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**U.S. House of Representatives**

COMMITTEE ON VETERANS' AFFAIRS

ONE HUNDRED EIGHTEENTH CONGRESS

364 CANNON HOUSE OFFICE BUILDING

WASHINGTON, DC 20515

<http://veterans.house.gov>

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March 1, 2024

The Honorable Jodey C. Arrington  
Chairman  
Committee on the Budget  
Washington, DC 20515

Dear Chairman Arrington:

In accordance with the requirements of section 301(d) of the Congressional Budget Act of 1974, and clause 4(f) of rule X of the Rules of the House of Representatives, I submit the following Majority Views and Estimates for fiscal year (FY) 2025 on behalf of the Committee on Veterans' Affairs (the Committee).

I share your commitment to reducing the growth of unnecessary mandatory spending and eliminating improper payments. With respect to the Department of Veterans Affairs (VA), this would be best accomplished by enacting legislation to resolve the unintended consequences of the Toxic Exposures Fund related to mandatory spending, and by continuing the Committee's oversight of VA's operational practices and information technology systems related to programs with high rates of improper payments.

Cc: The Honorable Brendan F. Boyle, Ranking Member, Committee on the Budget  
The Honorable Mark Takano, Ranking Member, Committee on Veterans' Affairs

## Background

Since the wars in Afghanistan and Iraq began, two decades of congressional prioritization of veterans' health care and benefits have yielded tangible, if incomplete, improvements in the timeliness and quality of services veterans receive. VA discretionary appropriations and mandatory outlays have both nearly quadrupled during this period.<sup>1</sup> Over the past five fiscal years, VA's budgetary growth rate has increased overall, with some year-to-year fluctuations. Over this period, the average overall growth rate was approximately 9 percent, and the average discretionary growth rate was nearly 11 percent.<sup>2</sup> Based on this growth rate, total VA appropriations will approach \$500 billion five fiscal years from now.<sup>3</sup>

The number of veterans utilizing VA benefits and services has increased since the wars in Afghanistan and Iraq began,<sup>4</sup> while the total U.S. veteran population is projected to have already peaked and begun a gradual decline.<sup>5</sup> VA attributes the steady enrollment in recent years despite the overall declining veteran population to higher enrollment rates among Gulf War and Post-9/11 era veterans. However, VA projects that enrollment will decline slightly after 2026 as the impact of mortality begins to outweigh new enrollment.<sup>6</sup>

I remain concerned that the pace and extent of improvements in services at the Department have not correlated to the size of spending increases. VA must demonstrate clear linkages between investments and health outcomes and the improved delivery of benefits, as well as performance metrics such as the Annual Performance Plan, resolution of the Government Accountability Office High Risk List, or closure of financial statement audit findings.<sup>7</sup> At times, the Department has thrown good money at failing programs in the hope of fixing them. The historically large investments of taxpayer dollars, particularly of recent years, in veterans' health care and benefits should be better utilized to more effectively carry out VA's core mission to care for those who have worn our nation's uniform, their survivors, and their dependents.

## Budgetary Concerns

I have become increasingly concerned over the last year about the proliferating budget gimmicks that the Administration's budget requests for VA and the actual operational budget rely on. These gimmicks include but are not limited to: the Recurring Expenses Transformational Fund, which reallocates unspent, expiring contract dollars to backstop the construction budget

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<sup>1</sup> Discretionary appropriations including collections increased from \$28 billion in FY 2003 to \$134.7 billion in FY 2023, representing a 381% increase. Mandatory outlays increased from \$32.4 billion in FY 2003 to \$155.4 billion in FY 2023, representing a 380% increase.

<sup>2</sup> Committee calculations; see House Committee on Veterans' Affairs Republican Views and Estimates, FY 2023.

<sup>3</sup> Ibid.

<sup>4</sup> National Center for Veterans Analysis and Statistics, VA Utilization Profiles, FY 2016; and VA Office of the Deputy Assistant Secretary for Policy, Number of Unique Veterans Served By VA in FY 2003, Summary Report; finding the aggregate utilization rate of VA services increased from 32% in FY 2003 to 48% in FY 2016, or from 7.9 million unique veterans in FY 2003 to 10.7 million unique veterans in FY 2016.

<sup>5</sup> National Center for Veterans Analysis and Statistics, Veteran Population Projections: 2017-2037; projecting, in part, "The total Veteran Population is predicted to decline from 20.0 million in 2017 to 13.6 million in 2037."

<sup>6</sup> VA FY 2023 Budget Submission: Volume II, page VHA-421.

<sup>7</sup> VA Annual Performance Plan and Report, accessible on [www.performance.gov](http://www.performance.gov); GAO High Risk List; VA Agency Financial Report containing financial statement audit, accessible on [www.performance.gov](http://www.performance.gov).

(formerly the information technology budget), the requested mandatory construction account, numerous transfers between medical care accounts, the Office of Information & Technology's practice of managing critical projects via unfunded requirements, the decision to dispense with the customary revised appropriations (the "second bite") for most accounts and instead rely on the Toxic Exposures Fund (TEF) as an all-purpose backstop, and the decision to convert millions (and potentially hundreds of millions) of dollars' worth of mortgage loan guarantees into direct loan liabilities. Many of these decisions by VA seem to have been in response to the expirations of the *CARES Act, Public Law (P.L.) 116-136*, and the *American Rescue Plan Act of 2021, P.L. 117-2*, which created a cliff of temporary dollars funding permanent expansions and ongoing programs. The Administration has come to rely on multiple interrelated contingencies, creating a situation where one bad estimate or unanticipated event creates a shortfall in multiple accounts. This does not serve veterans' interests or make responsible use of the resources Congress continues to provide. VA should return to simpler budgeting, considering and managing each account individually, which will ensure greater transparency.

### **Mandatory Spending**

The Toxic Exposures Fund, created in the *Honoring Our PACT Act of 2022, P.L. 117-168*, has led to serious unintended consequences with respect to mandatory spending. Because TEF, codified at 38 U.S. Code § 324, contains directed scoring language that renders the Congressional Budget Office (CBO) unable to score any appropriations into or expenditures from TEF, it causes any authorizing legislation pertaining to nine VA accounts within the scope of TEF to incur a mandatory cost.<sup>8</sup> CBO estimates this mandatory cost to be 24% of such bills' total discretionary cost in FY 2024, and this will rise to 42% by FY 2032. Additionally, all TEF dollars represent mandatory spending, yet all functions within the scope of TEF (principally health care), have traditionally been discretionary and function as discretionary programs. Therefore, TEF transforms discretionary activities into mandatory spending. This has become more significant as VA has begun using TEF as an all-purpose funding mechanism, going well beyond its intended purpose of paying for the health care expansion and administrative costs associated with the benefits expansion of the PACT Act.<sup>9</sup> VA officials have stated that they do not believe TEF's purpose is merely to pay for the PACT Act, and that they are not accounting for toxic exposure-related health care and benefits delivery expenses under TEF separately from toxic exposure-related expenses predating the PACT Act. The Administration's FY 2024 VA budget request took the unprecedented step of dispensing with the traditional revised appropriations ("second bite") for most accounts, and instead relied on TEF. I believe this unreliable accounting and irresponsible decision, together, have created serious problems as VA struggles to execute its budget and encounters shortfalls in multiple accounts.

As a result of VA using TEF as an all-purpose funding mechanism, CBO estimates that by FY 2034, its budget authority will exceed \$65 billion and outlays will near \$64 billion. This

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<sup>8</sup> The accounts are Medical Community Care, Medical Support and Compliance, Medical Services, Medical and Prosthetic Research, Veterans Electronic Health Care Record, General Operating Expenses—Veterans Benefits Administration, General Administration, Information Technology Systems, and Board of Veterans Appeals. They comprise the vast majority of VA discretionary spending.

<sup>9</sup> The *Honoring Our PACT Act of 2022* appropriated \$500 million to TEF for FY 2022. In FY 2023, VA requested and received \$5 billion. The *Fiscal Responsibility Act, P.L. 118-5*, appropriated \$20.268 billion for FY 2024 and \$24.455 billion for FY 2025 into TEF.

represents more than a quarter of VA's budget for health care, information technology, and general administration. CBO projects that TEF will grow to constitute 1-2% more of the VA budget every year, and at this rate of growth it will make up the majority of the formerly discretionary VA budget, transforming it into mandatory, in less than two decades. Additionally, CBO estimates that TEF spending will grow extremely rapidly over the next few years—nearly 22% in FY 2026 and over 13% in FY 2027 and FY 2028—and will only come in line with the normal growth rate of VA's budget (between 7% and 9%) in FY 2032. CBO estimates that TEF spending, all of which is transformed into mandatory, will be roughly \$450 billion in the FY 2025 to FY 2034 period.

I believe VA's handling of TEF has been inappropriate and counterproductive. VA's actions seem to be motivated by what is convenient for the bureaucracy, not what is necessary to provide health care and benefits to veterans who were exposed to toxic substances. Congress's commitment, and my personal commitment to providing these resources to make sure every veteran receives what he or she has earned should never be in doubt. At that same time, it has been shortsighted and unfair to allow a budgetary gimmick to block legislation benefitting other populations of veterans.

I have proposed the *Toxic Exposure Fund Improvement Act* to resolve these unintended consequences which are impeding the Committee's ability to advance a wide range of important legislation to strengthen and expand VA programs and benefits. My proposal would clarify the proper purposes of TEF dollars and limit the directed scoring to annual spending thresholds. My proposal would also give VA additional flexibility within these parameters and increase transparency of the Department's spending. Merely by limiting the directed scoring and reigning in the inappropriate spending beyond the scope of the PACT Act. This would not disadvantage veterans who were exposed to toxic substances in any way. My proposal would make VA's budgeting sounder and continue to support veterans while reducing unnecessary mandatory spending.

### **Improper Payments**

Improper payments are a significant problem in VA's benefits and health care programs as well as in the Department's administrative operations. Worse, based on the Committee's oversight, I am skeptical that VA's reported improper payments are accurate and complete. Up to this point, the Committee has prioritized oversight of the Pension program, which reported improper payments of \$419.27 million (or 10.9% of outlays) in FY 2023, and the Disability Compensation program, which stopped reporting improper payments in FY 2021.

The improper payment rate in the Pension program has roughly doubled since FY 2019 (\$285 million or 5.4%). Many of these improper payments result from a computer matching agreement between the Social Security Administration and VA that provided inaccurate data on veterans' incomes for over a decade. When VA became unable to rely on this information, the Department wholly relied on veterans self-reporting changes in their income and could not verify the accuracy of those income reports by other means. This led to improper payments sometimes spanning years when veterans did not report income changes accurately or did not report changes in income occurring after VA decided to award pension benefits. VA overpaid nearly 10,000



individuals and is examining roughly 30,000 more potential overpayment cases. Typically, at least 90% of all pension improper payments are overpayments, and VA often waives overpayment debts because recouping them is impractical and would force many low-income veterans into hardship. In 2022, Congress enacted the *VA Beneficiary Debt Collection Improvement Act*<sup>10</sup> which protected veterans from incurring any debt that is attributable to the failure or delay of a VA employee to process information that was provided in a timely fashion. Consistent with this law, VA has indicated that the pension overpayments related to the computer matching agreement will not be collected, and I support this decision. However, the fact that VA does not recoup such benefits overpayments makes it especially important to prevent them. The Disability Assistance and Memorial Affairs (DAMA) Subcommittee delved into this issue during a hearing on February 14, 2024, and testimony revealed that much of VA's improper payments occur as a result of ineffective internal controls and weaknesses in the development and execution of technology solutions.

Historically, the Disability Compensation program had improper payments of less than 1% but, with annual outlays of nearly \$100 billion, any overpayments or underpayments amount to tens or hundreds of millions of dollars. In FY 2021, VA determined that improper payments in Compensation had fallen below the reporting threshold, and that the Compensation program was no longer at high risk of issuing improper payments. The Department then permanently ceased conducting statistical sampling and testing. While VA continues to conduct risk assessments annually, which is more often than the requirement to do so every three years, the Committee understands the assessments do not delve into the actual payment data and only consider what VA deems to be relevant risk factors. Given the magnitude of the program's spending, and in light of known instances of widespread and years-long compensation overpayments, DAMA Subcommittee Chairman Luttrell urged VA to resume statistical sampling and testing during the February 14<sup>th</sup> hearing.

At this time, I believe the best course of action to reduce improper payments in the Pension and Compensation programs is to advocate for policy changes through oversight. For example, the DAMA Subcommittee continues to conduct field oversight at Veterans Benefits Administration regional offices, and I have directed the DAMA Subcommittee to work with the Technology Modernization Subcommittee to identify the causes and solutions of payment errors in the Veteran Benefits Administration's information technology systems. Prior to February 14, 2024, the subcommittees held hearings (jointly or individually) on June 6, 2023, to examine VA's plans to modernize benefits systems over a five year horizon, on September 26, 2023 to investigate a pattern of problems in VA.gov, which includes online applications for multiple benefits programs which failed to process and led to improper payments, and on December 4, 2023 to evaluate VA's resolution of the VA.gov problems. The subcommittees found that VA must focus on improving the interfaces between legacy benefits systems and the newer automation tools that the Department is implementing. I believe it is achievable to reduce the Pension improper payment rate below the 1.5% reporting threshold, and once the true Compensation improper payment rate is identified, reduce it to a minimal amount.

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<sup>10</sup> Subtitle E of P.L. 117-328, the *Joseph Maxwell Cleland and Robert Joseph Dole Memorial Veterans Benefits and Health Care Improvement Act of 2022*. See also 38 U.S.C. § 5302B.

Improper payments in the Beneficiary Travel program, which were \$120 million or 6.8% in FY 2023, primarily result from a combination of an older, partly manual process to review veterans' travel vouchers and a botched project to replace this process with a self-service online application called the Beneficiary Travel Self Service System (BTSSS). The older process is widely popular among veterans, but slow, while the replacement project has confused many veterans and created claims backlogs. VA began removing the medical center kiosks that veterans use in the older process in 2020 when the new system was launched, but then left the kiosks in place in the majority of medical centers when BTSSS stumbled. VA will either need to correct BTSSS's flaws and do a better job teaching veterans how to use it or revert to the more reliable older process.

Improper payments in Communications, Utilities, and Other Rent, which were \$53 million or 2.5% in FY 2023; Medical Care Contracts and Agreements, which were \$46 million or 3.9%; and Supplies and Materials, which were \$117 million or 3.5%, are largely due to limitations in VA's legacy finance and accounting information systems. VA has been attempting to replace these systems with an integrated finance and accounting system since 2016 but has implemented the system in less than a quarter of the Department's offices. The Committee has held at least one hearing per Congress on this project since its inception and will continue to focus on it. I believe it has merit and can be completed, but VA senior leaders have focused on it far too little, and it has been hobbled by dependencies with other, notional projects. The Committee will encourage the VA senior leaders to prioritize the project and remove unnecessary dependencies.

Finally, improper payments in the Purchased Long Term Services and Supports are a matter of program design and definitions. As recently as FY 2018, 100% of payments in this program were considered improper and the vast majority represented non-monetary losses. In FY 2023, the rate was 38.7%. This is an improvement, but the percentage remains misleading. The Committee will work with VA to better apply improper payment reporting criteria to Long Term Services and Supports and isolate the true problem.

### **Expired Authorization**

The Budget Committee's letter requesting views and estimates highlighted the *Veterans' Health Care Eligibility Reform Act of 1996, P.L. 104-262*, which authorized \$17.9 billion for hospital care and medical services for FY 1998. Today, such health care expenses span three accounts and constitute the majority of VA discretionary spending. The 1996 legislation instituted the veteran priority group enrollment system that VA uses to administer care. The FY 1998 authorization was essentially a one-time experiment to control veteran health care costs, in part by relying on this new system. Rather than resurrect a health care authorization, I have proposed the *Toxic Exposure Fund Improvement Act* to preserve pre-existing health care programs that have always functioned as discretionary programs, rather than arbitrarily convert portions of them into mandatory spending. Congress has always prioritized discretionary spending on veterans' health care, and I believe it is important to keep these dollars in the discretionary appropriations process.

## Conclusion

In conclusion, I believe Congress should continue to prioritize veterans' health care and benefits. I remain concerned that the pace of improvements in services for veterans has not matched the size of VA spending increases, and the historically large investments of taxpayer dollars, particularly of recent years, in veterans' health care and benefits should be better utilized. I am also concerned by the increasing number of gimmicks that VA's budget requests rely on, which are creating widespread problems in estimating the need and executing the budget. Finally, I am committed to reforming the Toxic Exposures Fund, eliminating improper payments, and scrutinizing unauthorized VA programs. The Committee is proud to work with VA to deliver benefits and services that are worthy of veterans' service to our great nation.

Sincerely,



**MIKE BOST**  
Chairman