

**H.R. 1721; H.R. 1900; H.R. 3122; H.R. 3656; H.R.  
3657; AND, A DRAFT BILL ENTITLED “VET-  
ERANS FAIR DEBT NOTICE ACT OF 2017”**

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**HEARING**

BEFORE THE

SUBCOMMITTEE ON DISABILITY  
ASSISTANCE AND MEMORIAL AFFAIRS  
OF THE

COMMITTEE ON VETERANS' AFFAIRS  
U.S. HOUSE OF REPRESENTATIVES

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# CONTENTS

Wednesday, September 13, 2017

	Page
H.R. 1721; H.R. 1900; H.R. 3122; H.R. 3656; H.R. 3657; And, A Draft Bill Entitled "Veterans Fair Debt Notice Act Of 2017" .....	1
OPENING STATEMENTS	
Honorable Mike Bost, Chairman .....	1
Honorable Elizabeth Esty, Ranking Member .....	2
WITNESSES	
The Honorable Jim Banks, U.S. House of Representatives .....	2
The Honorable David Rouzer, U.S. House of Representatives .....	3
The Honorable Steve Stivers, U.S. House of Representatives .....	3
The Honorable Joyce Beatty, U.S. House of Representatives .....	4
The Honorable Chellie Pingree, U.S. House of Representatives .....	5
The Honorable Matt Cartwright, U.S. House of Representatives .....	10
The Honorable Bruce Poliquin, U.S. House of Representatives .....	NOT PRESENT
Mr. Matthew T. Sullivan, Deputy Under Secretary for Finance and Planning and Chief Financial Officer, National Cemetery Administration, U. S. De- partment of Veterans Affairs .....	7
Prepared Statement .....	28
Accompanied by:	
Ms. Roberta Lowe, Director, Office of Internal Controls, Acting Director, Debt Management Center, Office of Management, U. S. Department of Veterans Affairs	
Ms. Cheryl Rawls, Director, Pension & Fiduciary Service, Veterans Bene- fits Administration, U. S. Department of Veterans Affairs	
Ms. Elizabeth H. Curda, Director, Education, Workforce, and Income Security Team, U.S. Government Accountability Office .....	8
Prepared Statement .....	31
Mr. Alex Zhang, Assistant Director, National Veterans Affairs and Rehabilita- tion Division, The American Legion .....	15
Prepared Statement .....	36
Mr. LeRoy Acosta, Assistant National Legislative Director, Disabled American Veterans .....	17
Prepared Statement .....	39
Mr. Blake Ortner, Deputy Government Relations Director, Paralyzed Vet- erans of America .....	18
Prepared Statement .....	42
Ms. Kathleen Moakler, Director, Survivor Advocacy, Tragedy Assistance Pro- gram for Survivors .....	19
Prepared Statement .....	43
Mr. John Towles, Deputy Director, National Legislative Service, Veterans of Foreign Wars .....	21
Prepared Statement .....	46
STATEMENT FOR THE RECORD	
COAL - Timeline CITYGovts Preservation .....	48

IV

QUESTIONS FOR THE RECORD

Page

From Chairman Boost To VA .....	50
Questions With Answers From VA .....	51

**H.R. 1721; H.R. 1900; H.R. 3122; H.R. 3656; H.R. 3657; AND, A DRAFT BILL ENTITLED “VETERANS FAIR DEBT NOTICE ACT OF 2017”**

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**Wednesday, September 13, 2017**

U.S. HOUSE OF REPRESENTATIVES,  
COMMITTEE ON VETERANS' AFFAIRS,  
SUBCOMMITTEE ON DISABILITY ASSISTANCE  
AND MEMORIAL AFFAIRS,  
*Washington, D.C.*

The Subcommittee met, pursuant to notice, at 10:30 a.m., in Room 334, Cannon House Office Building, Hon. Mike Bost, [Chairman of the Subcommittee] presiding.

Present: Representatives Bost, Coffman, Banks, and Esty.

Also present: Representatives Poliquin, and Cartwright.

**OPENING STATEMENT OF HONORABLE MIKE BOST,  
CHAIRMAN**

Mr. BOST. The Subcommittee will come to order.

Thank you for joining us today to discuss legislation pending before the Subcommittee.

The six bills on today's agenda address issues that are very important to veterans and their families. These bills would extend eligibility for memorial headstones and markers to family members whose remains are tragically not available for burial or cremation; extend benefits to family of veterans who are buried in tribal cemeteries; help protect vulnerable veterans from financial fraud; require VA to improve the notices they send to veterans who may have received an overpayment; remind us of the important contributions made by various cities to the World War efforts during World War II; and determine whether Congress should designate a museum in Columbus, Ohio as a National Veterans Memorial and Museum.

We have a full agenda today, so in the interest of time I am going to keep everyone, including myself, to no more than the 5 minutes that we have set aside. I appreciate that the bills' sponsors have worked hard on these proposals and I am looking forward to the discussions, how these bills will impact veterans and their families.

Now I am going to turn it over to distinguish Ranking Member Ms. Esty for her opening statements.

**OPENING STATEMENT OF HONORABLE ELIZABETH ESTY,  
RANKING MEMBER**

Ms. ESTY. Thank you, Mr. Chairman. It is an honor to serve as the Ranking Member of the Disability Assistance and Memorial Affairs Committee, and as a Subcommittee we have already made significant progress towards improving the disability benefits system for all of our veterans. I am proud of our efforts to work in a very bipartisan manner to create substantive legislation that affects the lives of veterans and their families across America, but we still have more work to do.

Thank you, Mr. Chairman, for your willingness to work across the aisle to listen to all Members of the Subcommittee, Democrats and Republicans, and for hosting today's hearing with a number of our distinguished colleagues, who have excellent proposals that we are eager to work with you in bringing forward in a way that can pass both the House, the Senate, and get signed by the President.

Mr. BOST. Thank you, Ms. Esty.

I am honored to be joined this morning by several of our colleagues who are going to be testifying about the bills they have sponsored: Representative Jim Banks of Indiana; Representative Bruce Poliquin of Maine; Representative David Rouzer of North Carolina; Representative Steve Stivers of Ohio; Representative Joyce Beatty of Ohio; Representative Matt Cartwright of Pennsylvania; and Representative Chellie Pingree of Maine.

Welcome to all of you. I appreciate all of you taking the time out of your day to be here with us for sponsoring legislation that will help our Nation's veterans.

We will begin on our Committee colleagues that are here and they will be speaking from the dais.

Mr. Banks, you are recognized for 5 minutes to discuss H.R. 3656.

**OPENING STATEMENT OF HONORABLE JIM BANKS**

Mr. BANKS. Thank you, Mr. Chairman.

Because of our veterans' service on behalf of each and every one of us, it is our responsibility to do our best in this Congress to serve them. And this commitment doesn't stop simply at their pay during their service, but we assist them in medical recovery and succeeding in the civilian world, and, just as importantly, memorializing the life that they lived once they have passed.

Current law provides memorial headstones for veterans and for their spouses and children when their remains cannot be found, and those unfortunate circumstances sometimes occur in such cases as boating accidents or plane accidents.

Public Law 105-368 provides for spouses and was enacted in 1998. Public Law 109-461 provides for dependent children and was enacted in 2006. Both groups were eligible for the benefit as of the date of enactment; it was overlooked, though, that the latter date was not planned to be made consistent with the first.

My bill, H.R. 3656, amends Title 38 of the United States Code to provide for a consistent eligibility date for spouses and dependent children. The date for both will be set at the current date for spouses, November 11, 1998. This is especially necessary for the unfortunate cases when a spouse and dependent child have passed

away in the same accident during a period in which the child was ineligible for a headstone while the spouse was not. The father and/or mother was then able to be memorialized, yet not the child who was with them in this tragic incident. This is a practical and simple fix to take care of our veteran community, and to keep our commitment with them.

And with that, Mr. Chairman, I yield back.

Mr. BOST. Thank you, Mr. Banks.

With that, I would like to go to Representative Rouzer, let's begin with you, and you are recognized to discuss your bill, H.R. 1721.

#### **OPENING STATEMENT OF HONORABLE DAVID ROUZER**

Mr. ROUZER. Thank you, Mr. Chairman and Members of the Committee, for the opportunity to testify before you on H.R. 1721, a bill that would recognize one city each year as a World War II city for the work and contributions their citizens to the United States war effort, as well as to recognize all their work to continue to preserve that history.

There are great and noble citizens in Wilmington, North Carolina who have worked hard to bring recognition to these many unspoken heroes. In cities all around the country, in fact, great Americans labored long, tireless hours in factories, shipyards, and in the fields working to ensure that our servicemembers were well fed and well equipped. Without the efforts of our industrial centers and cities, we would have never been able to win that brutal war.

At present, there is no national recognition for cities or towns that made outstanding contributions to that war effort, or for those cities that made significant efforts to preserve that history. The primary purpose of this bill is to change that. Just as we must not forget those who gave all to defend the freedoms of the rest of us, we must not forget those who did whatever they could to see that the needs of our military were met.

Let me take this opportunity to thank the Committee for recognizing this fact and including this bill language in H.R. 677, the American Heroes COLA Act of 2015, which passed the House in the 114th Congress, and I certainly appreciate the Committee's consideration of this bill again.

Mr. Chairman, I have a timeline dating from 1946 to present that details the work done by many fine citizens in Wilmington to preserve the history of the city's efforts during World War II and I ask that it be inserted in the record. And I appreciate, again, the opportunity to come before the Committee and testify today.

Thank you, Mr. Chairman.

Mr. BOST. Thank you, Mr. Rouzer.

And prior to a previous agreement, Mr. Stivers, who is introducing H.R. 1900, will share his time with Ms. Beatty, who is the lead cosponsor.

So, Mr. Stivers, you are recognized for 2 and a half minutes.

#### **OPENING STATEMENT OF HONORABLE STEVE STIVERS**

Mr. STIVERS. Thank you very much.

I want to thank Chairman Bost and Ranking Member Esty for moving this important hearing forward. Our bill will designate the National Veterans Memorial and Museum being built in Columbus,

Ohio as the National Veterans Memorial and Museum. This center will serve as a civic landmark to honor, connect, and inspire and educate all Americans about the service and sacrifice of more than 22 million veterans in this country.

And I know you are asking yourself why are we going to do this in Columbus, Ohio. There are a lot of reasons why. First of all, Ohio is the home of the sixth-largest veteran population in the United States, it is also within an 8-hour car ride of more than half the population of the United States. There are lots of other reasons why I think it makes sense and we will continue to move those forward.

I want you to know that this center is fully funded for the construction, it was raised with private dollars. We have worked with our veterans service organizations, you will hear from some of them on a later panel, and most are supportive. I am open to putting in the bill some language that would require VSOs to have positions on the board, that is already the plan, and if that needs to be a condition of making sure that we actually get it as a Nation, I am fully supportive of that.

I do want to thank Colonel Tom Moe, who is from Ohio and was a great member of our Armed Forces, retired from the United States Air Force after 85 flying missions, was captured in Vietnam and held in North Vietnam from 1968 through 1973. He has been very active in a lot of issues and is very involved in the building of this very important museum and memorial.

I second want to thank Joyce Beatty, my lead Democrat sponsor of the bill. I have been told this is one of the few times when you have had bipartisan support for a bill like this on the testimony, I appreciate you making it available, and I yield the balance of my time to the Congresswoman.

Mr. BOST. Mrs. Beatty, you are recognized for 2 and a half minutes.

#### **OPENING STATEMENT OF HONORABLE JOYCE BEATTY**

Mrs. BEATTY. Thank you, Mr. Chairman, and to Ranking Member Esty. Thank you for holding this hearing today and letting us come in this bipartisan manner, and I want to echo everything that Congressman Stivers had said.

I am very honored to be here and ask you for your consideration, because not only would this bill designate the Veterans Memorial and Museum being built, I must add, in my 3rd Congressional District in Ohio as a National Veterans Memorial and Museum, it would also honor countless veterans who have answered the call to serve, veterans like my father who would be so honored to know that I am doing this with Congressman Stivers today.

I also want to thank the American Legion, the Paralyzed Veterans of America, the VFW, who are testifying in support of H.R. 1900 in the destination.

I join Mr. Stivers not only in mentioning and talking about all the great work that the Colonel Tom Moe has done, but also with us I want to recognize Guy Worley and Amy Taylor, who are the project managers for the museum and they are here from Columbus.

You have heard some of the statistics and data. Why Ohio? Because nearly 1 million veterans live in Ohio. You have heard about the 8-hour drive to nearly one half of the United States population, not to mention the 7.5 million veterans who also live within that 8-hour drive of Ohio, which is just a little less than 40 percent of the entire veterans population. It makes it a perfect destination for school trips, for family vacations, for veterans and the families and survivors.

This was in part the brainchild of someone we all know who served so well in World War II, the legendary astronaut, former U.S. Senator from Ohio, John Glenn, a dear friend of mine, and who was also a constituent. If he were here today, he would highlight this museum and its memorial; he would talk about the 300-foot reflective pool, he would talk about the memorial wall, he would talk about the sanctuary where veterans' families and others could go.

So it is a tremendous idea and certainly we ask for your support.

Mr. BOST. Thank you.

Because I tell you what we would like to do now, we want to hear from Ms. Pingree of Maine to talk about H.R. 3705, which was noticed for the hearing, this hearing as a draft bill.

And so you are recognized. Thank you for being here.

#### **OPENING STATEMENT OF HONORABLE CHELLIE PINGREE**

Ms. PINGREE. Yes, thank you very much. Thank you, Chairman, and thank you also to Ranking Member Esty and to everyone on the Committee. Thank you for the work that you all do and for hearing this bill today.

I believe my bill offers a commonsense fix to frustrations that some veterans in my district have shared with me, which I know veterans across the country have also experienced. My district office has been contacted by veterans who frankly are shocked and surprised to learn that they owe money to the VA for overpayment of benefits or some other reason, sometimes months or even years after the debts were incurred. By the time they inquire, they are told by the VA, hey, tough luck, the clock ran out. You have lost the ability to dispute, seek forgiveness, or create a payment plan for your alleged debt.

We have seen single-mom veterans who can't get a home loan, newly transitioned servicemembers who struggle to reintegrate with garnished pay, recouped tax returns, and reduced disability payments, all because of assigned debts they knew nothing about because something, quote, "got lost in the mail."

Current VA regulations provide that such debtors are notified by ordinary mail, which is deemed to provide a sufficient notification to a veteran of an outstanding debt and what his or her rights of redress are. The problem is that people move, mail can get lost. This is a particular challenge for homeless vets or those without fixed addresses.

At times the error is on the VA side. Our caseworkers have uncovered instances where the VA sent mailings to addresses in states where the veteran has never lived.

H.R. 3705, the Veterans Fair Debt Notice Act, proposes a very straightforward solution. It requires the VA to modify its regula-

tions so that vet debt notifications are sent by certified mail, thus the VA would know that the veteran has actually received the letter.

Likewise, it directs the VA to request that veterans seeking waivers use certified mail, so a veteran knows that the VA has received his or her response.

We have heard from veterans who have submitted waivers, tried to create a payment plan, or tried to dispute the charges within the allotted time period, only to be told by the VA that the office never received the materials.

Lastly, my bill requires the VA to use plain language in how it communicates to a veteran about his or her debts, and the rights to challenge it or seek accommodations.

In my opinion, a veteran should not have to rely on a congressional caseworker to interpret the VA's bureaucratise. I think all of us know from our district offices, we often confront things that we think, while we are very happy to help, our office can do it for you, but you shouldn't need a Member of Congress to solve your problem.

I urge the Committee to approve the Veterans Fair Debt Notice Act to promote accountability, consumer protection, and efficiencies in the VA system, and fairness to our veterans who deserve peace of mind.

Finally, I appreciate the support of this legislation from veteran's service organizations who can attest to the frustrations that their members have experiences.

Thank you and I yield back my time.

Mr. BOST. Thank you, Ms. Pingree.

We are waiting still on Mr. Cartwright. Let me do this right quick for the betterment of our Members who are here. We normally forgo any questions for our colleagues and any questions may be submitted in writing for the record, but we do want to thank you for being here today and I don't expect you to stand around and wait for the other Members to come in.

But I believe we will—any questions can be submitted in writing and I believe we will do so, Members will need to have a quick turnaround on those questions. There are some questions that we were specifically wanting to ask up here, but we are going to forgo that and, if you receive those questions, if your staff could get back to us as quick as possible, I appreciate that.

So thank you so much.

We are going to recess for just a moment while waiting on a Member, but if you will just stay in your seats, we will be just a moment. We think he is coming down the hall.

Mr. BOST. Okay. We are going to come back to order and I invite the second panel to the table, if you would.

Thank you for being here.

Joining us today is Mr. Matthew Sullivan, who is the Deputy Under Secretary for Finance and Planning and CFO of the National Cemetery Administration. Mr. Sullivan is accompanied by Ms. Roberta Lowe, the Director of Office and Internal Controls, and Acting Director of the Department Management Center of the Office of Management; and Cheryl Rawls, who is Director of Pensions & Fiduciary Services of the Veterans Benefits Administration.

We are also joined by Ms. Elizabeth Curda, who is Director of Education and Security Team for GAO.

Thank you all for being here.

Mr. Sullivan, you are recognized for 5 minutes.

#### **STATEMENT OF MATTHEW T. SULLIVAN**

Mr. SULLIVAN. Thank you, Mr. Chairman.

Mr. Chairman, Ranking Member Esty, and Members of the Committee, thank you for this opportunity to provide the views of the Department of Veterans Affairs on pending legislation affecting VA's programs. My written testimony provides more details on VA's views for the six bills on the agenda today; however, I will provide a few brief comments on them as well.

First, VA recognizes the merits of both H.R. 1721, regarding the designation of American World War II cities; and H.R. 1900, the National Veterans Memorial and Museum Act. VA appreciates the intent behind these bills, but notes that each is programmatically outside VA's core mission.

In addition, H.R. 1721 would potentially divert VA resources that are designated for veterans and their dependents.

H.R. 3122, the Veterans Care Financial Protection Act of 2017, would require VA to work with Federal agencies, states, and other appropriate experts to develop and implement Federal and state standards for protecting pension claimants and beneficiaries from dishonest, predatory, or otherwise unlawful practices. VA agrees with the intent of the bill and welcomes the opportunity to share information about common predatory practices involving VA benefits, particular VA pension, with key financial regulators and stakeholders to help them identify and enforce existing standards, and develop additional standards where appropriate.

However, VA suggests that the bill clarify the appropriate role of the collaborating entities, especially those with authority to enforce existing laws designed to protect veterans and elderly claimants.

Both H.R. 3656 and H.R. 3657 are similar proposals and are similar to proposals in the President's budget for fiscal year 2018, and VA supports them with minor modification.

H.R. 3656 would establish a consistent applicability date for the provision of memorial headstones and markers for spouses, surviving spouses, and dependent children. A consistent applicability date would allow VA to provide a memorial headstone or marker, commonly referred to as the in-memory-of marker or IMO, in a manner that creates less confusion and concern for claimants, as well streamline the administrative process for VA.

However, VA does recommend a simple modification to the language of the amendment to make clear that the proposed effective date of November 11th, 1998 applies to the death of a spouse, surviving spouse, or dependent child of a veteran, and not the death of a veteran him or herself. We would be happy to work with the Subcommittee to provide suggested language for this modification.

H.R. 3657 would ensure that eligible spouses and dependent children interred in tribal veteran's cemeteries have access to the same benefits as those in state veteran's cemeteries. Since 1980, VA has been authorized to provide burial headstones and markers to eligible spouses and dependent children of veterans interred in vet-

erans cemeteries owned by states, but not those owned by tribal organizations; this bill would eliminate that discrepancy. However, VA urges the Subcommittee to consider expanding the applicability of H.R. 3657 to include memorial headstones and markers under Section 2306(b) as well. This would ensure that VA can provide the same memorialization benefits in a tribal veteran's cemetery as are available in a state veteran's cemetery. Again, we would be happy to work with the Subcommittee to provide this language.

Finally, H.R. 3705, the draft bill entitled Veterans Fair Debt Notice Act of 2017, would require VA, veterans, and others to use certified mail for correspondence regarding debts owed to VA or requests to waive such indebtedness. The bill would require that VA use plain language in all communications with the debtor and explain the options available to the debtor.

While VA generally supports the use of plain language and providing clear explanations to the debtor, we do not support the requirement to use certified mail in communication between veterans and the Department. This change would increase the burden on veterans who may currently submit waiver requests via regular United States Mail, commercial carrier, facsimile, and electronic mail, as well as through the various VBA regional offices located throughout the Nation.

Veterans would incur additional costs for submitting waiver requests and risk meeting associated deadlines.

Additionally, using certified mail would increase costs to the Department, taking away funds from the very programs established to assist veterans.

This concludes my testimony. Thank you for the opportunity to present our views on these bills and we look forward to working with the Subcommittee.

[THE PREPARED STATEMENT OF MATTHEW T. SULLIVAN APPEARS IN THE APPENDIX]

Mr. BOST. Thank you, Mr. Sullivan.

Ms. Curda, please begin your testimony on behalf of the GAO, if you would.

#### **STATEMENT OF ELIZABETH H. CURDA**

Ms. CURDA. Chairman Bost, Ranking Member Esty, and Members of the Subcommittee, thank you for the opportunity to testify today on certain provisions of H.R. 3122, the Veterans Care and Financial Protection Act.

This bill seeks to address the financial exploitation of veterans who are eligible for higher pension because they need regular assistance to perform everyday living activities. Individuals receiving the enhanced benefit for aid and attendance could be vulnerable to dishonest, predatory, or otherwise unlawful practices, which the proposed legislation aims to address.

Today, I will first discuss our prior work related to potential threats to VA pension applicants and will then provide observations on certain provisions of the Veterans Care and Financial Protection Act.

In our prior work, we have identified potential threats to the financial security of veterans who applied for pension benefits. For

instance, in 2012 we identified entities such as financial planners that marketed its services to veterans seeking to qualify for pension benefits by offering veterans products and services that could adversely affect them.

In 2013, we also reported on shortcomings in VA's process for ensuring that representatives approved to assist veterans with the claims process were adequately knowledgeable and have good moral character, as required by law.

GAO made recommendations to VA to address these and other shortcomings, and VA has taken steps to implement our recommendations. For example, VA will increase training requirements for representatives approved to assist veterans with their pension benefit claims.

However, additional opportunities exist to examine these issues. For example, our prior work on issues relating to gaining access to VA pension benefits for veterans is now 4 to 5 years old and could be updated. In addition, we have not examined the potential vulnerabilities of veterans who are already receiving aid and attendance benefits.

Now I would like to discuss three provisions of the Veterans Care and Financial Protection Act of 2017. The first provision is the proposed requirement for VA to develop and submit standards to the Senate and House Committees on Veterans' Affairs within 180 days of enactment.

Protecting veterans from financial exploitation is vital and developing a set of standards could help VA combat such practices. However, this proposed legislation does not clearly specify whether the standards to protect veterans are intended to be legally binding. Providing this clarification is important for determining what steps VA would need to take to develop the standards and whether completing these steps within 180 days is feasible.

Establishing legally binding regulations requires following procedures such as requiring agencies to publish a notice of proposed rulemaking in the Federal Register, soliciting and reviewing comments, and other time-consuming steps. In contrast, if Congress does not intend the standards to be legally binding, agencies may issue guidance to help interpret regulations or share good practices.

The second provision is the proposed requirement to have GAO report on standards that we determine would be effective in protecting veterans should VA not meet the 180-day deadline. We follow Generally Accepted Government Auditing standards, which require us to maintain independence and identify and mitigate threats to our independence for our audits. For example, one such threat to independence that our standards identify is the self-review threat which results from auditors reviewing a service or work that they previously provided to an agency.

In this case, if GAO were to set standards for this program and VA were to adopt them, it would be inappropriate for GAO to then audit implementation of standards that GAO had recommended. In addition, it would be inappropriate for GAO to set standards for VA, because setting standards for an executive branch program is an executive branch function.

Thus, we recommend removing the proposed provision requiring GAO to submit a report containing standards.

Finally, I would like to point out that the proposed requirement for GAO to complete a study on the standards implemented under the proposed legislation is by itself, and if GAO does not set the standards, an appropriate role for GAO.

In conclusion, enhanced pension benefits provide a critical support to veterans with disabilities, many of whom are elderly and have limited financial resources to care for themselves. Individuals who seek to exploit these veterans can cause real financial harm. Our continued ability to conduct audits in this area by maintaining our independence and mitigating threats to that independence would help Congress, VA, and the public oversee this important program.

This concludes my prepared statement and I am happy to answer the Committee's questions.

[THE PREPARED STATEMENT OF ELIZABETH H. CURDA APPEARS IN THE APPENDIX]

Mr. BOST. Thank you. And we are going to go to questions in a moment, but first off we do want to—I would like first off to ask unanimous consent of the Committee that Mr. Cartwright is allowed to give his testimony from the dais. With no one objecting.

Next, I want Mr. Cartwright of Pennsylvania to talk about H.R. 3122.

Mr. Cartwright, you can begin at any moment.

Mr. CARTWRIGHT. Thank you, Mr. Chairman.

Mr. BOST. You have 5 minutes.

#### **OPENING STATEMENT OF HONORABLE MATT CARTWRIGHT**

Mr. CARTWRIGHT. And Ranking Member Esty. It is nice to be here today.

I would like to thank you for holding this hearing and giving me an opportunity to speak about an important issue affecting our veterans that it ought to concern all of us here in Congress.

As Americans, we can all agree, we have made a moral covenant with the men and women that served in our Armed Forces and, if you risk your safety for the sake of protecting the ideals this great country was founded upon, we will take care of you, and the gravity of that covenant cannot be understated; it is a core responsibility that we owe our veterans.

As part of this enduring commitment to those who have served this Nation, the VA provides what is called an Aid and Attendance benefit to the growing number of low-income veterans who are in need of our support. This benefit helps pay for assisted living and in-home personal care for veterans who qualify for a VA pension and are housebound, or require the aid and attendance of another person.

Unfortunately and regrettably, a number of unscrupulous actors are increasingly exploiting this assistance program by preying on our older veterans' vulnerability. By abusing the VA bureaucracy, these criminals are wasting Federal dollars and turning this well-deserved benefit into a financial nightmare for those who can least afford it.

A recurrent scam involves charging veterans a nonexistent application fee to obtain the benefit. Consultation fees and fake promises to expedite the application process for a cost are also common.

Yet another scam involves an offer to, quote-unquote, “help veterans qualify for the benefit,” even when their net worth is too high to qualify. These so-called helpful individuals then take control of the veteran’s assets and move them into an irrevocable trust or an annuity, which the elderly veteran often cannot access for many years. This kind of financial transfer can also delay or disqualify the veteran for other assistance like Medicaid.

Some retirement homes recruit residents with promises that the veterans will receive this A&A benefit, which would cover the cost of the home. If the A&A claim is later denied, however, the nursing home then demands back payment from the veteran. This is a practice that leaves vulnerable, elderly veterans with the undesirable choice of draining their own remaining assets or giving up their new home.

The Veterans Care Financial Protection Act seeks to address this travesty by directing Federal agencies to work with the states and outside experts to establish standards that will put an end to this kind of financial fraud. Specifically, the bill aims to develop and implement state and Federal standards that protect veterans from dishonest, predatory, or otherwise unlawful practices relating to the A&A benefit.

It would also direct the GAO to study the implementation and effectiveness of those standards 18 months after their creation by using the 2006 Military Personnel Financial Services Protection Act as a model. This bipartisan commonsense proposal would prevent waste and protect veterans without spending new money or imposing any mandates. Now, we owe this to our veterans and this makes sense.

In speaking with the Government Accountability Office, the GAO, prior to this hearing, I do understand that there may be further changes necessary to the text of the bill before it reaches its final version. However, my staff and I remain committed to working with the GAO. We will make ourselves available to it and the Committee to ensure the success of this important piece of legislation and look forward to further discussions. As such, I thank them for their attention to this critical issue.

I would also like to thank Senator Warren for her hard work on this bill in the Senate.

And, lastly, thank you again, Mr. Chairman, for holding this hearing and giving me the opportunity to speak about this, the Veterans Care Financial Protection Act.

I yield back.

Mr. BOST. Thank you, Mr. Cartwright, and thank you for being here.

We have explained to the other Members, we forgo any questions of our colleagues at this time. If we have any questions, we will submit them for the record and then, if they are directed to you, we would like for you to get back to us as quick as you can with those.

Thank you.

Now we want to go back to the panel with questions we do have and I will now yield myself 5 minutes to start the questions off.

Ms. Rawls, is the VA able to effectively develop and implement Federal and state standards to protect veterans and their survivors who receive Aid and Attendance benefits?

Ms. RAWLS. Thank you for that question, Chairman.

I will tell you that the VA does have some concerns in being able to put into place standards that we can thus enforce for those entities out there that are currently preying upon veterans.

We also know that by working with others that are in the community, as well as the state and Federal agencies that this problem is also out there for others that are outside the veteran population.

Mr. BOST. Ms. Curda, the next question I have for you is you stated that there are other ways that GAO would provide support for fraud prevention at the VA other than submission of a report to Congress. Can you kind of elaborate on where you think that we should go with that?

Ms. CURDA. Certainly. We could do work in a number of areas, either at your request or mandated in the legislation, that could shed light on these issues and help to identify solutions, and help VA in its role in setting the standards.

The issues we could look at, as I alluded to in my statement, the work we did in this area on claiming benefits is becoming old and we could take a fresh look at the kinds of issues that claimants are experiencing with financial exploitation, we could take a fresh look at VA's process for vetting and training representatives who are approved to assist veterans, and we could certainly take a look at industry practices in terms of marketing financial services to veterans.

We could also do sort of a survey or a look at the standards that exist out there generally to prevent the financial exploitation of the elderly that exist in Federal and state agencies, and provide a report that would describe the different relevant types of standards that could inform VA's efforts.

These are just a few examples, but we are happy to work with the Committee on technical amendments to the bill that could address those concerns.

Mr. BOST. Thank you.

I have to believe that everybody at the table, along with everybody here, believes we should cure the problem, the question is, is which agency handles it and how do we handle it most effectively? It is a real problem that is occurring.

Mr. Sullivan, the VA recommends that Congress amend H.R. 3657 regarding expanding eligibility for markers and headstones within the tribal cemeteries. Can you kind of explain why it is and how it was they were left out and where you want to go with that? Where do you think we should go with that?

Mr. SULLIVAN. Thank you for the question, Mr. Chairman.

Back in 1980, we received the authority to provide burial headstones and markers for spouses and dependents in state veteran's cemeteries, we only received the authority to actually provide grants for establishment of tribal veteran's cemeteries in 2006. So the legislation really has not caught up to provide this benefit for spouses and dependents in tribal veteran's cemeteries.

Mr. BOST. Thank you.

Ms. Lowe, could you please explain why the VA doesn't use certified mail to ensure veterans receive notice of an alleged overpayment?

Ms. LOWE. Thank you for that question.

We do not use certified mail because the legislation requires that we use basically first class postage. If we use certified mail, a veteran, if they were not home when we attempted to deliver certified mail, would have to take possibly time off from work to go to the post office to sign for the document or they may ignore the notice completely, and then the document would be returned—the letter would be returned to us anyhow.

Mr. BOST. Okay. Then to follow up on that, if the veteran does not respond to a notice that is sent normal mail, how does the VA inform the veteran of the alleged overpayment?

Ms. LOWE. We went (sic) out at the Debt Management Center 2.5 million documents to veterans last year and of those approximately 10 percent or 250,000 were returned to us for incorrect addresses. We use the address correction provided by the U.S. Postal Service for about 130,000 of those and the other 120,000 we work with a company called LexisNexis to obtain updated mailing addresses.

If we are unsuccessful in that venue, when the debt is transferred according to debt collection laws to the U.S. Treasury, they have access to IRS records and Social Security records and they can find additional addresses that way.

Mr. BOST. Thank you.

My time has expired. Ms. Esty, you are recognized for 5 minutes.

Ms. ESTY. Thank you, Mr. Chairman.

I want to thank all of you for joining us here today and share several of the Chairman's questions, but I would like to follow up with you, Ms. Lowe, further on this issue about the debt collection, because I have experienced this with veterans in my district and I think we have to do better. You know, it is manifestly unfair for people who don't get these.

So one of the questions is veterans, and I have encountered this with veterans, have updated their address say with VBA and it doesn't get reported back over. So in fact, part of the system is aware of the updated address and another part is not.

Can you discuss what do you think could be done to better connect those two? again, I think we can all agree, veterans want to do right by this, but if they have received an overpayment and they do not know about it because it is an old address, it leaves a really, really difficult situation for them and then our offices end up getting involved and that is not good for anybody.

Ms. LOWE. Making it easier for veterans to update their addresses would be one way. The other thing is moving into more of a digital era where veterans have the option to opt-in. We service multiple generations, some of which only depend on the U.S. Postal Service and some of which only depend on electronic mail. For example, my son, I have to call him and ask him to go check his mailbox if I have sent him something.

So we need to give veterans the option to be able to opt in to electronic mail and that way we could send notices to them in that manner.

We would also need your help to change the legislation to allow the delivery of electronic mail, because right now the legislation requires it to be sent by the U.S. Post Office.

Ms. ESTY. Well, I think we would be very interested in exploring ways to effectively get notice. We have an expression in my office, effective service, a process. You have not done your job to send a letter out. We need to know the veteran received it and that they understand it. I am glad to hear the commitment from all of you about making sure that we have plain language, I think that is incredibly important, and that needs to be an initiative across the entire agency, because we owe it to them to be able to open a letter and understand it. They should not have to call their VSO and they certainly should not have to call one of us to understand what they just received in the mail.

We would be very happy to work with you on electronic as an option. But I do think, speaking for myself, I think we need to know—I think first class mail is an insufficient notice for something like recouping a debt and I think we need to, in addition to providing electronic opt-in, I believe it is appropriate.

Now, in the testimony there is an indication that that cannot be done somehow, because there is a queue and the queue has a whole lot of letters going out and they would have to be sorted, you know, some would qualify for this certified process and some would be inappropriate. Is there some reason that they could not be run as two separate lists? I mean, there are Excel spreadsheets, you code them, and you run the set that need to be done by certified and they run in a different way. Is there any reason we cannot do that?

Ms. LOWE. I don't have that information, but we will be sure and take that for the record.

Ms. ESTY. All right, thank you. I appreciate that.

Let me look through my list of other things we have not—oh, actually for the VA. A little bit about, you said it is outside the core mission for talking about for the designation of, for example, World War II city. Do you think there is another agency other than the VA that would be appropriate to oversee that, would that be the Smithsonian or something, to talk about home-side, you know, home front support for the war? We are very supportive of those efforts, understand that the Secretary and the agency may have others. Do you have suggestions about an appropriate alternative agency to accomplish the same purpose?

Mr. SULLIVAN. Ranking Member Esty, thank you for the question. I don't have a specific organization in mind right now, but I do believe that there is a Federal agency that would be more aligned, their mission be more aligned to evaluating the civilian population's home front efforts during wartime, evaluating how well that city has preserved the history of that city's efforts during wartime, I just don't think it is the best suited for VA to do that.

Ms. ESTY. Thank you very much.

I know I have some questions, which will probably be in the part for the VSOs, on the National Veterans Museum about whether there have been others in the past that have been started independently by nonprofits. One of the questions that we may need help with is, understanding what kind of endowment is typically necessary when the Smithsonian usually gets involved for curation

issues, so that we ensure that something that receives a designation as National indeed reflects the entire country, and that we are stewards of the taxpayer dollars. We may be following up with some further questions for you on follow-up to those.

Thank you very much.

Mr. BOST. Thank you, Ms. Esty.

And also know that, the panel, we may have staff reach out with further questions and ask you to give those back in writing, so that we can kind of work forward with these issues. But thank you for being here.

This panel is excused and if the third panel will move forward, that would be wonderful.

[Pause.]

Mr. BOST. Okay. Joining us on our third panel is Mr. Alex Zhang, Assistant Director of the National Veterans Affairs and Rehabilitation Division of The American Legion; Mr. LeRoy Acosta, the Assistant National Legislative Director of Disabled American Veterans; Mr. Blake C. Ortner, who is the Deputy Government Relations Director for the Paralyzed Veterans of America; Ms. Kathleen Moakler, the Director of Survivor Advocacy for TAPS; and Mr. John Towles, who is Deputy Director of the National Legislative Services for the Veterans of Foreign Wars.

Thank you all for being here and for the work you do with your organizations. And that you do it every day, and we know that and we appreciate it, that you work to improve the lives of our veterans, and we thank you for that.

Mr. Zhang, we will begin with you, and you are recognized for 5 minutes.

#### **STATEMENT OF ALEX ZHANG**

Mr. ZHANG. Chairman Bost, Ranking Member Esty, distinguished Members of the Subcommittee on Disability Assistance and Memorial Affairs, on behalf of the National Commander Denise Rohan and the members of The American Legion, the country's largest patriotic wartime service organization for veterans, comprised of over 2 million members and serving every man and woman who has worn the uniform for this country, we thank you for this opportunity to testify on behalf of The American Legion's position on the following.

I am Alex Zhang, Assistant Director of Veterans Affairs and Rehabilitation Division. It is my duty and honor to present The American Legion's position on these important issues.

H.R. 3122, the Veterans Care Financial Protection Act of 2017, is a step in a positive direction for veterans, as it helps create protections to prevent or minimize financial scams directed at veterans who are surviving on a minimal salary. This bill also creates a national standard directed by the GAO to other Federal agencies to follow the guidelines set in this law.

Too many times veterans are preyed upon by less-than-scrupulous organizations looking for a quick buck. These veterans are often in nursing homes or living paycheck-to-paycheck. We owe it to these men and women who protected this country by defending them from organizations that thrive on scams targeting veterans.

The American Legion fully supports this legislation and any legislation that aims to stop scams targeting veterans. We applaud Congressman Cartwright for spearheading this initiative.

The draft bill, Veterans Fair Debt Notice Act of 2017, spells out the steps a VA debt collector should follow when attempting to collect a debt a veteran has incurred. This is a necessary precaution, as there are many veterans who are unable to fully grasp the magnitude of the correspondence sent to their home or in many instances never received a letter regarding collection of debt.

The American Legion recently assisted a homeless veteran who incurred a large debt after the VA removed her dependents from her benefits retroactively to 2005. Due to her homelessness, she was unable to receive VA's letter advising her of the debt. Because she was unaware of her options such as a repayment plan, the VA began recovery of the debt by garnishing all of her VA compensation. This went on for about a year before we were able to intervene and assist.

Mr. Chairman, it is stories like this that show the importance of this draft bill. We cannot treat debt collection by looking at veterans as ones and zeroes on a line item. If a veteran owes the VA money, they should repay, but they should be treated with dignity and properly informed of their rights before collection starts.

Many of these issues can be avoided if VA remembers that veterans are humans with real-life issues; they are not the enemy, nor should they be treated as such.

The American Legion supports this draft bill as written.

Shifting focus, I would like to quickly address H.R. 1900, which would authorize the name National Veterans Memorial and Museum.

Similar to The American Legion, they also have pillars, being honor, connect, inspire, and educate. These pillars, in the opinion of The American Legion, represent the American veteran with profound respect by honoring them, connecting them to the civilian population, possibly inspire others to serve, and, most importantly, educate the youth about what these fine men and women have done for America.

When asked, why Ohio, they simply respond, "Because we did it." Truth be told, they raised \$75 million and are currently in the construction process of what looks to be a beautiful and thoughtful memorial.

The American Legion full-heartedly supports H.R. 1900.

And again, Chairman Bost, Ranking Member Esty, and distinguished Members of the Committee, on behalf of the National Commander Denise H. Rohan and The American Legion, we truly appreciate this opportunity to speak with you this morning, and I will be happy to answer any questions you may have.

Thank you.

[THE PREPARED STATEMENT OF ALEX ZHANG APPEARS IN THE APPENDIX]

Mr. BOST. Thank you, Mr. Zhang.

Mr. Acosta, you are recognized for five minutes.

**STATEMENT OF LEROY ACOSTA**

Mr. ACOSTA. Mr. Chairman, Members of the Subcommittee, thank you for inviting the Disabled American Veterans to testify at this legislative hearing of the Subcommittee on Disability Assistance and Memorial Affairs.

As you know, DAV is a nonprofit veteran's service organization comprised of 1.3 million wartime service-disabled veterans dedicated to a single purpose: empowering veterans to lead high-quality lives with respect and dignity. DAV is pleased to present our views on the bills under consideration by the Subcommittee.

We support with recommendations H.R. 3705, the Veterans Fair Debt Notice Act of 2017. This is consistent with the intent of DAV Resolution No. 213, which calls for alleviating undue financial hardship in processing overpayments and notifying veterans of debt. This draft bill, or H.R. 3705, proposes using certified mail to ensure VA notification letters concerning debt collection actions are received by debtors and that plain language is used to explain the debt.

Under current law, the date of notification is defined as the date of the VA letter notifying the claimant; however, this legislation mandates the use of certified mail, which requires the debtor to sign for the notification letter. This date of notification is key to launch the 30-day time period for the debtor to respond to the Secretary with a written dispute of the debt, a written request for waiver, and/or a written request for a hearing on the waiver. Accordingly, in our opinion, the date-signed receipt of certified mail by the debtor should be considered the date of notification and requires amendment in the regulation.

In addition, this legislation should clarify if it actually intends for certified mail to be used by the debtor to respond to the Secretary. We believe this would place an undue burden and potential hardship upon a debtor, and we would oppose that specific requirement.

We applaud the provision in the bill requiring a plain-language explanation of why the debtor owes money. The overpayment and debt process can be confusing, complex, and overwhelming to many veterans who are often left guessing why the debt was created. We agree that a simple and plain explanation should be required in all debt notifications.

As for H.R. 3122, the Veterans Care Financial Protection Act of 2017, DAV does not have a resolution specific to this issue, but we unfortunately continue to hear stories about various schemes to take advantage of elderly and disabled veterans who receive VA benefits. This measure seeks to address this issue and is beneficial. Therefore, we are not opposed to passage of this legislation.

Concerning H.R. 1900, the National Veterans Memorial and Museum Act, which would designate the Veterans Museum in Columbus, Ohio as the National Veterans Memorial and Museum. DAV does not have a resolution from our members concerning this issue and we have no position.

Finally, DAV does not have a resolution specific to H.R. 1721, H.R. 3656, and H.R. 3657, and we are not opposed to their passage.

Mr. Chairman, that concludes my testimony and I would be happy to respond to any questions that you or Members of the Subcommittee may have.

Thank you.

[THE PREPARED STATEMENT OF LEROY ACOSTA APPEARS IN THE APPENDIX]

Mr. BOST. Thank you, Mr. Acosta.

And now we would like to recognize General Ortner for five minutes.

#### **STATEMENT OF BLAKE ORTNER**

Mr. ORTNER. Mr. Chairman, Ranking Member Esty, Paralyzed Veterans of America would like to thank you for the opportunity to provide our views on pending legislation before the Subcommittee.

For H.R. 1721, the designation of American World War II cities, would recognize specific cities not just for their great contributions on the home front during World War II, but also their efforts to preserve the city's structures and relics from that era. PVA supports this bill, which encourages cities to preserve this great heritage.

For H.R. 1900, the National Veterans Memorial and Museum Act, PVA supports designating the Veterans Memorial and Museum in Columbus, Ohio currently being constructed as the National Veterans Memorial and Museum. It is the only museum of its kind and it is intended to reach veterans of all eras, from every part of the United States and from all branches of services. Given the scope of the project and its intended audience, a national designation is appropriate.

PVA also supports H.R. 3122, the Veterans Care Financial Protection Act of 2017. This proposal would require the Secretary to work with Federal and state officials to establish standards to protect against unscrupulous actors that take advantage of veterans in need of Aid and Attendance benefits.

According to organizations such as AARP and the Federal Trade Commission, senior veterans have increasingly become subject to scams involving insurance agents and financial planners trying to convince the veterans to make quick decisions about pursuing Aid and Attendance in addition to their pension incomes. Some scammers use false representations like suggesting automatic entitlements to benefits. Of greater concern, though, are those who help the veteran restructure financial assets in order to qualify for pension and/or Aid and Attendance.

For example, moving financial assets into a pooled-asset irrevocable trust might render a veteran eligible for pension and Aid and Attendance despite having assets in excess of the qualifying income thresholds. While it appears this benefits the veteran, what these salesmen do not tell them is that this type of restructuring might preclude them from Medicaid eligibility because of rules such as the 5-year look-back period, which considers whether one has moved substantial assets at less-than-market value.

These financial products are specifically managed by alleged veterans' advocates who are offering to help veteran's secure enhanced

benefits from VA. This is an objective conflict of interest and implementing standards to protect against this behavior is necessary.

PVA supports H.R. 3656, which would establish a consistent eligibility date for provision of memorial headstones and markers for eligible non-veteran individuals. Currently, spouses and children have different eligibility dates, sometimes forcing VA to provide a marker for the parent, but not the children. This bill would reconcile this arbitrary difference and treat spouses and children the same. Likewise, PVA supports H.R. 3657 to authorize provision of headstones and markers in tribal cemeteries. Consistent with our prior support for H.R. 1390, which would expand VA's authority to transport the remains of a deceased veteran to a tribal cemetery or state cemetery instead of a national cemetery, we likewise support this bill, which ensures that the accompanying benefits such as a headstone or marker are provided to veterans buried in tribal cemeteries.

Finally, the draft bill Veterans Fair Debt Notice Act of 2017, PVA supports this legislation. Failure to resolve debt issues in a timely manner can have a lasting, catastrophic impact on a veteran. It is not uncommon for a veteran to find that the Veterans Health Administration has updated contact information while the Veterans Benefits Administration has not, or vice versa. So as VBA sends out a notice of overpayment of benefits or some other circumstances producing a debt owed by the veteran, it is essential that VBA know whether that notice actually reached the veteran prior to the veteran going into default. It is important to ensure that veterans are not going into default for lack of notice, especially in circumstances where the debt itself is a product of VA's mistakes in overpayments.

Mr. Chairman, Ms. Esty, we appreciate your commitment to ensuring that veterans receive the best benefits and care available. We look forward to working with the Subcommittee and would be happy to answer any questions you or the Members may have.

Thank you.

[THE PREPARED STATEMENT OF BLAKE ORTNER APPEARS IN THE APPENDIX]

Mr. BOST. Thank you, General.

Ms. Moakler, you may begin testimony for TAPS at this time.

#### **STATEMENT OF KATHLEEN MOAKLER**

Ms. MOAKLER. Thank you very much, Chairman Bost, Ranking Member Esty and distinguished Members of the Subcommittee.

The Tragedy Assistance Program for survivors, TAPS, thanks you for the opportunity to make you aware of issues and concerns of importance to the families we serve, the families of the fallen. While the mission of TAPS is to offer comfort and support for surviving families, we are also committed to improving support provided by the Federal Government, state governments and local communities for the families of the fallen. Those who fall in combat, those who fall from invisible wounds and those who die from illness or disease.

We thank the Veterans Affairs Committee for the recent improvements to survivor education benefits and the Harry W.

Colmery Veterans Educational Assistance Act of 2017 and other recent legislation. We will be working closely with the VA on the law's implementation. TAPS is pleased to work with the VA within the framework of a Memorandum of Agreement signed by VA Secretary Shulkin and TAPS President and Founder Bonnie Carroll in April of this year. The services provided by TAPS and VA are complimentary. And in this public/private partnership each will continue to provide extraordinary services through closer collaboration.

Imagine you are a surviving spouse or dependent who opens a letter from the VA that notifies you that you suddenly owe the VA several thousand dollars and they would like the payment in a lump sum as soon as possible. The only explanation is that there has been a change in benefits and you have been overpaid. While they provide an 800 number for you to call, every time you call the number it is busy. Before you know it a third letter has been sent, still without a definitive explanation of what the cause of the debt is and containing an ominous warning that you are subject to having your wages garnished, VA benefits withheld and that your debt has been sent to a collection agency. This has really happened in one of the stories that we outlined in our written testimony.

It can often be confusing for survivors tracking which payment comes from which agency. Many are often still in a fog of grief and mail can lie unopened. Letters can be daunting as one sifts through legal ease and unfamiliar terms. It can be even more confusing in dealing with education benefits when funds are also impacted by the institutions of higher learning, their particular rules and very often sharing of misinformation.

Indicative of the specialized support that TAPS provides is our education services portal and individualized support on the education benefits available for the children and spouses of America's fallen heroes. Through it is MOA with the VA TAPS has been able to often troubleshoot problems for families that reach out to us. We have helped several families resolve their issues with debt collection.

TAPS was fortunate to receive a briefing from the VA Debt Management Center at the July 2017 meeting of the DoD VA Survivors Forum. The briefing clearly outlined the processes and procedures that the DMC uses to notify beneficiaries and to collect the debt owed. The procedures as outlined in the DMC brief appear to be designed to make the process easier for the customer, the survivor or veteran. The stumbling block, as we have heard from many today, is making it easier to connect the survivor or veteran with the assistance that DMC provides. We support the various means of contacting survivors and veterans that the VA had proposed earlier today.

Clarification of the reason for the debt and easy to understanding language, as called for in the proposed legislation would go a long way in improving communication and access. Reinforcing the importance and urgency of the debt letter received from the VA by sending it certified mail will also help to ensure that the beneficiary responds in a timely manner. We are grateful that H.R. 3705 addresses these two important steps in the process.

TAPS supports H.R. 3657 and H.R. 3656. We also support H.R. 3122, which calls for additional financial protections for those sur-

vivors in receipt of aid and attendance. They are among our most vulnerable populations for fraud and financial abuse. TAPS thanks the Subcommittee for being at the forefront in protecting survivors and for crafting benefits that recognize their sacrifice. Thank you for allowing us to speak on behalf of the survivors we serve. I look forward to any questions.

[THE PREPARED STATEMENT OF KATHLEEN MOAKLER APPEARS IN THE APPENDIX]

Mr. BOST. And last, but definitely not least, Mr. Towles you are recognized for 5 minutes to present the testimony of the VFW.

#### **STATEMENT OF JOHN TOWLES**

Mr. TOWLES. Thank you, Chairman Bost, Ranking Member Esty, Members of the Subcommittee. On behalf of the men and women of the Veterans of Foreign Wars of the United States and it's auxiliary, thank you for the opportunity to provide our remarks on the following legislation pending before the Subcommittee.

With regards to H.R. 1721, the VFW supports this legislation which would direct the Secretary of Veterans Affairs to designate at least one city in the United States each year as an American World War II city, which would be based on the city's contribution to the war effort and the continued efforts to preserve the history of such contributions.

Throughout the past few years multiple attempts have been made to pass similar legislation that would give the Secretary this authority, and while most of these attempts have passed the House all have failed in the Senate. In general, the VFW supports legislation that seeks to recognize veterans and preserves the military history of our greatest generation.

With regards to H.R. 1900, the VFW supports this legislation which would designate the Veterans Memorial and Museum, which is currently being constructed in Columbus, Ohio, as a National Veterans Memorial and Museum. Continuing the legacy left by the late Senator John Glenn, the museum would serve as a civic landmark to honor, connect, inspire and educate visitors about the sacrifice and service of all of our Nation's servicemen and women. The creation of this institution would have a profound lasting impact on every American and would help instill a deeper meaning in the freedoms we all enjoy.

While there are several museums and monuments dedicated to specific branches eras, our country currently lacks a museum specifically dedicated to honoring and preserving the collective sacrifices made by all of the Nation's veterans. We feel as though this museum would serve to fill this gap, and this institution would serve as a constant reminder to all the importance and value of military service by honoring the contributions of our veterans, educating the public about what it means to serve and ensuring that our veterans, regardless of the location, branch, or era have a nationally designated facility to call their own.

In regards to H.R. 3122, the Veterans Care Financial Protection Act, the VFW strongly supports this legislation which would address and correct many of the oversight and accountability problems which have plagued the Aid and Attendance program for

quite some time by the directing the Department of Veterans Affairs to work with other Federal agencies to develop standards that would protect veterans receiving A&A benefits from dishonest and predatory business practices. As the number of elderly veterans increases so too does the need to provide them with additional assistance that enables them the ability to complete day-to-day activities. But these services can be extremely expensive. Many veterans depend on the A&A program because it enables them to obtain these services. However, because of poor oversight many veterans are being taken advantage of by individuals claiming to be consultants. And in some circumstances, even retirement homes.

Sadly, predatory practices that target veterans, servicemembers and their families is nothing new. Last year alone the CFPB received over 11,000 complaints from veterans regarding VA loan financing companies that were engaging in aggressive solicitations and misleading advertisements, and an additional 2700 complaints concerning businesses engaged in consumer loans for veterans and servicemembers.

Not only do these practices cost the Federal Government millions in taxpayer dollars, but often times result in the veteran being responsible for repaying any debt incurred, which makes an unstable financial situation even worse. It is unfortunate that legislation such as this even needs to exist. However, so long as the need is there the VFW will support any measure to protect the financial well-being of our Nation's veterans.

With regards to H.R. 3656 and 3657 the VFW supports both pieces of legislation. H.R. 3656 would codify the date of edibility for VA provided headstones and markers for the spouse and any dependent children of a veteran whose remains are unavailable on or after November 11, 1998, and H.R. 3657 which would expand the headstone or marker eligibility for spouses and dependent children buried in tribal cemeteries.

Finally with regards to the draft bill, the VFW strongly supports this legislation. During the O&I hearing yesterday Ms. Lori Rectanus testified that because the VA lacks key elements of an effective mail management program, the VA cannot provide assurance that facilities are managing their mail efficiently. Every year the VFW assists thousands of our members who have received overpayment notifications from the VA, many of which are erroneous. Almost every single letter is the same - it uses ambiguous language, gives no clear options to request recourse, and directs the veteran to contact the VA with any further questions. As you can imagine, this leaves many fearful of the process as a whole, given how unresponsive the VA has been in the past. To be blunt, our veterans deserve more.

With that additional layer of complexity many times the contact information is incorrect, as my colleagues have also testified to. Ultimately, if the veteran fails to respond to the debt notice it can result in their pensions being garnished until the debt is satisfied, or the debt going to a collections agency. This is unsatisfactory. By requiring debt notifications to be made in easy-to-understand language via certified mail, veterans would be able to understand what they need to do in order to ensure the issue is addressed in a timely manner.

With that, Mr. Chairman and Ranking Member Esty, this concludes my testimony. The Veterans of Foreign Wars sincerely appreciates the opportunity to provide views on important bills and is prepared to take any questions you or other Members of the Subcommittee may have.

[THE PREPARED STATEMENT OF JOHN TOWLES APPEARS IN THE APPENDIX]

Mr. BOST. Thank you, Mr. Towles. And I will start with yielding myself 5 minutes for questions. Mr. Acosta, can you explain why the VA believes that H.R. 3705, the Veterans Fair Debt Notice Act, needs more clarification? Can you expand on that on where your testimony was there?

Mr. ACOSTA. The portion where it says for the debtor to respond to the VA, that is what I am talking about. And it is clear when you read it a couple of times it appears that it is requiring the debtor to respond by certified mail. Mr. BOST. Yeah, and I don't think it is the intent of the—we don't think it is the intent of the sponsor. But we will make sure that we talk with them specifically on that. Ms. Moakler, your written testimony supports expanding the eligibility for gravestone and markers to spouses and dependents who are buried in tribal cemeteries. Can you kind of elaborate on that a little bit?

Ms. MOAKLER. Well, we believe that tribal cemetery, the folks who are eligible for tribal cemeteries are as deserving of headstones and markers as those who are buried in state cemeteries because I believe they have a similar standing.

Mr. BOST. Mr. Towles, can you explain why the VFW supports H.R. 3656 regarding memorial headstones and markers?

Mr. TOWLES. A lot of the issues revolve around people, as the sponsor mentioned, that go missing at sea or due to a boating or plane accident. In our opinion, it provides parity between the two areas, or the two populations reflected in the bill. It makes a situation right instead of having to rely on, you know, exceptions to policy.

Mr. BOST. General Ortner, can you explain why PVA's concerns about the salesman who promise to restructure veterans finances assets in order to qualify for pensions or aid in attendance and kind of expand on where you believe—

Mr. ORTNER. Well, Mr. Chairman, thank you for that question, I think it is pretty obvious in the current country of the preying on older Americans. And unfortunately in the case where the process, VA processes are relatively complicated and the reason they hire VSOs to try and work them through the system can make them, I think, more susceptible to someone that comes in and says, oh, let me fix this for you. I think there really needs to be some aspect of legislation or regulation that puts a higher bar in there for anybody that is going to try and do something like that. Just like we need for other Americans in this country.

Mr. BOST. Okay. My next question is for everybody here because I really want to—the concern I had with H.R. 3122. Did anybody on this panel would you disagree if all of a sudden we found a different agency that could possibly do it better in our government to make sure we provide these protections? Because we are kind of

questioning whether or not the VA can do it or whether whose scope it is under. And you are really concerned and that is what I am wanting each of you to answer, you are really concerned about just making sure that the veteran is protected and not subject to the possibility that these fraud and some—we are trying to look for the right agency. Does it matter which agency does it?

Mr. ZHANG. I would have to say, Chairman, I would have to say that it is not germane. Because VA was created for the purpose of helping veterans so it should stay with VA.

Mr. ACOSTA. Mr. Chairman, I would have to say if the intent is to help ill and injured veterans then it should stay with the VA.

Mr. ORTNER. I think the end result is what is key here. But obviously I think we could support going with another agency. However, I think what would probably be more critical is seeing exactly what that agency is, why that agency is going to be able to do it better than someone else. I think I am not big on passing the buck. I think that if it is the VA's job the VA should just learn to do the job right.

Ms. MOAKLER. I don't have much experience with this issue as far as coordination of effort. But if we look at the exploitation of veterans education benefits, if we work with the organizations that have the expertise, be it the FTC, be it the Department of Justice, and people are in coordination then we will be able to get the best outcome for the veteran or survivor using these benefits.

Mr. TOWLES. Mr. Chairman, from what we have seen at the VFW, there exists within the CFPB an office of Service Member Affairs, which deals a lot, I mean, they specifically handle complaints and issues coming from the veterans and the military community. With regards to how they might be able to add some expertise or some assistance to what is going on with the current A&A issue, I can't speak to that personally. But I would say that there is probably existing architecture within that agency to help augment and help sort of provide some additional oversight to these issues.

Mr. BOST. Thank you. And my time has expired, so I am going to turn it over to Ms. Esty 5 minutes.

Ms. ESTY. Thank you very much, Mr. Chairman. And thank you so much for being with us here today. To just quickly follow up on this last point, which I too had some questions about. I think it is noteworthy that Senator Warren is the co-sponsor and lead sponsor in the Senate. So presumably was one who helped create that agency. She does not believe that that is sufficiently able to its job. So I think that is instructive for us to consider. But I do think it is worth, I have a question for all of you. Do you think it would be helpful for the VA to take a proactive role if somebody is beginning to receive ANA to send out a notice, and frankly I think we are very concerned about the asset issue, whether a notice should go to family members? Because we know this to be a chronic pattern of taking advantage of the elderly and this is yet another venue specifically targeted at veterans.

Mr. TOWLES. Absolutely. I think that education is the best form of prevention.

Ms. MOAKLER. I believe that that would be very worthwhile because in many cases the VA is already communicating with family members. Especially where a family member has fiduciary respon-

sibility. But an overall campaign of this through maybe AARP or some other outside organizations, a feature on a morning TV show or something like that, would create a better awareness because you can't always identify who the family member is that is supporting the veteran or survivor.

Mr. ORTNER. Yeah. I would tend to agree that I think getting the message out, getting the education out is probably the most critical thing. Especially if you go through the families. But it probably needs more than just education. There needs to be some penalties and direct action against any unscrupulous people that would take advantage of a veteran like that.

Mr. ACOSTA. We would certainly be willing to take a look at any legislation that would be proposed to enable veterans to obtain all the benefits available to them, especially ill and injured veterans.

Mr. ZHANG. We would have to look at—we concur with it, but here is the problem. It would have to be revolutionary in that you would have to train, retrain and readjust. Also there is a byproduct of that, not all veterans have a stable home situation. So you would have to look at homeless and how you deal with that. So that is the byproduct on that.

Ms. ESTY. Thank you very much. Wanting to turn now to the proposal to designate as national the museum that is underway right now in Ohio. I think we are all very supportive of having a memorial, a national memorial. I do have a question. It is currently being marketed as National. Is that concerning to any of you that is being marketed as a National Museum and Memorial which has not received that designation from this body? And as taxed as stewards of the taxpayer's expense I have some concern about that. I don't know if any of you have concerns. I have a couple questions. That is one. One is unlike the national museums that we have here in Washington, which are free to all who come, the proposal here is to charge everyone who attends. I think that something—did you look at that? Did you consider that in terms of your support? Because these are among the kinds of questions we have to consider. And others, those who have not come through Congress but have come later have typically been in operation for a number of years. And the question about endowments, these are some of the kinds of questions that we need to be considering. I am wondering your thoughts on any of these issues. You are on the front lines everyday with our veterans. We are tremendously supportive of this concept. But trying to do it in a way that makes the most sense and is keeping with Congress responsibility, but also that openness when something receives a national designation.

Mr. ZHANG. It is not a problem of the word National. Because where there are veterans we are systemic, we are all over. You build it, we will come.

Mr. ORTNER. We actually looked—

Ms. ESTY. Well, I guess the question is on charging which we don't say here. None of the museums charge. The Smithsonian doesn't charge. But this is—the plan is to charge anyone who attends.

Mr. ZHANG. I understand that. But I don't think it would be an issue for veterans and others that are interested. Because again, they raised 75 million on their own. So if they can do that, it may

be down the road there may be some issues trying to get the fiduciaries together to support it, but if it becomes really national and the bill passes then I don't think it should be an issue.

Mr. ORTNER. Yeah, PVA we actually discussed that a little bit. We are not concerned about that primarily because the fact that it is national and the idea that they had created a large amount of funds to create the facility themselves. Its location, as was, you know, I discussed earlier the fact it is within, you know, short range of a lot of veterans we don't see that as an issue. I know another question came up, could this somehow lead, by calling it National, could that somehow lead to a requirement of Federal funding for the facility. The fact that the legislation does not identify or require anything like that, I don't think that needs to be a concern. I suppose later on if they wanted to come and make that argument I suppose that is a possibility that could be denied at that time. But we don't really have a problem with it.

As for charging, the difference between Washington, DC and virtually every other museum in the country is significant. The Smithsonian highlights the fact that their museums are all free. But they are also pretty much fully funded by the Federal Government as well. So I don't think there is a problem with that.

Mr. TOWLES. With regards to the funding; we were of the understanding that the intent once the museum opens, is to offer admission to veterans and survivors at no cost. The other funds would be generated through folks who aren't veterans or military. So that sort of takes care of that. Additionally, as the others have said, they have done a really good job at sort of funding their way so far. So we have no qualms or worries or concerns about that.

Regarding the location, to be quite honest, we have received complaints from veterans that coming to DC for, you know, going to the wall to have a group photo taken, most notably the Honor Flight folks getting, I am not going to say harassed, that is a strong word, but you know, being stopped by the Park Service folks and saying "Do you have a permit to be here? Do you have a license to take these photos?" If they are going to start charging veterans to take photos at the wall, I mean, that is kind of—it is unfortunate. Right? So them going to Columbus to a museum that honors all veterans it may be, you know, that might be what we are seeing in the future because people may not want to come here because they feel as though they are being harassed or having to pay for something that they feel should be theirs.

And I think ultimately, the fact that it is not built yet - I think that it has gotten enough grassroots support, it has enough of the key thinkers, a lot of the folks that were behind the World War I Commission are also giving their two cents on this. They are on the Board, and the Steering Committee right now. I think that it will be fine in the end.

Ms. ESTY. And if I may, Mr. Chairman, I think we would very much want to follow up with your comments about harassment or other questions being asked of people at the memorials. And, Mr. Chairman, if we could follow up with you. And that may need to be something we have a hearing on. Because that is completely inappropriate. It should not be happening and very distressing for us

to hear that any of our veterans or family members are having that sort of experience. It is just not right and we will—

Mr. BOST. And we should contact the Committee with Natural Resources too. Because that is where, you know, they would be the overseers and we would not want that to happen. If it is happening we want to make sure that it is stopped.

Mr. TOWLES. Thank you.

Mr. BOST. And if we have further questions we will—oh. Did you yield back? I am sorry.

Ms. ESTY. I yield back. I am way over time at this point, but thank you.

Mr. BOST. Okay. If anyone has any further questions we will be contacting you, the staff will. Thank you everyone for joining us today and sharing your views in the Subcommittee. Your testimony provides us with important insight into these proposals as we move forward with this legislative process. And I ask unanimous consent that all Members have five legislative days to revise and extend their remarks and include extended material on any of the bills under consideration this afternoon. Without objection, so ordered. This hearing is now adjourned.

[Whereupon, at 12:06 p.m., the Subcommittee was adjourned.]

## A P P E N D I X

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### Prepared Statement of Matthew T. Sullivan

Good morning, Chairman Bost, Ranking Member Esty 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, including: H.R. 1721, H.R. 1900, H.R. 3122, H.R. 3656, H.R. 3657, and a bill entitled “Veterans Fair Debt Notice Act of 2017.” With me today is Ms. Roberta Lowe, Acting Director of the Debt Management Center (DMC), Office of Management, and Ms. Cheryl Rawls, Director Pension & Fiduciary Service, Veterans Benefits Administration (VBA).

#### H.R. 1721

H.R. 1721 would direct the Secretary of Veterans Affairs, in consultation with the Secretary of Defense, to designate at least one city in the United States each year as an “American World War II City.” The designation would be based on the city’s contribution to the war effort and its efforts to preserve the history of those contributions. The bill directs that Wilmington, North Carolina, be designated as the first “American World War II City.”

VA supports the concept espoused in H.R. 1721 of recognizing the concerted efforts of those on the home front that led ultimately to victory in World War II. Scores of communities and cities have rich histories of supporting the United States’ efforts in innumerable ways. However, while VA agrees that ensuring recognition of these efforts is commendable, VA lacks the expertise, historical documentation, and infrastructure necessary to fully realize this plan for recognition of a civilian population. VA is committed to its mission of providing benefits to those who fought the battles in World War II as well as other conflicts, and their dependents. Redirecting critical VA resources to reviewing efforts of the civilian population designate locales as an “American World War II City” based on those efforts would be inconsistent with VA’s mission.

#### H.R. 1900

H.R. 1900, the “National Veterans Memorial and Museum Act,” would designate the Veterans Memorial and Museum in Columbus, Ohio, as the National Veterans Memorial and Museum. VA respectfully expresses no view on the proposed bill, which does not apply to VA or to VA’s core mission.

#### H.R. 3122

H.R. 3122, the “Veterans Care Financial Protection Act of 2017,” seeks to protect pension claimants from individuals and entities that market financial products or legal services for purposes of restructuring claimants’ assets and thereby “qualifying” them for the benefit but which, at the same time, may render them ineligible for other Federal benefits or, practically speaking, make them unable to access their assets during their lifetime.

Pension is a needs-based benefit that VA pays to wartime Veterans who meet the age or disability requirements and to their survivors. Under current law, VA must deny or discontinue pension if the claimant’s net worth, including the claimant’s annual income, is such that it is reasonable that the claimant consume some part of that net worth for his or her maintenance. VA calculates a claimant’s pension entitlement by reducing the statutory maximum annual pension rate, dollar-for-dollar, by the amount of the claimant’s countable income. Veterans and survivors who require the aid and attendance of another person are entitled to a higher maximum annual pension rate and, thus, may become eligible for pension despite otherwise

disqualifying income or may be eligible for an increased amount of pension if they have no income. The purpose of pension is to provide some level of financial security for certain Veterans and survivors who have an immediate need. Congress did not intend that claimants could restructure their assets to create the need.

Section 2(a)(1) of the bill would require VA to work with Federal agencies, States, and other appropriate experts, to develop and implement Federal and State standards for protecting pension claimants and beneficiaries from dishonest, predatory, or otherwise unlawful practices. Under section 2(a)(2), VA would have 180 days from the date of enactment to submit the standards to the Senate and House Committees on Veterans' Affairs. Under section 2(b), if VA does not comply with the 180-day deadline, the bill would require the Comptroller General of the United States to develop standards for protecting pension claimants and beneficiaries within one year of the date of enactment. Finally, section 2(c) would require the Comptroller General to complete and submit a study to the Committees on the implemented standards no later than 540 days after enactment.

VA agrees with the intent of the bill (with technical amendments), which is to protect veteran pension claimants and beneficiaries. Accordingly, VA will work with relevant Federal agencies, States, and other experts to leverage the expertise necessary to further regulate the financial services or legal instruments industries and protect against unlawful practices. Historically, VA's sole purpose has been to provide benefits and services to eligible Veterans, dependents, and survivors.

Relevant expertise or experience can be found in certain Federal and State regulatory agencies, such as the Department of Justice, Securities and Exchange Commission, Federal Trade Commission (FTC), Consumer Financial Protection Bureau (CFPB), State Attorney General Offices, and various other State agencies that are charged with protecting consumers or monitoring the activities of specific industries or professions.

As noted above, other agencies already have authority to protect consumers or regulate the activities of financial planners, attorneys, and other individuals and entities that may have an interest in structuring assets to reduce an individual's net worth. These agencies may already have ample authority to address the problem that is the subject of the bill.

VA welcomes the opportunity to work with key stakeholders and share information about common predatory practices involving VA benefits, particularly VA pension, to help identify and enforce existing standards and to develop additional standards where appropriate. VA has already consulted with the FTC and CFPB regarding the unscrupulous practices of individuals and entities that advise pension claimants that they can use the program as an estate planning tool, and has shared its outreach products with those agencies. It has also worked closely with Veterans Service Organizations to ensure that their employees and members are fully aware of the potential for predatory practices.

It may be more effective for the bill to specifically identify the other entities charged to collaborate with VA in addressing this issue, to clarify that the onus does not lie solely with VA, but also with those other entities to establish a mechanism to enforce existing laws. It may also be more effective if the bill emphasized that the predatory practices go beyond claims for increased pension, by also impacting elderly claimants' eligibility for other Federal benefits and their ability to access their assets during their lifetime.

VA estimates that enactment of this bill would result in general operating expenses of \$448,000 for fiscal year (FY) 2019, \$918,000 over the 5-year period from FY 2019 through FY 2023, and \$8.7 million over the 10-year period from FY 2019 through FY 2027.

#### **H.R. 3656**

H.R. 3656 would amend 38 U.S.C. § 2306(b) to establish a consistent applicability date for the provision of memorial headstones and markers for all eligible non-Veteran individuals. The bill would not expand eligibility for placement of memorial markers in private cemeteries for non-Veterans, but rather would merely allow for the provision and placement of such markers in national and State Veterans cemeteries for eligible individuals whose deaths occurred on or after November 11, 1998. Eligible individuals include Veterans, spouses, surviving spouses, and dependent children whose remains were not available for burial.

VA supports the concept contained in H.R. 3656, as a consistent applicability date would allow VA to provide this benefit in a manner that creates less confusion for claimants as well as simplifies and streamlines the administrative process for providing the headstone and marker benefit. VA recommends modifying the language

of the amendment to make clear that the November 11, 1998, effective date applies to the death of the spouse or surviving spouse of a Veteran and the death of the dependent child of a Veteran, not the death of the Veteran.

Originally, a memorial headstone or marker, which is provided when remains are unavailable for burial, was a benefit provided only in memory of Veterans who died in service. However, in 1998, Congress, for the first time, authorized VA to furnish memorial headstones or markers for non-Veterans, namely spouses or unremarried surviving spouses, who died after November 11, 1998. In 2006, Congress expanded this to include memorial headstones and markers for dependent children who died after December 22, 2006. And finally, in 2008, memorial headstones and markers were authorized for surviving remarried spouses who died on or after October 10, 2008.

Variations in the effective dates for this benefit for each category of eligible individuals has caused emotional strain on families seeking to remember loved ones. VA supports and appreciates Congress' effort to address this. If H.R. 3656 were enacted, VA anticipates no significant increases in workload or cost to the Government. We estimate that enactment of this bill would result in mandatory costs of \$410 for FY 2018, \$2,029 over the 5-year period from FY 2018 through FY 2022, and \$3,997 over the 10-year period from FY 2018 through FY 2027.

#### **H.R. 3657**

H.R. 3657 would amend 38 U.S.C. § 2306 to authorize VA to provide burial headstones and markers for Veterans' eligible spouses and dependent children interred at tribal organization cemeteries.

VA supports H.R. 3657, which would ensure eligible Veterans' spouses and dependent children interred at tribal organization cemeteries have access to the same benefits as those interred in State cemeteries. Since 1980, VA has been authorized to provide burial headstones and markers to eligible spouses and dependent children of Veterans interred in Veterans' cemeteries owned by States, but not those owned by tribal organizations.

However, VA would request the Subcommittee also consider expanding the applicability of H.R. 3657 to include memorial headstones and markers under section 2306(b) as well. This would ensure that VA can provide an appropriate headstone or marker for Veterans, spouses and dependents interred in tribal cemeteries or those whose remains are unavailable for burial but whose families wish to honor their memory in a tribal cemetery.

If H.R. 3657 were enacted, even with the suggested expansion to include burial and memorial headstones and markers, VA anticipates no significant increases in workload or cost to the Government. We estimate that enactment of this bill would result in mandatory costs of \$75,000 for FY 2018, \$347,000 over the 5-year period from FY 2018 through FY 2022, and \$739,000 over the 10-year period from FY 2018 through FY 2027.

#### **H.R. 3705**

Section 2(a) of H.R. 3705 would require the Secretary to amend 38 C.F.R. § 1.911 to require that certified mail be used by VA to send a written demand from the Secretary to a debtor along with the notice of rights. Debtors would be required to use certified mail when submitting a request for a waiver of indebtedness to the Secretary.

Section 2(b) of the bill would require the Secretary to amend section 1.911 to require all communications with a debtor be in plain language including why the debtor owes money to the Department. Moreover, the options available to the debtor should be explained.

VA does not support the passage of section 2(a) because it would adversely impact Veterans and the Department. It is notable that Veterans currently submit waiver requests to DMC via regular United States Mail, commercial carrier, facsimile, and electronic mail - as well as through the various VBA Regional Offices located throughout the nation. The potential adverse impact of the proposed legislation on Veterans include increased costs by requiring Veterans to use certified mail as opposed to utilizing regular mail or submitting waiver requests directly through a VBA Regional Office. Additionally, the proposal poses the risk to Veterans of missing the deadline for submitting a waiver request by requiring Veterans to use certified mail as opposed to expedited services such as facsimile, electronic mail, and overnight commercial carrier delivery. Moreover, Veterans would be required to find and travel to a post office to send a request for waiver by certified mail, as opposed

to current practice that allows Veterans to use a wide array of methods to submit waiver requests, including regular mail, email, and facsimile.

In addition to the adverse impact on Veterans, section 2(a) of the proposed legislation would adversely impact the Department by dramatically increasing costs to DMC. Specifically, it is estimated that costs related to DMC's initial demand and notification letters would increase by more than \$7.4 million per year. In FY 2016, DMC mailed 2.5 million letters at a cost of \$1.1 million. Sending the same number of letters via certified mail at a rate of \$3.35 per piece would result in a mailing cost of \$8.5 million - representing an increase of \$7.4 million. Moreover, additional tracking of certified mail would be required, which would include developing new processes to reconcile the certifications (i.e., track signed and outstanding certifications) for the 2.5 million letters. We estimate that an additional 30 full-time employees would be needed by DMC just to track the certified mail at an estimated cost of \$1.8 million per year. Combining the cost to DMC of certified mail and associated tracking totals \$9.2 million annually or \$46 million over 5 years.

Section 2(a) of the proposed legislation would also adversely impact VBA by dramatically increasing costs. In FY 2016, VBA established approximately 470,000 overpayments of Compensation or Pension benefits. Most of these overpayments would have resulted in a debt notification at an annual average mail cost of \$132,000. If Section 2(a) of the proposed legislation becomes law, costs related to VBA initial letters are estimated to increase to more than \$1.6 million per year, with 5-year costs estimated at \$8.3 million. An additional adverse impact to VBA stems from the fact that, at the present time, the contractors that handle printing of these letters cannot distinguish a debt letter from other notification letters, including award letters. Significant reprogramming of our letter generation processes would be required to address that deficiency. VBA would require additional time to determine a level of effort and associated costs for this reprogramming effort. Finally, it is notable that VBA is undergoing a significant modernization effort, which includes a move toward digital notifications for Veterans who "Opt In." It is expected that moving toward digital notifications would reduce the cost to the Government and increase the likelihood that notifications are received timely. The proposed legislation may make it more difficult to transition to a digital format for notifications. In addition if the proposed legislation is inclusive of medical debts, VHA would have similar concerns noted by DMC with respect to the increased postal cost of monthly VHA medical statements sent to Veterans. VHA currently sends on average 21.6M statements per year to Veterans for medical copay debts at an average cost of \$.40 per statement totaling \$8.6M per year. If the legislation requires VHA to mail all statements of medical debts to Veterans by certified mail the postal costs would increase by more than \$63.7M with a total estimated postal cost of \$72.3M based on current lowest certified mail rate of \$3.35/statement.

VA generally supports the passage of section 2(b).

As set forth previously, the combined cost to the DMC, VBA and VHA related to the implementation of section 2(a) of the bill would total \$74.4 million in the first year and more than \$370 million over 5 years. Costs related to the implementation of section 2(b) would be minimal.

This concludes my testimony. We appreciate the opportunity to present our views on these bills and look forward to working with the Subcommittee.

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### Prepared Statement of Elizabeth Curda

Chairman Bost, Ranking Member Esty, and Members of the Subcommittee:

I am pleased to be here today to discuss our views on the proposed veterans' benefits legislation that you are considering. My remarks will focus on the proposed Veterans Care Financial Protection Act of 2017.<sup>1</sup> This proposed legislation seeks to address the financial exploitation of veterans eligible for the Department of Veterans Affairs' (VA) pension benefits at the increased Aid and Attendance rate.

As you know, VA pensions are a needs-based benefit that provides certain veterans and their survivors with a minimum level of income.<sup>2</sup> Specifically, these pen-

<sup>1</sup>H.R. 3122, 115th Cong. (2017). Currently, an identical bill is under consideration in the Senate (S. 1198).

<sup>2</sup>Eligibility for VA pension benefits is subject to income and net worth limitations. The annual payment for a veteran without a spouse or child receiving a pension is \$12,907, but is \$21,531 for a pension recipient without dependents requiring Aid and Attendance.

sions provide benefits to low-income wartime veterans who are age 65 and older, or who are under age 65 but are permanently and totally disabled as a result of conditions unrelated to their military service.<sup>3</sup> In addition, VA Aid and Attendance benefits help those who need the regular assistance of another person to perform everyday living activities—such as bathing, feeding, and dressing—as well as those who are in nursing homes due to mental or physical incapacity, and those meeting certain limited eyesight criteria.

Veterans and surviving spouses who are eligible for a VA pension may also be eligible to receive Aid and Attendance benefits, which increase the amount of the monthly pension they receive from VA. In fiscal year 2016, VA paid an estimated \$3.2 billion in enhanced pension benefits—pensions and Aid and Attendance benefits—to over 243,000 recipients.

To help protect individuals eligible for enhanced pension benefits from dishonest, predatory, or otherwise unlawful practices, a provision in the proposed Veterans Care Financial Protection Act of 2017 would require VA to work with federal and state agencies and experts VA considers appropriate to “develop and implement” standards that protect these individuals from such practices. If VA fails to submit the standards to the Senate and House Committees on Veterans’ Affairs within 180 days of enactment, the proposed legislation would mandate that GAO submit a report to those committees containing standards that GAO determines would be effective in protecting these beneficiaries. In addition, GAO would be required to complete a study on the standards implemented under the act as currently drafted.

Today, I will discuss (1) our prior work related to VA pension benefits, and (2) our observations on certain provisions within the proposed Veterans Care Financial Protection Act of 2017 as currently drafted. This statement is in part based on several reports issued since May 2012 as well as our review of the proposed legislation. More detailed information on our objectives, scope, and methodology for that prior work can be found in the issued reports we cite in this statement. We conducted the work upon which this statement is based in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

### **Our Prior Work on VA Pension Benefits**

In our prior work, we have identified potential threats to the financial security of veterans who applied for pension benefits. For instance, in 2012, we identified over 200 organizations throughout the country—such as financial planners—that marketed their services to help veterans qualify for pension benefits by transferring their assets to lower their net worth.<sup>4</sup> We found that sometimes these organizations offered veterans products and services that could adversely affect them. For example, some organizations sold deferred annuities that would make the recipient unable to access funds in the annuity during their expected lifetime without facing withdrawal fees. In 2013, we also reported on shortcomings in VA’s process for ensuring that representatives approved to assist veterans with the claims process were adequately knowledgeable and in good moral character as required by law.<sup>5</sup>

GAO made 8 recommendations to VA to address these and other shortcomings and a matter for congressional consideration to establish a look-back and penalty period for veterans who transfer assets before applying for pension benefits. VA has implemented all 8 of these recommendations and is taking actions to address the matter for congressional consideration. Specifically, VA developed proposed regulations that would establish a look-back and penalty period for veterans who transfer assets before applying for pension benefits, and increased training requirements for representatives.<sup>6</sup> Our prior work has focused more generally on issues related to

<sup>3</sup>Veterans whose disabilities were caused or aggravated as part of their military service can receive disability compensation benefits. These veterans may also be eligible to receive Aid and Attendance, which increases their monthly disability compensation payments.

<sup>4</sup>GAO, Veterans’ Pension Benefits: Improvements Needed to Ensure Only Qualified Veterans and Survivors Receive Benefits, GAO 12 540 (Washington, D.C.: May 15, 2012).

<sup>5</sup>GAO, VA Benefits: Improvements Needed to Ensure Claimants Receive Appropriate Representation, GAO 13 643 (Washington, D.C.: Aug. 1, 2013).

<sup>6</sup>More generally, GAO has a body of work on elder abuse, including financial exploitation. We have found that preventing exploitation by individuals—such as financial services providers, power of attorney agents, and in-home caregivers—is difficult. See, for example, GAO, Elder Justice: National Strategy Needed to Effectively Combat Elder Financial Exploitation, GAO 13 110 (Washington, D.C.: Nov. 15, 2012) and GAO, Elder Abuse: The Extent of Abuse by Guardians

gaining access to VA pension benefits for veterans, but did not specifically examine the potential vulnerabilities of veterans in need of Aid and Attendance. Individuals receiving the increased benefit from VA's Aid and Attendance could be vulnerable to dishonest, predatory, or otherwise unlawful practices, which the proposed legislation aims to address.

#### **Our Views on Proposed Legislation**

As currently drafted, the Veterans Care Financial Protection Act of 2017 contains three provisions that we will comment on today. First is the proposed requirement for VA to develop and submit standards to the Senate and House Committees on Veterans' Affairs within 180 days of enactment. Second is the proposed requirement to have GAO submit a report to those committees containing standards that GAO determines would be effective in protecting individuals should VA not meet the deadline in the proposed legislation. Third is the proposed requirement for GAO to complete a study on the standards implemented under the proposed legislation. Our observations on each of these proposed requirements follow.

- Protecting veterans from financial exploitation is vital, and developing a set of standards could help VA combat such practices. However, this proposed legislation does not clearly specify whether the standards to protect veterans are intended to be legally binding, because for example, it does not include an enforcement mechanism. Agencies may issue guidance that is not legally binding but may help agencies interpret regulations or disseminate suggested practices. Establishing legally binding regulations require procedures established in the Administrative Procedure Act, such as requiring agencies to publish a notice of proposed rulemaking in the Federal Register, among other steps.<sup>7</sup> Clarifying whether the standards are intended to be legally binding is important for determining what steps VA would need to take and whether completing these steps within 180 days is feasible.
- As currently drafted, if VA is unable to meet this 180 day timeframe, section 2(b) of the proposed legislation, entitled "Conditional Recommendation by Comptroller General," would require GAO to submit a report to the Senate and House Committees on Veterans' Affairs on effective standards for the program. It would not be appropriate for GAO subsequently to audit standards that GAO had recommended. We follow Generally Accepted Government Auditing Standards (GAGAS), which require us to maintain independence, and identify and mitigate threats to our independence, for our audits. For example, one such threat to independence that GAGAS identifies is the "self-review threat," which results from auditors reviewing a service or work that they have provided to an agency that is the subject of the audit. In addition, it would be inappropriate for GAO to set these types of standards for VA, an executive branch agency. Thus, we recommend removing the proposed provision requiring GAO to submit a report containing standards.
- The legislation, as proposed, would also require GAO to conduct a study on the standards VA implemented to protect these veterans. By itself, this proposed requirement is an appropriate role for GAO. However, if this requirement is combined with the provision that requires GAO to submit a report that recommends standards, then under GAGAS we would be unable to audit subsequent VA efforts in this area. This is because we would be auditing the effectiveness of the standards that we had established, and therefore, we would not be independent.

Although it is inappropriate for GAO to set standards for a VA program, there are other ways that we could support the legislative priorities of Congress for this VA program. For example, we have extensive experience with setting guidance in the form of auditing standards for the purpose of our own mission that could be useful to VA. In developing auditing standards, we employ a deliberative and inclusive process for periodically revising GAGAS. In revising GAGAS, proposed changes undergo an extensive deliberative process internally and externally, which includes key stakeholders. Internally we follow sound project planning practices, which include creating a project time line and meeting with all relevant, internal stakeholders enterprise-wide to obtain and document agreement with the engagement plan. Externally, we collect public comments and input from experts drawn from the

Is Unknown, but Some Measures Exist to Help Protect Older Adults, GAO 17 33 (Washington, D.C.: Nov. 16, 2016).

<sup>7</sup> See GAO, Regulatory Guidance Processes: Selected Departments Could Strengthen Internal Control and Dissemination Practices, GAO 15 368 (Washington, D.C.: April 16, 2015).

private and public sectors as well as academia on our auditing standards, and we thoroughly consider the views of all parties when finalizing revisions.<sup>8</sup>

In conclusion, enhanced pension benefits provide a critical support to veterans with disabilities, many of whom are elderly and have limited financial resources to care for themselves. Individuals who seek to exploit these veterans can cause real financial harm. Our continued ability to conduct audits in this area by maintaining independence and mitigating threats to that independence will help Congress, VA, and the public assess program performance.

Chairman Bost, Ranking Member Esty, and Members of the Subcommittee, this concludes my prepared statement. I would be pleased to respond to any questions that you may have at this time.

#### **GAO Contact and Staff Acknowledgments**

For further information about this testimony, please contact Elizabeth Curda at (202) 512-7215 or [curdae@gao.gov](mailto:curdae@gao.gov). Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this testimony. Other key contributors to this testimony include Nyree Ryder Tee (Assistant Director), Sheranda Campbell, Daniel Concepcion, Helen Desaulniers, Holly Dye, Alex Galuten, Kristen Kocielek, Walter Vance, and James Whitcomb.

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<sup>8</sup>GAO, Government Auditing Standards: 2011 Revision, GAO 12 331G (Washington, D.C.: December 1, 2011).

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**GAO STATEMENT**

**VETERANS BENEFITS**

**GAO'S PROPOSED ROLE IN REVIEWING EFFORTS TO PROTECT VETERANS FROM FINANCIAL EXPLOITATION**

**What GAO Found**

In prior work, GAO has found that veterans who applied for Department of Veterans Affairs (VA) pension benefits could be targeted for financial exploitation. For example, in 2012, GAO identified over 200 organizations, such as financial planners, that marketed their services to help veterans qualify for needs-based VA pensions. GAO found that some organizations offered veterans products and services that could adversely affect them by transferring their assets to lower their net worth. For example, some organizations sold veterans deferred annuities that might limit access to funds during their expected lifetimes. Additionally, in 2013, GAO reported shortcomings in VA's process for ensuring that representatives approved to assist veterans with the VA claims process were adequately knowledgeable about the process and were of good moral character, as required by law. GAO made 8 recommendations to VA to address these and other shortcomings and a matter for congressional consideration to establish a look-back and penalty period for veterans who transfer assets before applying for pension benefits. VA has implemented all 8 of these recommendations and is taking actions to establish a look-back and penalty period.

As currently drafted, the proposed Veterans Care Financial Protection Act of 2017 contains three provisions that GAO will comment on today: (1) VA would be required to develop and submit standards that protect veterans from dishonest and predatory practices to the Senate and House Committees on Veterans' Affairs within 180 days of enactment. (2) GAO would be required to submit a report to those committees containing standards that GAO determines would be effective in protecting individuals should VA not meet this deadline. (3) GAO would be required to complete a study on the standards implemented under the proposed act. GAO's observations on each of these three proposed requirements follow.

- The proposed legislation does not clearly specify whether the standards are intended to be legally binding. Clarifying whether the standards are intended to be legally binding is important for determining what steps VA would need to take and whether completing these steps within 180 days is feasible.
- If VA does not meet the 180 day deadline, the proposed legislation requiring GAO to report on standards is problematic because it could hamper GAO's ability to meet the audit standards by which GAO conducts its audits. These audit standards require GAO to maintain independence and identify and mitigate threats to its independence. For example, threats include GAO reviewing a service or work that it has previously performed for an agency; in this case, recommending standards. If GAO develops standards that VA then implements, this could hamper GAO's ability to audit in an independent manner subsequent VA efforts in this area. In addition, it would be inappropriate for GAO to set these types of standards for VA, an executive agency. Thus, GAO recommends removing this proposed provision.
- The proposed legislation would also require GAO to conduct a study on the standards VA implemented to protect these veterans. By itself, this requirement is an appropriate role for GAO.

**Why GAO Did This Study**

The proposed Veterans Care Financial Protection Act of 2017 seeks to address the financial exploitation of aging and disabled veterans who are eligible for certain VA benefits. VA pension benefits are available to certain wartime veterans and their surviving spouses with limited means. Those who need additional assistance with everyday living activities may also be eligible to receive VA Aid and Attendance benefits, which increase the amount of the monthly pension they receive from VA.

GAO was asked to provide input on the proposed Veterans Care Financial Protection Act of 2017, which is being considered by the House and Senate. This legislation, as proposed, would require the development of federal and state standards for protecting individuals eligible for pension and Aid and Attendance benefits from dishonest, predatory, or unlawful practices.

In this statement, GAO discusses (1) its prior work related to VA pension benefits, and (2) its observations on certain provisions within the proposed legislation as currently drafted. This statement is based on prior GAO work on veterans' benefits and GAO's review of the proposed legislation.

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**Prepared Statement of Alex Zhang**

ON

“H.R. 1721, H.R. 1900, H.R. 3122, H.R. 3656, H.R. 3657, AND PENDING  
LEGISLATION”

NATIONAL VETERANS AFFAIRS AND REHABILITATION DIVISION

THE AMERICAN LEGION

Chairman Bost, Ranking Member Esty and distinguished members of the Subcommittee on Disability Assistance and Memorial Affairs, on behalf of National Commander Denise H. Rohan and The American Legion, the country's largest patriotic wartime service organization for veterans, comprising over 2 million members and serving every man and woman who has worn the uniform for this country, we thank you for the opportunity to testify on behalf of The American Legion's positions on the following pending legislation.

**H.R. 1721**

To direct the Secretary of Veterans Affairs to designate at least one city in the United States each year as an “American World War II City”, and for other purposes.

The provisions in this bill fall outside the scope of established resolutions of The American Legion. As a large, grassroots organization, The American Legion takes positions on legislation based on resolutions passed by the membership. With no resolutions addressing the provisions of the legislation, The American Legion is researching the material and working with our membership to determine the course of action that best serves veterans.

**The American Legion has no position on H.R. 1721.**

**H.R. 1900: National Veterans Memorial and Museum Act**

*To designate the Veterans Memorial and Museum in Columbus, Ohio, as the National Veterans Memorial and Museum, and for other purposes.*

One of the founding principles of The American Legion is: “To preserve the memories and incidents of our associations in the great wars.” The Veterans Memorial and Museum in the State of Ohio is currently conducting a campaign to raise money to construct a memorial and museum in Columbus, Ohio in honor of all military veterans. They have currently raised in excess of \$75 million for the design and construction. Construction of the 50,000-square-foot facility started in 2015, and completion is planned for 2018.

This legislation would designate the Veterans Memorial and Museum as the National Veterans Memorial and Museum (NVMM). The NVMM's purpose is to honor the contributions of our nation's veterans, connect civilians and veterans, inspire communities and citizens to honor service in the military, and educate our youth on the value of serving our nation. Senator John Glenn served as the founding chairman of the Veterans Memorial and Museum Advisory Committee and it was his vision to construct this memorial and museum in the heartland of America so

more citizens would be able to visit in order to honor those who served this nation in uniform.

Through Resolution No. 88: National Veterans Memorial and Museum, The American Legion, the nation's largest wartime veterans service organization, is in favor of honoring veterans with such a memorial.<sup>1</sup>

**The American Legion supports H.R. 1900.**

**H.R. 3122: Veterans Care Financial Protection Act of 2017**

*To protect individuals who are eligible for increased pension under laws administered by the Secretary of Veterans Affairs on the basis of need of regular aid and attendance from dishonest, predatory, or otherwise unlawful practices, and for other purposes.*

A growing number of elderly veterans depend on the assistance of caregivers, family, and friends to complete basic daily activities. The Department of Veterans Affairs (VA) assists any low-income veteran that is not able to care for themselves by assigning them Aid and Attendance benefits (A&A). A&A benefits help pay for assisted living or in-home personal care for veterans who qualify for a VA pension and are housebound or require the aid and attendance of another person. Unfortunately, scam artists have started targeting veterans by charging them fees to obtain A&A benefits even though the application process is free.

Unfortunately, we are seeing an increase in bad actors exploiting assistance programs to veterans and many times these bad actors target elderly veterans because of their unfamiliarity with the VA bureaucracy. Some additional examples of how these scam artists target veterans include:

- Charging a fee with promises to expedite the process, when there is no mechanism for expedited approval;
- Although the veterans net worth is too high to qualify for the benefits, veterans are offered "help" to qualify. Bad actors take control of the veteran's assets and move these assets into an irrevocable trust or an annuity. Many times, these elderly veterans cannot access their funds for many years and are disqualified from other assistance, like Medicaid; and
- Some retirement homes recruit veterans with the promise that the veteran will receive the A&A benefit to cover the cost of the nursing home. If they are denied A&A benefits, the veteran is then responsible for paying out of pocket.

This legislation is asking for two provisions to protect veterans that might have been susceptible to these financial scams. This legislation would require the VA Secretary to work with other federal, state and outside experts to develop and implement state and federal standards that protect veterans from dishonest, predatory, or otherwise unlawful practices. Additionally, this legislation would direct the U.S. Government Accountability Office (GAO) to conduct a study 18 months after the enactment of the law to determine the extent to which the states, the VA, and any other federal agency have implemented the standards developed. If passed this legislation would help protect veterans from financial scams, especially those most at risk.

Through Resolution No. 57: Prevent Exploitation of Veterans and Family Members Applying for Benefits, to Include Aid and Attendance, The American Legion supports any legislative proposal that criminalizes the practice of charging veterans for claims assistance and creating a for-profit business based on these practices.<sup>2</sup>

**The American Legion supports H.R. 3122.**

**H.R. 3656**

*To amend title 38, United States Code, to provide for a consistent eligibility date for provision of Department of Veterans Affairs memorial headstones and markers for eligible spouses and dependent children of veterans whose remains are unavailable.*

The Department of Veterans Affairs (VA) provides a memorial headstone or marker for eligible individuals or groups deceased while on active duty or veterans whose remains are not recovered or identified or are buried at sea, donated to science, or whose cremated remains have been scattered. The memorial headstone or marker may be placed in a private, military, or veteran cemetery (national or state).

<sup>1</sup>The American Legion Resolution No. 88 (2017): National Veterans Memorial and Museum

<sup>2</sup>The American Legion Resolution No. 57 (2016): Prevent Exploitation of Veterans and Family Members Applying for Benefits, to Include Aid and Attendance

Memorial headstones and markers may also be furnished in national, military post/base or state veterans cemeteries to eligible spouses and dependent children whose remains are unavailable for interment, whether or not they predecease the eligible veteran.

The current applicability date for spouses is after November 11, 1998 and dependent children after December 22, 2006. Congress first established eligibility for spouses in PL 105–368 section 401(a), which passed on November 11, 1998. Congress then extended eligibility for dependent children in 2006 as part of P.L. 109–461 section 401 on December 22, 2006. Since P.L. 109–461 did not extend eligibility retroactively, only dependent children whose remains are unavailable after December 22, 2006, are eligible for a marker.

H.R. 3656 would make the eligibility date for dependent children the same as the date for spouses. VA requested this legislative change in their latest budget submission and costs associated with this proposal are expected to be insignificant. Furthermore, this proposed change would simplify the process and reduce confusion for veterans and their families.

**The American Legion supports H.R. 3656.**

**H.R. 3657**

*To amend title 38, United States Code, to authorize the Secretary of Veterans Affairs to provide headstones and markers for the graves of spouses and children of veterans who are buried in tribal cemeteries.*

The Department of Veterans Affairs (VA) currently provides, on request, a headstone or marker for eligible spouses or dependent children who are buried or interred in a national, military post/base or state veterans cemeteries. Spouses and dependents are not eligible for a government-furnished headstone or marker if they are buried in a private or tribal cemetery.

H.R. 3657 would ensure that veterans' spouses and children who are buried at tribal veterans cemeteries are provided government-furnished headstones or markers, the same as family members buried at national and state veterans cemeteries.

Native American veterans have earned and deserve the same rights, privileges and honor that other veterans receive. The American Legion Resolution No. 146 calls on Congress to ensure that veterans benefits are provided equitably and consistently for all.<sup>3</sup> This legislation, by correcting an inequity, is consistent with the intent of this resolution.

**The American Legion supports H.R. 3657.**

**Draft Bill: Veterans Fair Debt Notice Act of 2017**

*To direct the Secretary of Veterans Affairs to require the use of certified mail and plain language in certain debt collection activities.*

The Department of Veteran Affairs (VA) reported issuing improper payment to beneficiaries totaling approximately \$5.5 billion during Fiscal Year 2016. If the beneficiaries were not entitled to the payment, a debt would be created and sent to the Department of Veterans Affairs Debt Management Center (DMC) for collection action. In an attempt to collect the debt, DMC will begin communicating with the beneficiary through written correspondence. If the beneficiary fails to respond to the notifications and is actively receiving benefits, VA will garnish any future benefit to recover the debt. If the beneficiary is not actively receiving VA benefits, VA will refer the debt to the Treasury Department for collection.

The American Legion has heard from many beneficiaries that they never received any correspondence letters from VA. Many times, the address on file is not correct. Beneficiaries move and forget to update their address with VA. Additionally, many beneficiaries do update their address with the Veterans Health Administration (VHA) but because VHA and the Veterans Benefits Administration (VBA) have two systems that are not integrated, the updated address is not shared with VBA. Once a notification letter is mailed out by DMC, if they do not hear from the beneficiary within 60 days they will take action to garnish the benefit or transfer the debt to the Department of the Treasury.

The American Legions is concerned that the DMC and VA do not verify that the beneficiary has received, understood, and is aware of how to remedy the collection process before the debt is referred to collections or benefits garnished. DMC's lack of confirming that the notification has been received can cause further harm to the beneficiary and possibly place them in a financial burden. Failure to receive the no-

<sup>3</sup>Resolution No. 146 (2016): Veterans Receive Same Level of Benefits

tification can also cause the beneficiary to miss important deadlines such as requesting a waiver which must be made within 30 days of the first notification letter. Additionally, The American Legion is also concerned that the notification letters do not clearly state how the debt originated.

This legislation, if enacted, would require the DMC to implement two initiatives in order to ensure that their notification letter is received and understood by the beneficiary. First, it would require that certified mail is used by the DMC when making a demand to a debtor. Second, it would require the DMC to clearly explain why the debtor owes money and all available options. If passed this legislation would ensure that written correspondence from the DMC to debtors is received and understood before taking action to garnish their benefit or forward the debt to the Treasury Department for collection action.

Through Resolution No. 377: Support for Veteran Quality of Life, The American Legion supports any legislative proposal that urges Congress and the Department of Veterans Affairs to enact legislation and programs within the VA that will enhance, promote, restore or preserve benefits for veterans and their dependents, including, but not limited to the following: timely access to quality VA health care; timely decisions on claims and receipt of earned benefits; and final resting places in national shrines and with lasting tributes that commemorate their service.<sup>4</sup>

**The American Legion supports the Draft Bill titled: Veterans Fair Debt Notice Act of 2017.**

### Conclusion

As always, The American Legion thanks this subcommittee for the opportunity to elucidate the position of the over 2 million veteran members of this organization. For additional information regarding this testimony, please contact Mr. Derek Fronabarger, Deputy Director of The American Legion's Legislative Division at (202) 861-2700 or dfronabarger@legion.org.

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### Prepared Statement of Leroy Acosta

Mr. Chairman and Members of the Subcommittee:

Thank you for inviting DAV (Disabled American Veterans) to testify at this legislative hearing of the Subcommittee on Disability Assistance and Memorial Affairs. As you know, DAV is a non-profit veterans' service organization comprised of 1.3 million wartime service-disabled veterans that is dedicated to a single purpose: empowering veterans to lead high-quality lives with respect and dignity. DAV is pleased to present our views on the bills under consideration by the Subcommittee, and we appreciate your invitation.

### H.R. 1721

This bill designates Wilmington, North Carolina, as The First American World War II City and directs the Secretary of Veterans Affairs to consult with the Secretary of Defense to designate at least one city in the United States each year as an American World War II City.

The criteria for a city to be considered an American World War II City include the city's contributions to the war effort during World War II related to defense manufacturing, bond drives, armed forces service and military facilities in the particular city. In addition, the efforts by a city to preserve its contributions during World War II, establishment of preservation organizations or museums, restoration of World War II facilities and recognition of veterans who served in World War II, will be considered.

While DAV does not have a resolution specific to this issue, we are not opposed to passage of this legislation.

### H.R. 1900, the National Veterans Memorial and Museum Act

This legislation would designate the Veterans Memorial and Museum in Columbus, Ohio, as the National Veterans Memorial and Museum.

As a civic landmark and cultural institution in Columbus, Ohio, the Veterans Memorial and Museum is being constructed to honor, connect, inspire and educate

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<sup>4</sup>The American Legion Resolution No. 377 (2016): Support for Veteran Quality of Life

Americans about the service and sacrifice of more than 40 million veterans, more than half of whom are alive today, and 1.1 million deceased service members who have defended our nation's freedoms.

DAV does not have a resolution specific to this issue, and has no formal position on the bill.

#### **H.R. 3122, Veterans Care Financial Protection Act of 2017**

This legislation directs the Secretary of Veterans Affairs (VA) to collaborate with agencies of the federal government, states and appropriate experts to develop and implement standards to protect individuals eligible for increased pension due to regular aid and attendance from dishonest, predatory or otherwise unlawful practices.

This bill mandates the VA to submit a report to both the House and Senate Veterans' Affairs Committees concerning the standards developed no later than 180 days after enactment of this legislation. In addition, this legislation directs the Comptroller General of the United States, not later than 540 days after enactment, to complete a study on standards implemented to protect those in need of regular aid and attendance.

While DAV does not have a resolution specific to this issue, we unfortunately continue to hear stories about various schemes to take advantage of elderly and disabled veterans receiving VA benefits. This measure seeks to address this issue and appears beneficial. Therefore, we are not opposed to passage of this legislation.

#### **H.R. 3656**

H.R. 3656 would establish a consistent applicability date for provision of memorial headstones and markers for eligible non-veteran individuals.

Under present law, each class of non-veterans eligible to receive a memorial headstone or marker has a different effective date. For example, a surviving spouse who dies on or after November 11, 1998, is eligible for a headstone or marker. However, only dependent children who die on or after December 22, 2006, are eligible. There are situations in which the VA may be able to provide a marker for the parent, but not the child due to the inconsistency in the dates.

This legislation assigns an eligibility date of on or after November 11, 1998, for a VA memorial headstone or marker for a veteran's spouse and dependent children whose remains are not available for burial. These headstones and markers bear the inscription "IN MEMORY OF" as their first line.

While DAV does not have a resolution specific to this issue, we are not opposed to the passage of this legislation.

#### **H.R. 3657**

This bill would authorize the VA to provide headstones and markers for the graves of spouses and children for veterans who are buried in tribal cemeteries. Under current law, spouses and dependents are not eligible for a government-furnished headstone or marker unless they are buried in a national cemetery, state veterans' cemetery, or military post/base cemetery.

While DAV does not have a resolution specific to this issue, we are not opposed to the passage of this legislation

#### **Draft Bill - Veterans Fair Debt Notice Act of 2017**

This draft legislation would require the Secretary of Veterans Affairs to utilize certified mail and plain language in certain debt collection activities.

Consistent with the intent of DAV Resolution No. 213, which calls for alleviating undue financial hardship in processing overpayments and notifying veterans of debt, we support this bill. Veterans Fair Debt Notice Act of 2017, proposes to secure notification to debtors of debt collection actions with a plain language explanation of the debt.

Under 38 C.F.R. ♦ 1.912A(a), the Department of Veterans Affairs (VA) has the authority to collect debts by offset against any current or future VA benefit payments to the debtor. 38 C.F.R. ♦ 1.912A(b), notes if the debtor submits a written dispute of the debt, a written request for waiver, or a written request for a hearing on the waiver, within thirty days of notification, VA cannot start collection of the debt by offset of the next benefit payment. Because this legislation requires the Secretary to use certified mail, which is conditional on a signature of receipt, it brings up the significant question of "What is the date of notification?"

Currently, the date of notification is defined as the date of the letter notifying a claimant. However, this legislation is mandating certified mail which requires the debtor to sign for the notification letter. Therefore, the date of signed receipt of certified mail by the debtor should be considered the date of notification. This date of notification will then start the 30-day time period for the debtor to respond with a written dispute of the debt, a written request for waiver, or a written request for a hearing on the waiver.

Section (a)(2) of this legislation proposes certified mail be used to send "A request for a waiver from a debtor to the Secretary under subsection (c)(2) of such section." We believe section (a)(2) requires clarification. When read within the context of subsection (c)(2), it appears to require the debtor to use certified mail to send a waiver request to the Secretary. As this would place an undue burden and potential hardship upon the debtor (veteran), we would oppose any such requirement.

We applaud the provision in the bill requiring a plain language explanation of why the debtor owes money. The overpayment and debt process can be confusing, complex and overwhelming to many veterans who are left guessing as to why the debt was created. We agree that a simple and plain explanation should be required in all debt notifications.

### **Recommendations**

To ensure clarification of this legislation, while preserving the intent and best interests of veterans and their families, we recommend the following:

1. Section (a)(2) needs clarification to ensure the true meaning and intent. We suggest language be used to clarify the Secretary is sending the request for waiver to the debtor by certified mail.

As noted above, section (a)(2) can be interpreted to read that the debtor is required to use certified mail to send a waiver request to the Secretary. Not only would this place an undue burden and hardship on the debtor, it would require that veterans service organizations (VSO) who hold power of attorney for the veteran and receive the waiver request from the debtor, to send the waiver request via certified mail to the VA. In many cases, the representative is a VSO and most VSOs are co-located with the VA, which would make this requirement impractical.

2. Amend the proposed legislation to allow for an additional section for clarification of the date of notification.

We suggest adding section (c) to indicate that the date of notification of the debt is the date of signed receipt of certified mail by the debtor. This date of notification will then start the 30-day time period for the debtor to respond with a written dispute of the debt, a written request for waiver, or a written request for a hearing on the waiver. This will ensure the debtor has 30 days from the actual date of notification and will alleviate any potential loss of time due to delayed delivery of the notice of debt.

3. Additionally, we draw your attention to DAV Resolution No. 213, which calls for alleviating undue financial hardship on the veteran debtor in cases when processing of the veteran's change in status is delayed by VA for 90 days or more after timely notification by the veteran of such change. Specifically, DAV's resolution supports the automatic waiver of such debt if the VA takes more than 90 days to process the Notice of Waiver of Compensation for Drill Pay or process any changes to dependency after notification by the veteran. As this resolution reflects the same overarching intent as the draft measure, we respectfully request the Subcommittee consider amending this legislation to include this provision and our other two recommendations.

Mr. Chairman, this concludes DAV's testimony. Thank you for the opportunity to testify at today's hearing and offer our position on the bills being considered before the Subcommittee.



**Prepared Statement of Blake C. Ortner**

CONCERNING

PENDING LEGISLATION

Chairman Bost, Ranking Member Esty, and members of the Subcommittee, Paralyzed Veterans of America (PVA) would like to thank you for the opportunity to provide our views on pending legislation before the Subcommittee.

**H.R. 1721, designation of American World War II cities**

This bill would recognize specific cities not just for their great contributions on the home front during World War II, but also their efforts to preserve the city's structures and relics from that era. PVA supports this bill which encourages cities to preserve this great heritage.

**H.R. 1900, the "National Veterans Memorial and Museum Act"**

PVA supports designating the Veterans Memorial and Museum in Columbus, Ohio, currently being constructed, as a National Veterans Memorial and Museum. It is the only museum of its kind, and it is intended to reach veterans of all eras, from every part of the United States, and from all branches of service. Given the scope of the project and its intended audience, a national designation is appropriate.

**H.R. 3122, the "Veterans Care Financial Protection Act of 2017"**

This proposal would require the Secretary to work with federal and state officials to establish standards to protect against unscrupulous actors that take advantage of veterans in need of aid and attendance benefits. According to organizations such as AARP and the Federal Trade Commission, senior veterans have increasingly become subject to scams involving insurance agents and financial planners trying to convince the veterans to make quick decisions about pursuing aid and attendance in addition to their pension incomes. Some scammers use false representations like suggesting automatic entitlement to benefits. Of greater concern, though, are those who help the veteran restructure financial assets in order to qualify for pension and/or aid and attendance. For example, moving financial assets into a pooled-asset irrevocable trust might render a veteran eligible for pension and aid and attendance, despite having assets in excess of the qualifying income thresholds. While it appears that this benefits the veteran, what these salesmen do not tell them is that this type of restructuring might preclude them from Medicaid eligibility because of rules such as a five-year look-back period, which considers whether one has moved substantial assets at less than market value. These financial products are specifically managed by the alleged "veterans advocates" who are offering to help veterans secure enhanced benefits from VA. There is an objective conflict of interest, and implementing standards to protect against this behavior is necessary.

**H.R. 3656, a bill to provide a consistent eligibility date for headstones and markers**

PVA supports H.R. 3656, which would establish a consistent eligibility date for provision of memorial headstones and markers for eligible non-veteran individuals. Currently, spouses and children have different eligibility dates, sometimes forcing VA to provide a marker for the parent, but not the children. This bill would reconcile this arbitrary difference and treat spouses and children the same.

**H.R. 3657, a bill to authorize provision of headstones and markers in tribal cemeteries**

Consistent with our prior support for H.R. 1390, which would expand VA's authority to transport the remains of a deceased veteran to a tribal cemetery or state cemetery instead of a national cemetery, we likewise support this bill which ensures that the accompanying benefits, such as a headstone or marker, are provided to veterans buried in tribal cemeteries.

**Draft Bill, the "Veterans Fair Debt Notice Act of 2017"**

Failure to resolve debt issues in a timely manner can have a lasting, catastrophic impact on a veteran. It is not uncommon for a veteran to find that the Veterans Health Administration (VHA) has updated contact information, while the Veterans Benefits Administration (VBA) does not, or vice versa. So if VBA sends out notice of overpayment of benefits, or some other circumstances producing a debt owed by the veteran, it is essential that VBA know whether that notice actually reached the veteran prior to the veteran going into default. It is important to ensure that vet-

erans are not going into default for lack of notice, especially in circumstances where the debt itself is a product of VA's mistakes and overpayments.

Mr. Chairman and members of the Subcommittee, we appreciate your commitment to ensuring that veterans receive the best benefits and care available. We look forward to working with the Subcommittee and would be happy to answer any questions you or the members may have.

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### **Prepared Statement of Kathleen Moakler**

#### TRAGEDY ASSISTANCE PROGRAM FOR SURVIVORS (TAPS)

Tragedy Assistance Program for Survivors (TAPS) is the national organization providing compassionate care for the families of America's fallen military heroes. TAPS provides peer-based emotional support, grief and trauma resources, grief seminars and retreats for adults, 'Good Grief Camps' for children, case work assistance, connections to community-based care, and a 24/7 resource and information helpline for all who have been affected by a death in the Armed Forces. Services are provided to families at no cost to them. We do all of this without financial support from the Department of Defense. TAPS is funded by the generosity of the American people.

TAPS was founded in 1994 by Bonnie Carroll following the death of her husband in a military plane crash in Alaska in 1992. Since then, TAPS has offered comfort and care to more than 70,000 bereaved surviving family members. For more information, please visit [www.TAPS.org](http://www.TAPS.org).

TAPS currently receives no government grants or funding.

#### **Kathleen Moakler**

Kathleen joined TAPS in 2015 and is honored to work with America's frontline resource offering compassionate care for all those grieving a death in the Armed Forces. She works with policy makers and military and veteran advocacy organizations to ensure that surviving families' benefits and support services are protected and surviving families receive the most up to date information on any changes to their benefits. Kathleen comes to TAPS with 20 years of military family advocacy experience including protecting and enhancing surviving military family benefits, serving as past co-chair of the Survivor Program Committee for the Military Coalition, sitting on the DoD/VA Survivors Forum, and testifying numerous times before Congress on behalf of surviving military families. She also represented military families on the Congressionally-mandated Department of Defense Military Family Readiness Council.

An Army spouse, active duty and retired, for over 40 years, she holds a Bachelor of Science degree in Business Administration from the State University of New York at Albany. Mrs. Moakler was honored to receive the Gold Star Wives of America 2015 Award of Excellence. Parents of three adult children and new grandparents to two military kids, Kathleen and her husband, Colonel Martin W. Moakler Jr. USA (retired), reside in Alexandria, Virginia.

Chairman Bost, Ranking Member Esty and distinguished members of the Disability Assistance and Memorial Affairs Subcommittee of the House Veterans Affairs Committee, the Tragedy Assistance Program for Survivors (TAPS) thanks you for the opportunity to make you aware of issues and concerns of importance to the families we serve, the families of the fallen.

While the mission of TAPS is to offer comfort and support for surviving families, we are also committed to improving support provided by the Federal government through the Department of Defense (DoD) and the Department of Veterans Affairs (VA), state governments and local communities for the families of the fallen—those who fall in combat, those who fall from invisible wounds and those who die from illness or disease.

We thank you for the provisions included in the Jeff Miller and Richard Blumenthal Veterans Health Care and Benefits Improvement Act of 2016 including the expansion of eligibility for the Marine Gunnery Sergeant John David Fry Scholarship for spouses and clarification of eligibility for in-state tuition benefits for those using the Fry Scholarship. We are grateful for the Committee's focus on improving survivor benefits.

We are most appreciative the passage of the Harry W. Colmery Veterans Educational Assistance Act of 2017. This will be most beneficial for survivors who are benefitting from the Fry scholarship and the Dependents Education Allowance. We will be working closely with the VA on the law's implementation.

TAPS would like to recognize the outstanding support we receive from the Department of Veterans Affairs (VA) on behalf of the survivors we serve. For several years we were honored to have a Memorandum of Agreement (MoA) with the education specialists in the office of Economic Opportunity in the Veterans Benefits Administration enabling TAPS and the VA to work most efficiently in solving problems that surviving spouses and children encountered while accessing their VA education benefits. This relationship also allowed the VA to discover areas where policy or procedural processes could be improved so they could serve survivors more effectively.

The VA Office of Survivor Assistance, including director Moira Flanders and her staff, works closely with TAPS to answer questions and concerns that are raised by surviving family members. We also appreciate the opportunities provided by the DoD/VA Survivors Forum, held quarterly, which works as a clearinghouse for information on government and private-sector programs and policies affecting surviving families. This is ably facilitated by Craig Zaroff of the VA Benefits Assistance Service.

TAPS was recently honored to enter into a new and expanded Memorandum of Agreement with the Department of Veterans Affairs. VA Secretary Shulkin and TAPS President Bonnie Carroll signed the MOA on April 12 at a ceremony attended by many of the same survivors who will benefit from it. This agreement formalizes what has been a long-standing, informal working relationship between TAPS and the VA. The services provided by TAPS and VA are complimentary, and in this public-private partnership each will continue to provide extraordinary services through closer collaboration.

Under this agreement, TAPS continues to work with surviving families to identify resources available to them both within the VA and through private sources. TAPS will also collaborate with the VA in the areas of education, burial, benefits and entitlements, grief counseling and other areas of interest.

#### **Debt Notification**

Imagine you are a surviving spouse or dependent who opens a letter from the VA that notifies you that you suddenly owe the VA several thousand dollars and they would like payment in a lump sum as soon as possible. The only explanation is that there has been a change in benefits and you have been overpaid. While they provide an 800 number for you to call, every time you call the number is busy. Before you know it, a third letter has been sent, still without an definitive explanation of what the cause of the debt is and containing an ominous warning that you are subject to having your wages garnished, VA benefits withheld and that your debt has been sent to a collection agency.

As those in receipt of survivor benefits can tell you, it can often be confusing tracking which payment comes from which agency (DoD, VA or Social Security). Many are often still in a fog of grief and mail can lie unopened, and even unopened mail can appear to be daunting as one sifts through legalese and unfamiliar terms. In a perfect world, each survivor would set up a ledger, accounting for every payment and being aware themselves when an overpayment has been made. Unfortunately, not everyone is equipped with the financial acumen to accomplish this tracking. It can be even more confusing in dealing with education benefits, when funds are also impacted by the institutions of higher learning and their rules and very often, sharing of misinformation.

TAPS has developed many programs in response to the needs presented to us by the surviving families we serve. Indicative of the specialized support that TAPS provides is the education portal and individualized support on the education benefits available for the children of America's fallen heroes. TAPS staff members work with each individual to maximize the financial support they can receive to complete their education from both government and private agencies. As mentioned previously, TAPS has been honored to enter into an MOA with the VA to facilitate the delivery of benefits, including education benefits and to troubleshoot problems for families that reach out to us. We have helped many families resolve their issues with debt collection.

TAPS is pleased that this committee is considering legislation to further clarify the debt notification process of those in receipt of VA benefits. We were fortunate to receive a briefing from the VA Debt Management Center (DMC) at the July 2017 meeting of the DoD/VA Survivors Forum. The briefing clearly outlined the processes and procedures that the DMC uses to notify and to collect the debt owed. Since this briefing was aimed at those who work with benefit recipients, there was even a special phone number provided that veteran service organizations and other helping agencies can use to expedite the communication process for those who receive debt notification letters.

The procedures as outlined in the DMC brief appear to be designed to make the process easier for the customer (survivor or veteran). The procedures are in place. The stumbling block is in making it easier to connect the survivor or veteran with the assistance that DMC provides. Clarification of the reason for the debt in easy to understand language (as called for in the proposed legislation) would go a long way in improving communication and access. Reinforcing the importance and urgency of the debt letter received from the VA by sending it by certified mail will also help to insure that the beneficiary responds in a timely manner. We are grateful that the legislation addresses these two important steps in the process.

We suggest that further assists may be required, as indicated in our anecdotes from survivors below. It appears that more staff at the 800 number call centers or some evening or weekend hours might be necessary to keep those in receipt of the notices from being discouraged when they cannot be connected in a timely manner.

We asked some of our surviving family members to share their stories:

**Meagan Staats**, surviving spouse of SSG David Staats, was double paid for Fry and DEA during the switchover in 2015. She received letters from VA debt management saying that they would deduct the amount from her Fry BAH. They did not. She calls VA and they don't see the debt in the system so she continues to get BAH and never received any letters to pay, until her credit is hit because it was sent to collections. She called and paid it off immediately but had no clue how to get through the VA system when VA education and VA debt management were telling her 2 different things.

**Ashlynn Haycock**- Ashlynn, a surviving child, was enrolled in college during the switchover from DEA to Fry and was reimbursed for the difference in benefits between years 2009–2010. Two years later she got a letter from VA debt management claiming she had been overpaid, but with no explanation of what she had been overpaid for. Ashlynn called the VA debt management phone number weekly for 2 years and never got an answer. In the meantime VA sent it to collections, her tax return payments were garnished and her credit rating was impacted negatively. The only reason she ever got her problem resolved was because she came to work for TAPS and TAPS at the time had an education MOA with VA. Ashlynn asked her point of contact at VA to look into it and it turned out that VA had made the mistake by listing her as having received multiple benefits simultaneously. The error was on VA's part and it took over 4 years for Ashlynn to figure out what the problem was to correct it. Once the problem was identified, the VA did refund her tax return amounts and worked to remove the negative reports from her credit report.

**Shannon Rushford**- Shannon received educational benefits under Fry for almost 3 years before she got a letter from VA debt management claiming she owed \$80k to VA for benefits paid in error. Ms. Rushford could not figure out what the reasoning for the debt was and could not reach anyone at VA to explain it. She contacted TAPS Education Services, who through our MOA learned that Shannon was not actually Fry eligible because her father had been medically retired for 4 hours when he passed in the line of duty. VA made the error in processing her benefits and it took them 3 years to realize it. Fortunately, VA forgave the debt as the payments were an error on VA's part but had she not had contact with TAPS she may never have figured out what the debt was for.

#### **Headstone and Marker Eligibility for Survivors**

TAPS supports H.R. 3657 which expands eligibility for headstones and markers for eligible surviving spouses and dependents for those buried in tribal cemeteries. We also support H.R. 3656 which clarifies the date of eligibility for a headstone and marker for eligible surviving spouses and dependents of those veterans whose remains are unavailable.

#### **Veterans Care Financial Protection Act of 2017**

TAPS supports H.R. 3122 which calls for added financial protections for those survivors in receipt of aid and attendance. They are among our most vulnerable populations for fraud and financial abuse.

TAPS is grateful for the subcommittee's consideration of the proposed legislation. We know that this subcommittee has been at the forefront for protecting survivors and for crafting benefits that recognize their sacrifice.

**It is the responsibility of the nation to provide for the support of the loved ones of those who have paid the highest price for freedom. Thank you for allowing us to speak on their behalf.**

Prepared Statement of John Towles

WITH RESPECT TO

H.R. 1721, H.R. 1900, H.R. 3122, H.R. 3656, H.R. 3657, AND DRAFT LEGISLATION

Chairman Bost, Ranking Member Esty and members of the Subcommittee, on behalf of the men and women of the Veterans of Foreign Wars of the United States (VFW) and its Auxiliary, thank you for the opportunity to provide our remarks on legislation pending before this subcommittee.

**H.R. 1721, to direct the Secretary of Veterans Affairs to designate at least one city in the United States each year as an “American World War II City”, and for other purposes.**

The VFW supports this legislation, which would direct the Secretary of Veterans Affairs VA to designate at least one city in the United States each year as an “American World War II City” based on the city’s contributions to the war effort during World War II and their efforts to preserve the history of such contributions. This legislation would serve to recognize the contributions and preservation efforts made to the war by communities all across the United States, and incentivize cities to honor the memory of the sacrifices made by WWII veterans.

Throughout the past few years, multiple attempts have been made to pass similar legislation that would give the Secretary of Veterans Affairs the authority to make this designation, and while most of those attempts have passed the House, they have all failed in the Senate. In general, the VFW supports legislation that seeks to recognize veterans and preserves the military history of our greatest generation.

**H.R. 1900, National Veterans Memorial and Museum Act**

The VFW supports this legislation, which would designate the Veterans Memorial and Museum, which is currently being constructed in Columbus, Ohio, as the National Veterans Memorial and Museum.

Continuing the legacy left by the late Senator John Glenn, the museum would serve as a civic landmark to honor, connect, inspire and educate visitors about the service and sacrifice of all our nation’s service men and women. The creation of this institution would have a profound, lasting impact on every American and would help instill a deeper meaning to the freedoms we all enjoy.

The VFW has always advocated on behalf of those who have given the most to this nation. Whether that means ensuring that veterans are respected for their service, receive their earned benefits, or are recognized for the sacrifices they and their loved ones have made on behalf of this great country, we have consistently led the way.

These tenants are directly reflected by the creation of this institution, and it will serve as a reminder to all those who visit that true patriotism begins with service over self. With nearly 21 million veterans alive today, we must ensure that we have a specific and special place to celebrate their service and honor the sacrifice of our veterans from all branches of our military and from all eras of war.

While there are several museums and monuments dedicated to specific branches and eras, our country currently lacks a museum specifically dedicated to honoring and preserving the collective sacrifices made by this nation’s veterans. This museum would serve to fill that gap and serve as a constant reminder to all of the importance and value of military service by honoring the contributions of our veterans; educating the public about what it means to serve; and, ensuring that our veterans, regardless of the location, branch, or era in which they served, have a nationally designated facility to call their own.

**H.R. 3122, Veterans Care Financial Protection Act of 2017**

The VFW strongly supports this legislation, which would address and correct many of the oversight and accountability problems that have plagued the Aid and Attendance (A&A) program for some time by directing the Department of Veterans Affairs (VA) to work with other federal agencies to develop standards that would protect veterans receiving A&A benefits from dishonest and predatory business practices.

As the number of elderly veterans increases, so too does the need to provide them with additional assistance that enables them the ability to complete day to day activities, but these services can be extremely expensive. Many veterans depend on the A&A program because it enables them to obtain these services. However, be-

cause of poor oversight, many veterans are being taken advantage of by individuals claiming to be “consultants”, and in some circumstances, even retirement homes. Not only do these practices cost the federal government millions in taxpayer dollars, but often times result in the veteran being responsible for repaying any debt that is incurred, which makes an unstable financial situation even worse.

Far too often, veterans and service members are victimized by individuals, businesses, and organizations simply due to their unique financial situation and their circumstances. It is unfortunate that legislation such as this even needs to exist. However, so long as the need is there, the VFW will support any measure meant to protect the financial well-being of those who are most at risk.

**H.R. 3656, to amend title 38, United State Code, to provide for a consistent eligibility date for provision of Department of Veterans Affairs memorial headstones and markers for eligible spouses and dependent children of veterans whose remains are unavailable.**

The VFW supports this legislation which would codify the date of eligibility for VA provided headstones and markers for the spouse and any dependent children of a veteran whose remains are unavailable on or after November 11, 1998.

H.R. 3656 would ensure a consistent applicability date for provision of memorial headstones and markers for eligible non-veteran individuals. Under present law, each class of non-veterans eligible to receive a headstone or marker has a different applicability date. For example, a surviving spouse who dies on or after November 11, 1998, is eligible for a headstone or marker. However, only dependent children who die on or after December 22, 2006, are eligible.

According to VA, most of the issue revolves around people who go missing at sea due to a boating or plane accident. There are situations in which VA may be able to provide a marker for the parent, but not the child due to the inconsistency in the dates.

**H.R. 3657, to amend title 38, United States Code, to authorize the Secretary of Veterans Affairs to provide headstones and markers for the graves of spouses and children of veterans who are buried in tribal cemeteries.**

The VFW supports this legislation, which would expand the headstone and marker eligibility for spouses and dependent children buried in tribal cemetery.

American Indians and Alaskan Natives have served in every branch of our military for over 200 years. An estimated 156,000 veterans identify as American Indian/Alaska Native veterans, and the Department of Defense reports that there are around 20,000 service members who identify as being American Indian/Alaskan Natives.

While current law provides headstones and markers only for the graves of spouses and children of veterans who wish to be laid to rest in a national cemetery or veterans cemetery owned by a State, the VFW believes that H.R. 3656 is a common sense fix which would ensure that the families of those who are eligible, and wish to be buried on tribal land, can do so.

**Draft Bill, Veterans Fair Debt Notice Act of 2017**

The VFW strongly supports this legislation, which would require VA to use certified mail and plain language when notifying a veteran about debts related to their benefits program, including written demands from VA, requests for waivers from the debtor, and notifications concerning the debt.

Almost 187,000 overpayment notices were sent from VA to veterans and their families in 2016, many of which were erroneous. When this happens, a debt notice is sent out by VA, regardless of the nature of the debt. However, often times the language is ambiguous, and gives no clear options to request recourse, which leaves many fearful of the process as a whole.

To make matters worse, the contact information that VA has for the veteran in many instances is incorrect, which can lead to inaction by the veteran, resulting in the debt going to a collections agency, or their pensions being garnished until the debt is satisfied or until the veteran can prove that the debt is erroneous.

By requiring debt notifications be made in easy to understand language via certified mail, veterans would be able to understand what they need to do in order to ensure that the issue is addressed in a timely manner, and VA will be able to ensure that they have the correct contact information on file for the veteran.

Mr. Chairman, this concludes my testimony. The Veterans of Foreign Wars sincerely appreciates the opportunity to provide views on these important bills, and I am prepared to take any questions you or the subcommittee members may have.

**Statement For The Record**

**COAL - Timeline CITYGovts Preservation**

LOCAL WORLD WAR II HISTORY PRESERVATION ACCOMPLISHMENTS

INVOLVING GOVERNMENTS OF THE CITY OF WILMINGTON AND NEW HANOVER  
COUNTY, NORTH CAROLINA

TIMELINE, 1946 TO PRESENT

September 11, 2017

1946 - City of Wilmington acquires the Second & Orange Streets WWII USO building from Federal Government, opens it as Community Center. City still owns it.

ca. 1990 - City works with local group and State highway department to dedicate historical marker to WWII shipyard at Carolina Beach Rd. & Shipyard Blvd.

ca. Early 1990's - City collaborated on successful effort to have Community Arts Center (name changed) placed on National Register of Historic Places.

ca. Early 1990's - County Commission and American Legion Post 10 dedicate memorial in Hugh MacRae Park to wartime dead. City, County and Post 10 collaborate on installation of portrait montages in public buildings honoring Wilmington's Medal of Honor recipients.

1995 - City participates with Battleship North Carolina and private parties to commemorate 50th anniversary of end of WWII.

1997 - City plans to demolish the CAC and sell property to St. John's Art Museum (across the street) which would build on the property. Immediate opposition forms: Thalian Association, which manages the building for the City; ad hoc Community Arts Center Accord; and native Wilmingtonian historian Wilbur Jones, new resident. City withholds action.

1997/8 - New Hanover County Commission acquires land for Veterans Park which will contain new high school named for Vietnam War Wilmington Medal of Honor recipient Sgt. Eugene Ashley, and new middle school for Wilmington WWII Medal of Honor recipient Col. Charles P. Murray, Jr.

1997-2000 - Pressure by the three parties (Jones now chairs the newly formed WWII Wilmington Home Front Heritage Coalition and takes the lead) on City Council and staff continues. City Council and senior staff save the building.

1998 - New Hanover County School Board officially names Murray Middle School. County Commission names park's thoroughfare street William D. Halyburton, Jr. Drive, for Wilmington Navy Medal of Honor posthumous recipient.

1999 - City and County governments participate in 18-month long, 125-event War-time Wilmington Commemoration.

2000 - City Council votes 7-0 to save, renovate, and preserve the CAC as a WWII site and community venue. City paints the building's exterior the original colors.

2001 - City, County, and County School Board elected officials participate in Veterans Park groundbreaking for Murray Middle School and Ashley High School.

2001 - City officials participate in CAC 60th anniversary with WWII-themed events and USO big band swing dance.

2002 - City installs historic marker at Shipyard Blvd. and Carolina Beach Rd. at site of first German prisoner of war camp (1944).

2002/05/08 - City collaborated with WWII Wilmington Coalition to produce three editions of the "World War II Heritage Guide Map of Wilmington and Southeastern North Carolina." City donated \$6,500 in 2008.

2003 - School Board dedicates new masonry memorial at New Hanover High School honoring its WWII Medal of Honor graduates, Murray and Halyburton.

2004 - City dedicates new William D. Halyburton, Jr. Memorial (natural) Park.

2004 - County's Cape Fear Museum of History & Science opens permanent WWII exhibit.

2005 - City Council appropriates \$2.1 million to renovate and restore (to WWII appearance) the CAC.

2005–Present - City, County, and School Board elected officials participate in numerous WWII historic preservation and dedication events in HBHUSO/CAC as speakers, including (partial):

Late Wilmingtonian WWII veteran John Burney WWII memorabilia collection, 2010;

New Hanover County Aviators Memorial, 2010;

National (Washington) WWII Memorial giclee, 2013;

WWII veterans meet-and-greet jamborees, 2005/09;

WWII–USO type big-band swing dances, 2006/09/12/15;

Memorial plaques to Murray-Halyburton and 248 County WWII dead, 2012; Memorial to Wilmingtonian Lt. Gen. George Boylan, USAF, WWII bomber pilot, 2016.

2006 - City Council renames the building the Hannah Block Historic USO/Community Arts Center (HBHUSO/CAC). Block, a wartime entertainment fixture there, is known as “Mrs. WWII Wilmington.”

2007 - City-approved and authorized HBHUSO/CAC renovation and restoration work begins. All activities are relocated.

2008 - City Council and County Commission unanimously pass resolutions proclaiming Wilmington as “America’s WWII City.” Continuing project to seek national recognition begins, led by WWII Wilmington Home Front Heritage Coalition (now a 501c3, all-volunteer preservation organization).

2008 - Over July 4th Star Spangled Weekend, City and County elected officials participate in HBHUSO/CAC re-dedication of renovated and restored building with WWII themed events and USO swing dance. City’s \$2.1 million is augmented by thousands raised by private parties to turn lobby area into mini-museum of the home front - perfect example of public-private partnership.

2008 - City dedicates new historic marker at 10th & Ann Sts. site of second German POW camp (1944).

2008 - City Council creates HBHUSO/CAC Advisory Board consisting of private sector representatives from the arts and history communities to monitor and advise the Council on the building’s operations, maintenance, and welfare, and appoints first 9-member board.

2008–Present - City continues to provide maintenance, upkeep, and graphics/design support for the HBHUSO/CAC and WWII-related activities.

2010 - City Council and County Commission endorse congressional legislation (introduced by Rep. McIntyre) that would designate Wilmington as the first “American WWII City.” McIntyre again, and Sens. Burr and Tillis, and Rep. Rouzer, also would introduce similar legislation.

2011 - City officials participate in HBHUSO/CAC 70th anniversary salute to area Battle of the Bulge veterans and educational experience for elementary school students.

2012 - City, County and School Board elected officials participate in re-dedication of Medal of Honor memorial garden at New Hanover High School.

2013/15 - City installs new lobby track lighting to highlight museum exhibits.

2014 - City, County, and School Board collaborate with private parties to preserve and relocate County’s lone memorial to its World War I dead.

2016 - City donates \$5,000 for HBHUSO/CAC’s 75th anniversary. WWII Coalition and Thalian Association Community Theater present a Veterans Day weekend of original musical play, “Mrs. WWII Wilmington: We Fell in Love at the USO.” City officials participate.

2017 - City currently working with HBHUSO/CAC manager to install new rehearsal room floor and interior security cameras to protect WWII exhibits access.

COMPILED BY WORLD WAR II WILMINGTON HOME FRONT HERITAGE COALITION

CAPTAIN WILBUR JONES, USNR (RET.), CHAIRMAN

910-793-6393 - JONESWD@EC.RR.COM

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**Questions For The Record**

**LETTER FROM BOST TO VA**

October 4, 2017

The Honorable David J. Shulkin, M.D.  
Secretary  
U.S. Department of Veterans Affairs  
810 Vermont Ave, NW  
Washington, D.C. 20420

Dear Secretary Shulkin:

Thank you for the testimony provided by the Department of Veterans Affairs for the September 13, 2017, Subcommittee on Disability Assistance and Memorial Affairs legislative hearing on H.R. 1721 ; H.R. 1900; H.R. 3122; H.R. 3656; H.R. 3657; and, a draft bill entitled "Veterans Fair Debt Notice Act of 2017."

I would appreciate receiving your answers to the hearing questions below by 5:00 P.M. on November 1, 2017:

1. Please provide a detailed description of the procedures VA has in place to protect veterans who receive pension with Aid and Attendance benefits from fraud and abuse.
2. Please provide a detailed list of the federal and state agencies VA is currently working with to protect the following vulnerable veteran populations from fraud and abuse:
  - a. Veterans who are age 65 and older.
  - b. Veterans with a VA appointed fiduciary.
  - c. Veterans receiving pension with Aid and Attendance benefits.
  - d. For each agency listed, please include a detailed description of how VA is currently working with that agency, disaggregated by population, to protect such vulnerable veterans from fraud and abuse.
3. In cases where a veteran does not respond to the initial demand and notification letter sent by the DMC, please provide a detailed description of the additional steps VA takes to ensure that the veteran is aware that the overpayment has been created.
4. Does VA have plans to improve the timeliness of the Department's response to veterans who request additional information regarding the reason the alleged overpayment was created?
  - a. If yes, please provide a detailed description of the plan.
  - b. If no, why not?
5. Is VA planning to improve the content of its demand and notification letters to ensure that veterans understand the underlying reasons for the creation of an alleged overpayment?
  - a. If yes, please provide a detailed description of the plan.
  - b. If no, why not?

In an effort to reduce printing costs, the Committee on Veterans' Affairs, in cooperation with the Joint Committee on Printing, would appreciate your answer provided consecutively and single-spaced. In addition, please restate the question in its entirety before the answer.

Due to the delay in receiving mail, please provide your response to Maria Tripplaar, Staff Director and Counsel of the Subcommittee on Disability Assistance and Memorial Affairs, at Maria.Tripplaar@mail.house.gov. Please also send a cour-

tesy copy to Ms. Alissa Strawcutter at [alissa.strawcutter@mail.house.gov](mailto:alissa.strawcutter@mail.house.gov). If you have any questions, please call Ms. Tripplaar at (202) 225-9164.

Sincerely,

Mike Bost  
Chairman  
Subcommittee on Disability Assistance and Memorial Affairs

cc: The Honorable Elizabeth H. Esty, Ranking Member, Subcommittee on Disability Assistance and Memorial Affairs

MB/ks

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## VA RESPONSE TO LETTER FROM BOST

### Chairman Mike Bost

**1. Please provide a detailed description of the procedures VA has in place to protect veterans who receive pension with Aid and Attendance benefits from fraud and abuse.**

**VA Response:** VA agrees that Veteran pension claimants and beneficiaries should be protected from dishonest, predatory, or otherwise unlawful practices. VA has begun providing written notification to Veterans pension beneficiaries of changes to their personal information, such as address or banking information. Also, if a Veteran's medical condition indicates that there may be a mental, cognitive, or physical disability, which would limit the Veteran's ability to manage their VA funds, VA initiates the process to include the Veteran in its Fiduciary Program. The Fiduciary Program was established to protect Veterans who, due to injury, disease, or due to age, are unable to manage their funds. Additionally, VA claims adjudicators may recommend that information be forwarded to the VA Office of the Inspector General (OIG), if they receive an indication of fraud or abuse.

VA works closely with Veterans Service Organizations (VSO) and other stakeholder organizations to ensure their employees and members understand predatory practices and share this information with Veterans.

Additionally, the VA Office of the General Counsel (OGC) administers an accreditation program for individuals and organizations that represent claimants before VA and has authority to grant, suspend, or revoke accreditation. If it is believed that a VA-accredited attorney, agent, or VSO representative has acted in an illegal or unethical manner, a complaint can be filed with VA. OGC is authorized to investigate complaints and remove an attorney, agent, or VSO representative's VA accreditation, when appropriate. However, VA does not have authority to regulate activities of individuals and entities involving the marketing of financial products and legal instruments. OGC may refer matters to other appropriate State and Federal law enforcement authorities.

Finally, VA published proposed rulemaking in January 2015 (2900-AO73, Net Worth, Asset Transfers, and Income Exclusions for Needs-Based Benefits) as a means to protect Veterans and survivors from potential predatory practices by establishing a look back and penalty period for pension. Currently, the final rule is pending final concurrence within VA. This rule will reduce opportunities for certain organizations such as financial attorneys and advisors to take advantage of pension claimants and preserve the integrity of the pension program. The revised rules restrict financial advisors' ability to restructure assets that, in many cases, render the claimant ineligible for the other needs-based benefits. Barring any unforeseen impediments, it is anticipated that this rule will be finalized by the end of FY 2018.

**2. Please provide a detailed list of the federal and state agencies VA is currently working with to protect:**

**a. Veterans who are age 65 and older.**

**b. Veterans with a VA appointed fiduciary.**

**c. Veterans receiving pension with Aid and Attendance benefits.**

**d. For each agency listed, please include a detailed description of how VA is currently working with that agency, disaggregated by population, to protect such vulnerable veterans from fraud and abuse.**

**VA Response:** Veterans who are age 65 and older and Veterans receiving pension with Aid and Attendance benefits. VA has consulted with the Federal Trade Com-

mission and Consumer Financial Protection Bureau regarding the unscrupulous practices of individuals and entities that advise pension claimants that they can use the program as an estate planning tool, and has shared its outreach products with those agencies. As noted above, VA also works closely with VSOs to ensure that their employees and members are fully aware of the potential for predatory practices.

Additionally, VA works with relevant Federal agencies, States, and other experts to leverage the expertise necessary to further regulate the financial services or legal instruments industries and protect against unlawful practices. Relevant expertise or experience can be found in the Department of Justice, Securities and Exchange Commission, State Attorney General Offices, and various other State agencies that are charged with protecting consumers or monitoring the activities of specific industries or professions. VA welcomes the opportunity to work with these agencies and share information about common predatory practices involving VA benefits, particularly VA pension, to help identify and enforce existing standards and to develop additional standards where appropriate. Furthermore, these agencies may already have authority to address the problem that is the subject of H.R. 3122.

Veterans with a VA appointed fiduciary. The fiduciary program coordinates with Adult Protective Services and Social Security Administration State and Federal agencies before, during, and after a fiduciary appointment. During the fiduciary appointment process, field examiners determine the well-being of beneficiaries that have been rated incompetent to manage their VA benefits due to injury, disease, advanced age, or being a minor. If a field examiner suspects abuse, neglect, or exploitation of a beneficiary, they contact the appropriate local adult protective services agency. VA also coordinates with state family and probate courts for appointment and annual financial reporting when a beneficiary has been given a guardian or conservator by that state court.

When a beneficiary or third party suspects that a beneficiary's funds are being misused, VA contacts State and Federal agencies, when appropriate, during the misuse investigation. For example, VA refers any case to the Social Security Administration when a VA fiduciary misuses funds and the fiduciary is also the representative payee for Social Security benefits, or when the fiduciary serves multiple beneficiaries. VA also reports misuse of federal civil retirement benefits to the Office of Personnel Management Office of Inspector General, and reports misuse of military retired pay or military survivor benefits to the Defense Finance and Accounting Service. Additionally, VA coordinates its investigations, when appropriate, with the Department of Justice on the Elderly Justice Initiative, National Center for Victims of Crime, U.S. Postal Inspection Service, Federal Bureau of Investigation, as well as over 770 State agencies.

**3. In cases where a veteran does not respond to the initial demand and notification letter sent by the DMC, please provide a detailed description of the additional steps VA takes to ensure that the veteran is aware that the overpayment has been created.**

**VA Response:** The Debt Management Center (DMC) undertook numerous risk mitigation strategies in fiscal year (FY) 2017 to enhance Veteran awareness of overpayment debts and implemented new processes to limit potential negative effects of Veteran benefit offset. First, DMC revised its notification letters to provide a plain language read while including necessary due process notification. Secondly, the Secretary approved an Extended Repayment Period on Veteran Benefits (up to 5 years) without validation of financial hardship in cases where delays in processing could or have exacerbated a Veteran's financial situation. In the case of collection, DMC proceeds along two avenues, which are determined by whether a Veteran has disability compensation benefits to offset.

**Benefits to Offset:** DMC provides a notice of indebtedness letter, which notifies the debtor of their debt and provides them 60 days to respond before an offset will begin. In FY 2017, DMC underwent programming changes to install an automatic 12-month repayment plan into the Compensation and Pension accounts receivable information technology system. This upgrade was launched in July 2017 and provides a grace period to repay debts over 12 months. Prior to this upgrade, DMC offset the entire benefit amount until the debt was paid in full or DMC would offset the necessary amount to pay off the debt if the whole was not needed. In this situation, Veterans who are unaware of their debt are exposed to less risk as now only 1/12th of their benefit will be offset each month. In these cases, the Veteran will normally proceed with contacting DMC to further work out payment arrangements, request a waiver, dispute and or provide a compromise offer.

**No Benefits to Offset:** DMC provides up to five letters within a 120 window notifying debtors of their debts before being required to refer their debt to the Depart-

ment of the Treasury for collection. During this timeframe, a debtor must contact DMC to either dispute, request a waiver, enter a payment plan or provide a compromise offer. If a debtor is referred to Treasury, they can still dispute or request a waiver but must make payment arrangements with Treasury.

**4. Does VA have plans to improve the timeliness of the Department's response to veterans who request additional information regarding the reason the alleged overpayment was created?**

**a. If yes, please provide a detailed description of the plan.**

**b. If no, why not?**

**VA Response:** Yes, DMC provides Veteran and beneficiary responses in collaboration with the Veterans Benefits Administration (VBA). The Minneapolis/St. Paul regional office (RO) works with Veterans to acquire correct information before the debt is established. Once established, Veterans can work with both DMC and/or the RO to acquire additional information, which could include an audit or detailed explanation of the overpayment. DMC grew its staff by 21 percent over the past two FYs and will add an additional 22 debt counselors in FY 2018 to increase our responsiveness to debtor inquiries. DMC does not create the debt yet DMC trains its personnel to answer these inquiries. If DMC finds a debt to be created in error, DMC will suspend collection on the debt and notify the appropriate RO for action.

**5. Is VA planning to improve the content of its demand and notification letters to ensure that veterans understand the underlying reasons for the creation of an alleged overpayment?**

**a. If yes, please provide a detailed description of the plan.**

**b. If no, why not?**

**VA Response:** Yes, DMC partnered with VBA and the Veterans Experience Office to improve our debt notification letters. The new letters are worded more compassionately to ensure a better Veteran experience.

