

**STATEMENT OF
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VETERANS BENEFITS ADMINISTRATION
BEFORE THE
SUBCOMMITTEE ON DISABILITY ASSISTANCE AND MEMORIAL AFFAIRS
HOUSE COMMITTEE ON VETERANS' AFFAIRS**

March, 20, 2018

Mr. Chairman and Members of the Subcommittee, I am pleased to be here today to provide the views of the Department of Veterans Affairs (VA) on pending legislation affecting VA's programs. Accompanying me today is Ms. Lisa Pozzebon, Executive Director, Office of Cemetery Operations, National Cemetery Administration (NCA).

H.R. 888

Section 1318 of Title 38, United States Code (U.S.C.), provides for dependency and indemnity compensation (DIC) for survivors of a Veteran who received or was entitled to receive compensation for a service-connected disability that was rated totally disabling for a certain amount of time immediately preceding death. H.R. 888 would amend section 1318 to require the Secretary of Veterans Affairs to treat notification of a Veteran's death as a DIC claim by the surviving spouse and children of the deceased Veteran, and would preclude the Secretary from requiring the spouse and children to file a claim for such benefits.

VA does not support H.R. 888 because VA currently has the means to promptly provide DIC to eligible survivors. Under 38 U.S.C. § 5101(a)(1)(B), VA may pay DIC or pension to a survivor of a Veteran who has not filed a formal claim if the record contains sufficient evidence to establish the survivor's entitlement to such benefits. The effective date of the survivor's claim is the date on which the survivor notifies VA of the death of the Veteran by means of a death certificate or other relevant evidence that establishes entitlement, or the date on which the head of any other U.S. Government department or agency notifies VA of the Veteran's death. The statute specifically states that, in notifying VA of the Veteran's death, the survivor or the survivor's representative may submit additional documents relating to the death "without being required to file a formal

claim." This proposed amendment is not applicable to active duty deaths. It is specific only to 38 U.S.C. § 1318 and therefore, it is only applicable to those Veterans who meet the requirements under section 1318. Veterans who meet section 1318 requirements have been released from active duty and are already in receipt of VA compensation benefits.

In addition, when VA receives notice of a Veteran's death, the Veterans Benefits Administration provides the Veteran's next-of-kin with notice of the benefits to which he or she may be eligible and instructions on how to apply for VA benefits. Also, under VA regulations, 38 Code of Federal Regulations section 3.155(b), a DIC claimant could submit an intent to file a claim for VA benefits, and upon receipt of the intent to file a claim, VA would furnish the claimant with the appropriate applicable form. If VA receives a formal claim within 1 year of receipt of the intent to file a claim, the completed claim would be considered filed as of the date the intent to file a claim was received.

Finally, even if H.R. 833 were enacted, VA would be required, in some instances, to collect information from the survivor to establish entitlement to DIC, and as a result, VA would not be able to pay DIC to the survivor until evidence sufficient to establish entitlement is received.

We agree that the statute does not require VA to start paying DIC. However, VA already has in place expedited payment of DIC under section 1318 to a surviving spouse without the filing of a claim when there is sufficient evidence of record to establish entitlement to the benefit. Therefore, VA does not feel the amendment is necessary to achieve the desired effect of the amendment.

Additionally, upon notification of the death of a Veteran who is receipt of VA benefits, VA provides notification either to the estate or surviving spouse, if of record. This notification informs the recipient of all potential benefits and how to apply for them.

Finally, although the report of death will generate a claim and VA review, the collection of evidence needed that will be unavailable at the time of review will require VA to have to wait to substantiate or finalize a claim. This has the potential to create a workload that VA cannot address, let alone complete, because the required evidence doesn't exist in VA's record and may not be provided.

No benefit or general operating expenses would be associated with H.R. 888.

H.R. 4335

H.R. 4335, the "Servicemember Family Burial Act," would authorize the Secretary to provide a memorial headstone or marker for placement in a national cemetery for the spouse or child of a member of the Armed Forces serving on active duty under conditions other than dishonorable, as shown by a statement from a general court-martial convening authority, at the time of the spouse or child's death. The bill would also authorize VA to inter in a national cemetery under NCA control, the spouse, minor child and, in the Secretary's discretion, unmarried adult child of a member of the Armed Forces serving on active duty under conditions other than dishonorable, as shown by a statement from a general court-martial convening authority, at the time of the death of the spouse or child. By adding these individuals to the list of those eligible for interment in a national cemetery in section 2402(a)(5), VA would also be able to provide a headstone or marker for the grave of such individuals if they are buried in a state Veterans' cemetery as provided in 38 U.S.C. § 2306(a)(4).

VA supports H. R. 4335 because it ensures that active duty Servicemembers whose survivors die may bury their loved ones in a VA national cemetery. NCA currently processes requests for burial of spouses and eligible dependent children of active duty Servicemembers in VA national cemeteries on a case-by-case basis pursuant to the Secretary's discretionary authority in 38 U.S.C. § 2402(a)(6). H.R. 4335 would eliminate the need for such review of each burial request for a deceased spouse or dependent child of an active duty Servicemember, thus eliminating any delay in a burial decision.

Enactment of H. R. 4335 would result in total benefit costs of \$25,000 in fiscal year (FY) 2019; \$122,000 over 5 years; and \$239,000 over 10 years. Additionally; Enactment of H. R. 4335 would result in total discretionary burial operation costs of \$18,000 in FY 2019; \$94,000 over 5 years, and \$198,000 over 10 years.

H.R. 4910

H.R. 4910, the "Veterans Cemetery Benefit Correction Act," would require the Secretary of the Interior to provide an outer burial receptacle for each new grave in an

open cemetery under the control of the National Park Service. The bill would amend 38 U.S.C. § 2306(e) to authorize the Secretary of the Interior to promulgate regulations or procedures governing the use of outer burial receptacles in a National Park Service Cemetery, including regulations specifying the amount of administrative costs incurred by the Secretary of the Interior that must be paid by survivors if an outer burial receptacle is provided in lieu of a grave liner and providing for the use of a voucher system or other system of reimbursement for payment for outer burial receptacles.

VA defers to the Department of the Interior on H.R. 4910.

H.R. 4958

H.R. 4958, the "Veterans' Compensation Cost-of-Living Adjustment Act of 2018," would require the Secretary to increase the rates of disability compensation and DIC by the same percentage as any increase to Social Security benefits effective on December 1, 2018. The bill would also require VA to publish these increased rates in the Federal Register.

VA strongly supports this bill because it would express, in a tangible way, this Nation's gratitude for the sacrifices made by our service-disabled Veterans and their surviving spouses and children. The bill would also ensure that the value of these benefits keeps pace with increases in consumer prices.

VA estimates the cost of this bill would be \$1.6 billion in FY 2019; \$10 billion over 5 years; and \$22 billion over 10 years. However, the cost of these increases is included in VA's baseline budget because VA assumes that Congress will enact a cost-of-living adjustment each year. Therefore, enactment of H.R. 4958 would not result in additional costs, beyond what is included in VA's baseline budget.

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