

**STATEMENT OF
THE AMERICAN LEGION
BEFORE THE
SUBCOMMITTEE ON OVERSIGHT & INVESTIGATIONS
COMMITTEE ON VETERANS' AFFAIRS
UNITED STATES HOUSE OF REPRESENTATIVES
ON
"PENDING LEGISLATION"**

April 21, 2021

Chairman Pappas, Ranking Member Mann, and distinguished members of the Subcommittee; on behalf of National Commander James W. "Bill" Oxford, and the nearly 2 million members of The American Legion, we thank you for inviting The American Legion to present our position on the pending and draft legislation before this subcommittee.

H.R. 711 - West Los Angeles VA Campus Improvement Act of 2021

To amend the West Los Angeles Leasing Act of 2016 to authorize the use of certain funds received pursuant to leases entered into under such Act, and for other purposes.

This legislation would direct the Department of Veterans Affairs (VA) West Los Angeles Medical Center campus to use revenues from leases and easements as a dedicated funding source to build additional housing for homeless veterans, offset the high costs of housing construction, and help fund the provision of supportive services for veterans in the community. The bill will also increase the time period for enhanced use leases on the campus from 75 to 99 years, which would align with other leasing terms the VA has, and help reduce the financing costs for new housing.

The American Legion places special priority on the issue of veteran homelessness.¹ To help our struggling veterans, the Legion works on lobbying for legislation affecting veteran homelessness at a national level, and acts on directly assisting veterans who have fallen on tough times and are without a place to live or facing the prospect of it at the local level. For more than 40 years, The American Legion has actively worked to address issues at the West LA VA campus to ensure it supports as many veterans as possible.² Legion state and national representatives have been deeply engaged in the effort, to include multiple site visits and testimonies before Congress in recent years.³

¹ "Homeless Veterans Taskforce." The American Legion. Accessed April 16, 2021. <https://www.legion.org/homelessveterans/taskforce>.

² "Legion to Congress: Hold VA Accountable for West LA Property." The American Legion, October 7, 2015. <https://www.legion.org/legislative/230152/legion-congress-hold-va-accountable-west-la-property>.

³ Olsen, Ken. "West Los Angeles VA May Finally Be on Track to Help Homeless Veterans." The American Legion, February 14, 2019. <https://www.legion.org/homelessveterans/244835/west-los-angeles-va-may-finally-be-track-help-homeless-veterans>.

We acknowledge the progress VA is making in meeting its historic obligations in Los Angeles County, which has the highest concentration of homeless veterans in the United States. The West Los Angeles VA Medical Center was built on land given to the federal government in 1888 for the express purpose of housing disabled veterans. At its peak, the campus was home to about 4,000 veterans, a post office, churches, theaters and a 10,000-volume library. VA quietly ended its services during the Vietnam War. Meanwhile, the agency leased more than 100 acres of the West Los Angeles property for a dog park, charter bus storage, a private school's athletic center, a hotel chain's laundry and UCLA's baseball stadium, among other private endeavors. The millions of dollars in proceeds from those leases is still unaccounted for.

A coalition including the American Civil Liberties Union, Public Counsel Law Center, the law firms of Arnold & Porter and Munger, Tolles & Olson, the Inner City Law Center, and Harvard law professor Laurence Tribe sued on behalf of thousands of severely mentally disabled homeless veterans in June 2011. A federal judge in California ruled VA's leases with Brentwood School and several private businesses were illegal in August 2013. Both sides appealed and court-ordered mediation failed.

The litigation was set to resume when then VA Secretary Robert McDonald initiated successful settlement discussions in 2015. The agreement called for VA to provide permanent supportive housing, free legal assistance, family counseling, and innovative mental health treatment. Women, older veterans, and the most severely physically or mentally disabled veterans are slated for priority access to the permanent housing on the campus. In 2016, VA adopted a master plan for the future of the campus.⁴

In 2016, the *Veterans Care Agreement and West Los Angeles Leasing Act of 2016* was signed into law to restore the VA's leasing authority at the West Los Angeles Campus, allow the VA to partner with nonprofits to build housing for homeless veterans, expand veterans' services, and facilitate 1,200 new units of homeless housing. H.R. 711 will amend the original act to clarify that leasing proceeds may be used for the construction of additional housing. Through Resolution No. 141: *Department of Veterans Affairs Enhanced-Use Leasing*, The American Legion supports VA's use of enhanced use leasing that provides obvious and permanent benefits, resources, and services to the veterans' community. This legislation is consistent with the resolution and The American Legion believes it would dramatically help end and prevent veteran homelessness in the greater Los Angeles area.

The American Legion supports H.R. 711 as currently written.

⁴ "Homeless Veterans Find a New Home on the West LA VA Campus." HACLA website. Accessed April 16, 2021. <http://www.hacla.org/apply4ph/News-Notifications/ArticleID/113/Homeless-Veterans-find-a-new-home-on-the-West-LA-VA-Campus>.

H.R. 1948 - VA Employee Fairness Act of 2021

To amend title 38, United States Code, to modify authorities relating to the collective bargaining of employees in the Veterans Health Administration.

H.R. 1948 would remove certain provisions of U.S. Code that prohibit collective bargaining on professional conduct or competence, peer review, and adjustments to employee compensation. It would therefore grant Department of Veterans Affairs' (VA) Title 38 healthcare professionals—including nurses, physicians, dentists, and physician assistants who serve veterans—the same workplace rights currently granted to other VA clinicians and federal employees.

Under the direction of Title 38 U.S. Code § 7422, Collective Bargaining, VA employees have had collective bargaining rights since 1991. However, according to the code, healthcare providers are exempt from collective bargaining on matters of professional conduct or competence, peer-review, or changes to employee compensation. This prevents healthcare workers from actions such as negotiating for competitive pay or voicing grievances about staffing shortages in terms of patient care. This lack of protection causes these professionals to look elsewhere for employment, which continues to perpetuate the cycle of employee attrition and lack of recruitment in VA healthcare facilities. Through Resolution No. 115: Department of Veterans Affairs Recruitment and Retention, The American Legion supports legislation addressing the recruitment and retention challenges.

The American Legion supports H.R. 1948 as currently written.

H.R. 2082 - VA Supply Chain Resiliency Act

To make certain improvements relating to the supply chain of the Department of Veterans Affairs, and for other purposes.

The COVID-19 pandemic presented innumerable challenges to Department of Veterans Affairs (VA) as it struggled to maintain the fidelity of its supply chain. Obtaining critical medical supplies in the early phases of the pandemic became especially difficult for many VA medical facilities as global supply chains constricted and manufacturers shut down. Additionally, dependence on foreign sources for essential medical and safety equipment became problematic as countries limited exports to meet increased domestic demand.⁵

VA became abruptly aware of the vulnerabilities and lack of resiliency built into its supply chain as it struggled to acquire critical medical supplies throughout the pandemic. The lack of a comprehensive strategy for its supply chain management modernization efforts and inefficient

⁵ During a hearing before the U.S.-China Economic and Security Review Commission July 31, 2019, in testimony provided by the Hastings Center, it was pointed out that “If China Shut the Door on Exports of Medicines and Their Key Ingredients and Raw Materials, U.S. Hospitals and Military Hospital and Clinics Would Cease to Function Within Months, If Not Days. A natural disaster, global health crisis, or adverse foreign government action could disrupt the supply of medicinal ingredients and finished drugs. Surgeries could not be performed at Walter Reed National Military Medical Center” and other hospital systems, which would include VA.

acquisition management procedures were primarily responsible for the lack of resiliency. Additionally, the nation's healthcare systems dependence on foreign sources for critical medical and safety equipment served to further exacerbate the issue.

An effective medical supply chain that can deliver the correct item, at the right time, to the right place, in a time of crisis requires a comprehensive approach. VA has multiple interrelated supply chain modernization initiatives underway that are intended to improve its acquisition management. However, without a comprehensive strategy that communicates how each interrelated initiative will move VA forward, VA risks wasting resources and missing opportunities to build resiliency into its supply chain. To ensure that VA is able to deliver critical items in the face of future national emergencies will require a comprehensive and multifaceted approach.

The *VA Supply Chain Resiliency Act* requires VA to identify critical supply items and anticipate the needs of the VA medical system in the event of future public health or national emergencies. Additionally, it requires VA to participate in the Department of Defense Warstopper program and thereby "ensure the maintenance and stability of items that are identified as critical." Furthermore, this legislation mandates that VA partners with manufacturers and distributors to secure a supply of critical items rather than holding physical inventories.

This comprehensive, multi-faceted, and forward-looking strategy ensures that VA is better prepared to provide essential life-saving care to veterans in the face of the next national emergency. The American Legion supports efforts to expand contracts and agreements with producers to ensure the availability of critical items and encourages VA to partner with domestic veteran-owned business to ensure increased supply chain resiliency. Through Resolution No. 13: *Support "Buy American" Policy within the Federal Government to Create Opportunities for Veterans*, The American Legion supports legislation and policy that incentivizes the return of manufacturing from overseas and the creation of more domestic manufacturers. The federal government through its collective purchasing power, can programmatically incentivize the return of domestic manufacturing of emergency supplies to prevent supply chain breakdowns in future national emergencies.

The American Legion supports this draft legislation *as currently written*.

Discussion Draft - VA Quality Health Care Accountability and Transparency Act

To direct the Secretary of Veterans Affairs to make certain information publicly available on one internet website of the Department of Veterans Affairs.

The Department of Veterans Affairs (VA) has a long history of major issues with the complexity of their numerous websites which makes it difficult for many veterans to navigate their VA records and manage their care. These sites include My HealtheVet, eBenefits, and now Cerner's new database for the electronic health record modernization. This complexity is only exacerbated by VA's history of patient wait times, quality of care, and frequent staffing shortages. A Government

Accountability Office report found that the VA was failing to disclose wait time, patient safety, and quality of care information in an easily accessible and usable manner.⁶

The American Legion has a long-standing tradition of holding the VA accountable for providing the quality of care this nation's veterans deserve. This includes ensuring that information regarding key aspects of VA care are easily accessible to guarantee that the high standards we expect from VA are maintained as well as enabling the identification of best practices and areas VA can improve. Each year, The American Legion's Veterans Affairs and Rehabilitation Commission members conduct a series of site visits to VA medical facilities and Regional Offices. While on site, they meet with veterans, their families, and VA administrators and employees to discuss successes, challenges, and limitations at each site. These observations are compiled annually in a report titled System Worth Saving, that is distributed to VA officials, members of Congress, and the President of the United States.

This draft legislation would improve the overall quality of VA care through enhanced accountability and transparency of services by streamlining how information is disclosed. This will be achieved by ensuring certain information, such as staffing and patient wait time information, is publicly available on a single, easily accessible website. The bill would also require that the information be updated regularly and that there are regular audits and reports of the information to ensure accuracy. Through Resolution No. 194: *Department of Veterans Affairs Veteran Integrated Service Networks* supports legislation which would studies and reviews of VHA "in order to better provide timely access and quality healthcare for veterans.

The American Legion supports this draft legislation *as currently written*.

Discussion Draft – Improving VA Accountability to Prevent Sexual Harassment and Discrimination Act of 2021

To amend title 38, United States Code, to improve the equal employment opportunity functions of Department of Veterans Affairs, and for other purposes.

According to estimates from a federal survey, 18 to 27 percent of Department of Veterans Affairs (VA) employees experienced some form of sexual harassment at work from mid-2014 through mid-2016. Due to this survey, the Government Accountability Office (GAO) was asked to review VA's efforts in preventing and addressing sexual harassment within its facilities and made seven recommendations after noting how VA's EEO program was in disarray and in need of more Department-wide training. GAO cited incomplete or outdated policies and information which could leave for confusion among employees and managers. Additionally, GAO found that VA's EEO complaint data tracking system was incomplete, thus hindering VA's ability to analyze harassment trends agency-wide.⁷

⁶ Government Accountability Office. *VA Should Improve the Information It Publicly Reports on the Quality of Care at Its Medical Facilities*. (2017). [online] Available at: <https://www.gao.gov/assets/gao-17-741.pdf>. [Accessed April 8, 2021]

⁷ "Sexual Harassment: Inconsistent and Incomplete Policies and Information Hinder VA's Efforts to Protect Employees" <https://www.gao.gov/products/gao-20-387>

The American Legion expects the utmost professionalism and holds a zero-tolerance stance on harassment of any kind within VA's workforce. VA must ensure that its medical centers are implementing and enforcing VA's anti-harassment and anti-sexual assault efforts to ensure that all veterans and VA employees can work and receive treatment in a safe, professional environment. This legislation would realign Equal Opportunity managers under the Office of Resolution Management by requiring VA facility-level Equal Employment Opportunity Program Managers to report to the head of the Office of Resolution Management or a successor office. It would also establish a timeline requirement where harassment complaints, sexual or otherwise, are to be reported immediately and set up training to cover identifying and addressing sexual and other harassment and employee discrimination. Through Resolution No. 163: *Legislation to Provide Reporting, Tracking, and Action Dealing with Sexual Assaults at Department of Veterans Affairs Facilities* calls for legislation which would ensure reporting, tracking, and actions taken upon incidents of sexual assaults at each VA facility.

The American Legion supports this draft legislation as currently written.

Discussion Draft – VA Beneficiary Debt Collection Improvement Act

To amend title 38, United States Code, to improve the processing of veterans benefits by the Departments of Veterans Affairs, to limit the authority of the Secretary of Veterans Affairs to recover overpayments made by the Department and other amounts owed by individuals to the United States, to improve due process accorded individuals with respect to such recovery, and for other purposes.

Each year, the Debt Management Center (DBC) collects debts from veterans who owe money to the Department of Veterans Affairs (VA). In 2019, the amount of debt collected from veterans for VA-related overpayments was in excess of \$1 billion. Far too often, because of a VA administrative error, lack of timeliness, or both, veterans are confronted with the repayment of debts that place them in financial jeopardy. Many times, these debts are in the tens of thousands of dollars. Veterans suffering from financial hardship, who do not receive VA waivers, are often faced with bankruptcy and their only recourse.

The American Legion contends that VA is not fulfilling its duty to assist veterans when it compels veterans already under financial duress to repay debts that may be created – or substantially increased – by VA errors or lack of timely processing. This legislation would alleviate the pressure on veterans to repay VA-related debts in several ways including ensuring debts will no longer be incurred as the result of a VA's inability to process information in a timely manner, providing veterans with information on how to dispute an overpayment or request a waiver, and extending the time limit for requesting relief. Through Resolution No. 228: *Timely Processing of Overpayments for Reserve Components and/or Active Duty Pay* supports legislation which ensure veterans are not placed in a financial hardship when VA is collecting debts particularly when it is no fault of their own.

The American Legion supports this draft legislation as currently written.

Discussion Draft

To direct the Secretary of Veterans Affairs to submit to Congress a plan for expending Coronavirus pandemic funding made available to the Department of Veterans Affairs, and for other purposes.

The Department of Veterans Affairs (VA) has been infused with emergency funds three times in response to the current COVID-19 pandemic. The *American Rescue Plan*, the latest coronavirus relief package, specifically provided billions of dollars in funding for a myriad of VHA/VBA services. This includes funding for State Veteran Home construction grants and per diem grants, IT upgrades, measures to reduce the backlog of compensation and pension claims and Board of Veterans' Appeals hearing requests, VA supply chain modernization projects, debt forgiveness related to medical bill co-payments, small businesses loans, emergency relief for American Indian/Alaska Native veterans, and efforts to address health disparities for minority veterans. This funding was critical to ensuring that VA is able to function during the COVID-19 pandemic and that veterans continue to receive the care and benefits they need. However, large sums of money being infused into VA without adequate oversight and protections to ensure the money is being spent wisely and efficiently is irresponsible. Congress must take steps now to guarantee that VA is responsibly expending allotted resources in manner that both modernizes aging VA infrastructure and reaches its intended target population.

The American Legion supports good accountability and stewardship of American tax dollars and resources. We also support legislation which requires VA to submit financial reports reflecting proposed appropriations and actual expenditures to ensure that the needs of veterans and their families affected by current pandemic are being promptly met or addressed. This draft legislation would require a detailed plan for VA's expenditure of Coronavirus pandemic funds along with weekly reports on spending and quarterly audits of all covered funds. This would ensure that the funding is properly spent and ensures that the veterans needs are met during this ongoing crisis. Through Resolution No. 178: *Assured Funding for VA Medical Care*, we support legislation which ensures that VA is properly funded to meet the healthcare needs of America's veterans.

The American Legion supports this draft legislation *as currently written*.

Conclusion

As always, The American Legion thanks this subcommittee for the opportunity to explain the position of the almost 2 million veteran members of this organization. For additional information regarding this testimony, please contact Mr. Lawrence Montreuil at The American Legion's Legislative Division at (202) 861-2700 or Lmontreuil@legion.org