claims activity of unemployment compensation for ex-servicemembers (UCX) in the states. DOL has access to state data of UCX claims activity and could use this information for the necessary analysis. DOL does not have access to state data on claims activity by veterans of the other unemployment insurance programs.

H.R. 7163

H.R. 7163, the "VA FOIA Reform Act of 2020," would require VA to reduce the backlog of Freedom of Information Act (FOIA) and Special Counsel requests by 75% within 3 years after enactment. The bill would also direct VA to request a compliance assessment by the Office of Government Information Services (OGIS) of the National Archives and Records Administration (NARA) with 5 U.S.C. § 552 and to submit various reports on the implementation of the provisions of the bill.

VA supports the intent of this bill to reduce the FOIA backlog; however, the mandate to reduce the FOIA backlog by 75% within 3 years has the potential to create additional issues for FOIA processing in VA. Some requests by nature require more time and review prior to a release. Given the amount of personally sensitive information entrusted to VA, VA’s top priority is to ensure that all privacy reviews are conducted appropriately and within existing law. Placing a 3-year deadline on reducing the FOIA backlog could establish an unreachable goal and could undermine VA’s ability to protect sensitive data. VA is confident that the overall FOIA backlog will continue to decrease without the need for additional legislation.

The inclusion of a mandated reduction in an Office of Special Counsel backlog does not appear germane to the overall goal of the bill. The challenges relating to disclosure of agency information in response to FOIA requests is generally unrelated to any challenges in responding to Office of Special Counsel requests for information.

The Department of Justice, Office of Information Policy issued guidelines to all Federal agencies setting a goal of reducing a FOIA backlog of less than 10%. VA has exceeded that goal and continues to track and report its FOIA backlog based on the current and previous three fiscal years and an overall cumulative tracking of VA FOIA backlog, showing progress by each of the reporting action offices.

Based on the FY 2019 Annual Report, VA identified a cumulative FOIA backlog of 2,631 cases, which results in an overall VA FOIA Backlog of less than 1%. The FY 2019 cumulative number is based on incoming FOIA requests dating to 2007. The overall number of incoming requests from 2007 to 2019 exceeded 277,000. Two VA

Administrations receive the bulk of FOIA requests, and both Administrations have made significant strides in reducing and keeping FOIA backlogs as low as possible.

VA not only maintains a public-facing FOIA Electronic Library of records and documents that are requested three or more times, but pro-actively posts records that are determined to be of interest to the public regarding VA activities.

Overall FOIA success, to include tracking backlog numbers, are reported to Senior Leadership on a weekly basis and have been included as performance standards of Senior Leaders as part of the annual performance appraisal process. VA takes FOIA and the backlog seriously and believes the proposed bill is not necessary and would create significant processing issues throughout the Department.

The language regarding proactive disclosures is largely duplicative of the 2016 FOIA Improvement Act. VA is cognizant of the current requirements of the Freedom of Information Act, the FOIA Improvement Act and the National FOIA Portal, and is currently working towards the implementation of the Public Access Link.

Unnumbered Bill- Veterans Benefits Fairness and Transparency Act of 2020

An unnumbered bill, the ‘‘Veterans Benefits Fairness and Transparency Act of 2020,’’ would require VA to publish in a central location on the Department's internet website disability benefit questionnaire forms (DBQ), or successor DBQs relating to non-Department medical providers submitting evidence regarding a disability of a claimant. If a DBQ is updated, VA would be required to accept a previous version of the DBQ filed by a claimant if the claimant provided the previous version to the non-Department medical provider before the date on which the updated DBQ was made available and filed the previous version of the DBQ during the 1-year period following the date the form was completed by the non-Department medical provider. In such cases, VA would request from the claimant any other information that the updated version of the DBQ requires and would apply the laws and regulations required to adjudicate the claim as if the claimant filed the updated version of the DBQ. The Secretary would be authorized to waive any interagency approval process required to approve a modification to a DBQ if such requirement only applies by reason of the forms being made public as required by the bill. This bill would overturn a recently announced VA policy to no longer make DBQs publicly available.

VA opposes the bill for the following reasons. VA has observed a growing industry of individuals and companies marketing the service of completing DBQs for Veterans, some of which have business practices that are detrimental to Veterans. Examples of these practices include charging upfront flat fees, requiring payment of 3-months of a Veteran’s benefits, and submitting DBQs based upon remote examinations despite the requirement that DBQs must be based on an in-person examination. VBA has made hundreds of referrals to the VA Office of Inspector General (OIG) of individuals and companies engaged in these unethical or fraudulent practices.

While section 2(a)(2) of the bill would require OIG to submit an annual report to Congress on publication of the DBQs on the internet, VA believes that the bill would exacerbate the abuses described above, and VA does not have the enforcement authority to address violations, such as levying fines or penalties against non-VA health care providers, referring health care providers to State Licensing Boards, or barring providers from submitting DBQs in the future. Another way to preclude such abuses would be to provide VA with the authority and resources to: (1) limit DBQ submissions to medical providers who have an established treatment history with the Veteran; (2) certify and train non-VA health care providers who choose to complete DBQs; (3) conduct appropriate data matching with other Federal and state agencies that regulate health care providers; and (4) establish a secure portal to verify the identity and credentials of all non-VA health care providers who complete DBQs, transmit DBQs from registered or certified health care providers to claimants' records, and reject DBQs from uncertified non-VA health care providers.

Section 2(a) of the bill would require VA to accept outdated versions of a DBQ while requiring that VA apply the laws and regulations required to adjudicate the claim as if the claimant filed the updated version of the DBQ. VA questions the utility of this provision because if VA received an outdated DBQ, VA would most likely provide a VA examination to the Veteran to ensure that VA possesses the medical information necessary to adjudicate the claim under the new law or regulations. Although section 2(a) would require VA to request from the claimant any other information that the updated DBQ requires, we believe that it is unlikely that the Veteran would be able to provide the requisite medical information.

Finally, the rationale for providing publicly available DBQs no longer exists because the Veterans Benefits Administration (VBA) has expanded its capability to provide disability examinations in remote areas. Beginning in 2010, VBA provided Veteran claimants the option of submitting DBQs because many Veterans living in rural areas or overseas were forced to travel long distances to attend a disability examination. However, since that time, VBA, through its contract examination program, has greatly expanded its coverage into rural areas and Federal and state prisons. For example, VBA’s contract vendors now conduct examinations in 33 countries where there are no VA health care facilities.

General Operating Expense (GOE) costs for the first year are estimated to be $3.1 million. Five-year costs are estimated to be $14.8 million, and 10-year costs are estimated to be $29.4 million. IT estimated costs for development would be $80 million, while estimated maintenance costs are $25 million.

Unnumbered Bill-License Portability

Another unnumbered bill would amend section 504(c) of the Veterans' Benefits Improvement Act of 1996, Public Law 104-275 (38 U.S.C. § 5101 note) by replacing the term "physician(s)" with "health care professionals," and by defining a health care professional as a physician, physician assistant, nurse practitioner, audiologist, or psychologist.

VA supports the bill because it would authorize the Department to contract with both non-physician "health care providers" and physicians to conduct medical examinations in connection with claims for disability benefits. Because the bill would permit licensed non-physician providers to perform examinations at any location, VA would have the flexibility to utilize a wider range of qualified health care professionals to conduct disability examinations. This would expand the operating capacity of all vendors resulting in shorter wait times and faster exam completion times. Additionally, vendors would be able to supplement examination capabilities in remote locations that have reduced access to licensed physicians who have specific medical specialties and/or in areas that have higher demand, reducing the time necessary to schedule examinations in those areas without reducing the quality of care.

Section 704 of the Veterans Benefits Act of 2003, Pub. L. No. 108-183 (codified as amended at 38 U.S.C. § 5101 note), provided additional authority for VA to use discretionary funds for contract physician exams rather than compensation funds as required under section 504(d) of Pub. L. No. 104-275. However, this authority expired on December 31, 2018. VA recommends that the bill also amend section 704(d) to incorporate the proposed amendments to section 504(c) and section 704(c) to extend the authority to use discretionary funds for disability examinations. This would provide needed flexibility to effectively utilize supplemental and other appropriated funds in responding to increased demand for disability compensation examinations.

There would be no mandatory or discretionary costs associated with this bill.

Unnumbered Bill-Home loan Benefits for National Guard

A third unnumbered bill would define "veteran" for purposes of chapter 37 of title 38, U.S.C., to include an individual who performs "active service" as defined in 10 U.S.C. § 101 for a period of not less than 90 cumulative days and that includes 30 consecutive days.

VA fully supports this bill as it would expand benefits to certain members of the reserve components of the Armed Forces serving under title 32, U.S.C., including those currently serving at the President's direction in support of the Coronavirus Disease 2019 (COVID-19) National Emergency. Under current VA statutes, National Guard members are generally eligible for VA home loan benefits if they served on active duty as defined at 38 U.S.C. § 101 for at least 90 days or completed at least 6 years in the Selected Reserve. 38 U.S.C. §§ 3701 and 3702. The term "active duty," as defined under 38

U.S.C. § 101(21)(A), does not include full-time National Guard service under section 316, 502, 503, 504, or 505 of title 32. See 38 U.S.C. § 101(22)(C). Thus, in most cases, an individual in the National Guard ordered to full-time service under title 32 must complete at least 6 years of service in the National Guard to be eligible for VA home loan benefits. We would be pleased to work with the Committee on certain technical aspects of the bill to ensure coverage as intended.

VA estimates that benefit cost savings would be $240,000 in FY 2021, $1.1 million over 5 years, and $2.1 million over 10 years. There would be no administrative costs or savings as a result of the bill.

Unnumbered Bill- Burial Equity for Guards and Reserves Act of 2020

H.R. XXXX, the ‘‘Burial Equity for Guards and Reserves Act of 2020,’’ would require that grants provided by VA for state Veterans' cemeteries do not restrict states from authorizing interment of Reservists whose service was terminated under honorable conditions, members of the Army or Air National Guard whose service was terminated under honorable conditions, and members of the Reserve Officers’ Training Corps of the Army, Navy, or Air Force whose death occurred under honorable conditions while a member of the Reserve Officers’ Training Corps of the Army, Navy, or Air Force; and the spouse of such individuals solely by reason of the ineligibility of such individual for burial in an open national cemetery under the control of the National Cemetery Administration.

VA greatly appreciates the Committee’s support of the mission VA shares with its Veterans Cemetery Grants Program (VCGP) to meet the burial needs of our Nation’s heroes; however, VA does not support this bill. The bill would authorize expanded eligibility criteria for VA-funded state or tribal Veterans’ cemeteries than the criteria provided by 38 U.S.C. § 2402 for national cemeteries with respect to former members of a reserve component of the Armed Forces, the National Guard, and their spouses. This legislation would provide a Veterans’ benefit to former reserve members whose service terminated under honorable conditions, but who have not had active duty service. This is inconsistent with VA’s longstanding policy, stated in 38 Code of Federal Regulations 39.10(a), that grant-funded cemeteries be operated solely for interment of Veterans and members of their family.

Veterans have earned eligibility for burial in a national cemetery through performance of active duty, which is generally necessary to attain “Veteran” status under 38 U.S.C. § 101(2). Reservists may become eligible for burial in a national cemetery under specific circumstances, such as a call to active duty, death or disability incurred during active duty for training or inactive duty training, death while undergoing treatment at the expense of the United States for injury or disease incurred during training exercises, or eligibility for retirement pay under particular title 10 provisions. If enacted, this bill would create an inconsistency between VA national and VA-grant funded cemeteries by offering the same burial benefit to certain non-“Veterans”. VA grant-funded state and tribal Veterans’ cemeteries are intended to complement burials

in VA national cemeteries in recognition of the service and sacrifice of eligible Veterans and Service members. To expand VCGP burial eligibility for Reservists and National Guard would diminish the distinct honor of those Veterans and Service members who have earned a similar burial benefit in VA national cemeteries.

No mandatory costs are associated with this bill.

Unnumbered Bills (USERRA)

One unnumbered bill would expand the scope of coverage under the Uniformed Services Employment and Reemployment Rights Act (USERRA) to National Guard members who perform state active duty. Another unnumbered bill would clarify that procedural rights and protections under USERRA are considered a right and benefit and that the parties must voluntarily consent to arbitration of an USERRA claim after a complaint on the specific claim has been filed in court or with the Merit Systems Protection Board. Consent would not be considered voluntary when a person is required to agree to arbitrate an action, complaint, or claim alleging a USERRA violation as a condition of future or continued employment, advancement in employment, or receipt of any right or benefit of employment. VA defers to the Department of Defense and the Department of Labor regarding these bills.

This concludes my statement, Mr. Chairman. We would be happy now to entertain any questions you or the other Members of the Subcommittee may have.