

**STATEMENT OF  
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NATIONAL CEMETERY ADMINISTRATION,  
DEPARTMENT OF VETERANS AFFAIRS  
BEFORE THE  
  
SUBCOMMITTEE ON DISABILITY ASSISTANCE AND MEMORIAL AFFAIRS  
COMMITTEE ON VETERANS' AFFAIRS  
U.S. HOUSE OF REPRESENTATIVES**

**September 13, 2017**

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.