

U.S. SENATE COMMITTEE ON VETERANS' AFFAIRS

RANKING MEMBER JERRY MORAN

Republican Oversight Priorities for the 117th Congress

America's veterans fought to protect our freedoms, and this committee's top priority is to make sure we take care of our veterans who have dedicated their lives to serving our country. We want to make certain our veterans have the right resources at the right time to achieve success after service.

Veterans Health

- » Continued Oversight of *MISSION Act* Implementation
- » Continued COVID-19 Response
- » Examining VA Oversight of State Veterans Homes
- » Ensuring Health Equity for Minority Veterans
- » Oversight of the *Commander John Scott Hannon Veterans Mental Health Improvement Act*
- » Oversight of the *Deborah Sampson Act*
- » VA Telehealth Capabilities in Rural Areas Post COVID-19
- » Oversight of VA Research & Development Program
- » Veterans Health Administration Workforce
- » Foreign Medical Program

Toxic Exposures

- » An Enduring Framework for VA's handling of Toxic Exposure Treatment and Claims
- » Reforming the VA Process on Claims Related to Burn Pit Exposure

Veterans Benefits

- » Timely and Accurate Disability Claims Decisions
- » Education Benefits
- » Survivor Benefits
- » VA Home Loan Guaranty and CARES Act Forbearance
- » VA Home Loan Guaranty Servicer Tier Rankings Development
- » Native American Direct Loan Program
- » Transition Assistance Program
- » Increased Oversight of Homeless Veterans Programs

Burial and Memorial Affairs

- » Cemetery Oversight
- » Burial Eligibility
- » Arlington National Cemetery (ANC) Eligibility

VA Business Modernization

- » Electronic Health Record (EHR) Modernization
- » Leasing Process
- » Focus on Major IT Programs
- » *Asset and Infrastructure Review (AIR) Act*



Veterans Health

Continued Oversight of *MISSION* Act Implementation

Congress passed the *MISSION* Act to transform VA health care into an innovative and responsive 21st-century health care system capable of addressing the challenges veterans face today. Since the passing of the *MISSION* Act, VA has struggled to implement integral pieces of the legislation and continues to miss significant milestones. For example, the rollout of Phase I of the Program of Comprehensive Assistance for Family Caregivers was delayed by two years, causing a cascade effect for Phase II of the program. VA has also failed to fully implement the Veterans Community Care Program or take the necessary steps to guarantee the Community Care Network meets *MISSION* access standards. The committee will continue its critical oversight of *MISSION* implementation to ensure VA is properly executing all aspects of the law and is serving veterans as Congress envisioned.

Continued COVID-19 Response

We have faced many challenges this year due to the pandemic, but our nation is not unfamiliar with adversity. The challenges of COVID-19 have presented an opportunity to evaluate vulnerabilities in our systems, reflect on what's worked and make improvements for the future. To that end, we have seen great strides made in access and utilization of telemedicine, expedited hiring practices to get more health care professionals working in service to our veterans more quickly and diligent execution of Fourth Mission assignments to bolster civilian health systems during this time of strain. Weaknesses in procurement and challenges in administering key programs have also been revealed, and quickly rolling out the nation's mass vaccination program has posed its share of tests and trials. Most pointedly, concerns still exist regarding the VA's use of, and partnership with, Community Care Networks. As the VA works toward increasing vaccination numbers, and bolstering the needed preparation and coordination efforts, we must not lose sight of lessons learned and reforms to make permanent going forward. Continued committee oversight is essential as we move forward.

Examining VA Oversight of State Veterans Homes

Annually, more than 100,000 veterans receive long-term care either from VA directly or paid for by VA. State-run state veterans homes (SVHs) care for the largest portion of long-term care veterans, followed by community nursing homes and VA-run Community Living Centers. While SVHs receive funding from VA, the facilities are managed by the state with VA conducting routine oversight. At the start of the pandemic, national attention turned to these facilities as many across the country suffered devastating outbreaks. While the VA did work with a number of SVHs to combat COVID-19 as part of its Fourth Mission, VA failed to maintain proper oversight of SVHs writ large during the pandemic. VA suspended mandatory annual SVH inspections and delayed the implementation of an alternative plan to ensure the health and safety of residents. Additionally, VA struggled to collect timely and accurate data from SVHs that could have been used to track and identify COVID-19 infection trends in such facilities. VA's missteps were further underscored by the proactive steps the Center for Medicare and Medicaid Services (CMS) took to increase oversight of its community nursing homes and reduce the spread of COVID-19. The committee will examine specific lessons learned during the pandemic and will probe VA's general oversight of SVHs to identify potential legislative changes.

Ensuring Health Equity for Minority Veterans

While the VA projects the overall veteran population will decrease to 14.5 million by 2043, VA estimates the minority veteran population will grow to 35% of the total veteran population. Despite the continued growth in this population, minority veterans still face unique challenges that impact their healthcare outcomes. For instance, minority veterans are more likely to be uninsured or face chronic illness and are less likely to be aware of their VA healthcare benefits. Data also indicates minority veterans report higher rates of negative experiences at VHA facilities and can experience lower survival rates for certain high-risk illnesses. As VA works to best serve veterans, it must account for the changing composition of the American veteran population and ensure health equity across the VHA system. In July 2020, the committee held a roundtable to hear from minority veterans about these particular challenges and the barriers to care they face. The committee will build upon the roundtable discussion by further examining health disparities for this growing population and exploring potential legislative fixes to address these concerns.

Oversight of the *Commander John Scott Hannon Veterans Mental Health Improvement Act*

One of the most persistent issues in the veterans' community today is suicide and the high rate of brain and mental health conditions among veterans. The *Commander Hannon Act's* goal is to ensure veterans have high-quality care, proper coordination, and wrap-around services and supports in order to lead healthy lives post-transition and beyond. This comprehensive legislation will improve care and services for our veterans in many ways, including bolstering outreach to veterans through the establishment of a grant program for community organizations already serving veterans across the country. Additionally, the *Hannon Act* will direct VA to pioneer myriad new research on mental health and suicidal ideation in an effort to better diagnose and treat veterans, improve rural veterans' access to mental health care, and hold VA accountable for its mental health and suicide prevention efforts. It is imperative the committee perform strong oversight over the implementation process during the 117th Congress to ensure VA meets Congressional intent with this important law.

Oversight of the *Deborah Sampson Act*

The number of women veterans is projected to account for 16% of the veteran population by 2040, making women veterans the fastest growing demographic in the veteran community. Furthermore, the number of women veterans enrolled in VHA has increased by 28% with over 500,000 active VHA users since 2014. Despite these significant increases, women veterans still face unique gender-specific challenges when accessing VA care and benefits. The *Deborah Sampson Act* is a landmark law designed to modernize VA to adequately meet the needs of this growing population. The *Deborah Sampson Act* establishes a dedicated Office of Women's Health within VHA, improves healthcare infrastructure through retrofitting, bolsters staffing and gender-specific training, and provides expanded access to legal and supportive services for women veterans. Oversight of the implementation of these reforms is essential to making certain that today's VA works for today's veterans, especially women who serve and who make up the fastest growing portion of American veterans.

VA Telehealth Capabilities in Rural Areas Post COVID-19

The COVID-19 pandemic brought to light many glaring realities surrounding the lack of readiness of health care systems across the U.S. to quickly adapt to and overcome challenges. For VA, as the nation's largest integrated health care system, it has illustrated shortcomings in its telehealth care delivery platforms. This includes systems and hardware not robust enough to handle the large population VA is charged with serving, issues with adequately reaching veterans in rural and highly rural areas because of connectivity issues, lack of data collection on telehealth modalities and patient satisfaction, and lack of utilization of the authorities Congress gave it in order to build better partnerships with the private sector to meet the health care needs of veterans in a virtual environment. As we begin to move beyond the COVID-19 pandemic, the 117th Congress will be an appropriate time for the committee to commence a detailed review of how VA handled delivering care virtually, both where VA excelled and where it fell short, and how other U.S. health care systems adapted and overcame challenges regarding telehealth. Following this examination, the committee can begin to explore what needs to be done legislatively in order to ensure VA is positioned as a leader in providing virtual care, and ensure seamless connectivity among rural, highly rural and urban veterans.

Oversight of VA Research & Development Program

One often overlooked area of VA's wide-ranging federal footprint is the growing budget, capabilities and opportunities that exist within VA's Research & Development program. While VA's response to the challenges presented by the COVID-19 pandemic excelled in some areas and lacked in others, one area that VA quickly worked to adapt and overcome was its development of forward-leaning research partnerships with academic institutions and research foundations. VA's Office of Research & Development should be thinking strategically on how best to continue these prime research partnerships in all medical research areas to benefit veterans, specifically with respect to mental health and suicide prevention. Additionally, it is imperative for Congressional oversight to help guide VA in its quest to conduct more in-depth, large-scale federal research comparable to the National Institutes of Health (NIH) intramural and extramural research.

A further area in need of oversight is the relationship between the Department's Office of Research & Development and VA-affiliated Nonprofit Research and Education Corporations (NPCs). The VA-affiliated NPC program was established in 1988 to facilitate VA-approved research projects at VA medical facilities

nationwide. The NPCs in this program are not owned or controlled by the federal government. Rather, NPCs provide VA medical centers with the authority to establish flexible funding mechanisms to conduct approved research projects and educational activities at VA medical centers. Originally, the NPCs primarily accepted research grants from private and philanthropic organizations; however, grants from non-VA federal agencies now amount to approximately 70% of the NPC program's \$260 million in annual revenue. The 117th Congress will provide a great opportunity to examine these partnerships to ensure veterans are benefiting from the research being conducted by the NPCs.

Veterans Health Administration Workforce

VA has long struggled to quantify and fill vacancies among its healthcare workforce. Positions and hiring needs can be created without central oversight, and the processes to fill clinical positions can be lengthy and involve heavy human resources involvement. During the COVID-19 pandemic, VA focused on hiring clinical staff using waivers from VA and Office of Personnel Management (OPM) policies to expedite the time it typically takes to onboard new hires. VA has also exercised new legal authority to waive pay caps for employees responding to the pandemic. VA officials have expressed concerns that following the pandemic, many of their clinical staff who have been on the front lines of the pandemic response may choose to retire, intensifying the need to quickly hire qualified health care providers to fill those vacancies. The committee should build on its July 2020 oversight hearing to examine the success of VA's expedited hiring processes, the impacts on patient safety and quality outcomes, and determine if further legislative relief on pay caps and hiring processes is warranted to support the VA workforce.

Foreign Medical Program

VA's Foreign Medical Program (FMP) reimburses health care expenses for certain care provided abroad to veterans with service-connected disabilities. Approximately 55,500 veterans are currently registered in the Foreign Medical Program (FMP) although only about 4,500 veterans submitted claims for reimbursement in fiscal year 2020. VA's FMP covers health care services, medications, and "durable medical equipment associated with a service-connected condition and/or aggravated condition" for eligible veterans, but veterans living abroad have been unable to get medical coverage for testing of, or treatment for, COVID-19 absent aggravation of a service-connected condition. Correcting this overly restrictive policy and examining why utilization is so low compared to registration will be an area of oversight for the committee.



Toxic Exposures

An Enduring Framework for VA's handling of Toxic Exposure Treatment and Claims

The process for addressing veterans with adverse health outcomes due to toxic exposure experienced during military service requires further attention from Congress and the VA. Recent congressional efforts to respond to specific cohorts of veterans (e.g., Agent Orange-exposed Vietnam veterans, Gulf War Era veterans, etc.) and their care needs have demonstrated that legislating for each cohort of veterans is costly, slow and fails to anticipate future incidences of toxic exposure that will inevitably arise. In the 116th Congress, Members in both the House and Senate introduced a legislative framework, initially developed by the Toxic Exposure in the American Military (TEAM) Coalition that fundamentally reforms and improves how veterans exposed to toxic substances receive health care and benefits from the VA. This bill, modeled on the successes of the *Agent Orange Act of 1991*, would be landmark legislation that creates a fair and uniform process for all cohorts of veterans for generations to come. It would utilize an independent commission that would trigger studies to be carried out by the National Academies of Sciences, Engineering and Medicine to inform VA's decisions for granting service-connected benefits. The committee will focus on arriving at consensus for a legislative path forward which could be informed by a roundtable on the issue of toxic exposures with representatives from the VA, VSOs and other federal entities like the Centers for Disease Control and Prevention (CDC) and the National Academies.

Reforming the VA Process on Claims Related to Burn Pit Exposure

During the 116th Congress, legislative reform of the process for claims associated with burn pit exposure was inspired by the VSO community and national media attention. Research regarding health outcomes for servicemembers and veterans exposed to burn pits is sparse. Additionally, there is no regulatory process to

establish disabilities or diseases presumed to be service-connected for burn pit exposure; rather, veterans must file claims for direct service-connection. This presents a high burden of proof for veterans who are dependent on the accuracy of record keeping on troop locations, burn pit sites and other information in order to prove their claims. Oversight on all these issues and coordinating legislative solutions with the TEAM framework (mentioned above) will guide the committee's work.



Veterans Benefits

Timely and Accurate Disability Claims Decisions

VA currently has approximately 500,000 pending claims, about 200,000 of which are considered to be backlogged. Additionally, there are nearly 40,000 appeals pending at VBA and nearly 120,000 at the Board of Veterans Appeals. COVID-19 has exacerbated this problem, delaying decisions due to delayed/cancelled disability exams at both VHA and private provider contract examination sites. As VA continues to work towards chipping away at this backlog, the committee will continue its oversight, both at VHA and through its third-party contracted vendors, to ensure medical disability exams are being provided timely and correctly. The committee will also continue to oversee the appeals process as VA continues to implement the changes mandated by the *Appeals Modernization Act*.

Additionally, unscrupulous actors are charging veteran claimants for services related to their initial disability claims, which is an unintended loophole in the law, as there is no accountability mechanism currently in place to deter these actions. The committee intends to work with stakeholders to put proper accountability measure in place to ensure veterans are not being taken advantage of and paying for a service that they should not have to. The committee will work to ensure that the third party entities who assist veterans in filing their disability claims have the appropriate oversight and are properly accredited to provide such services, as well as examine the fee structure so that both veterans and stakeholders are protected.

Education Benefits

Congress has enacted myriad improvements to the Post 9/11 GI Bill over the last several years. Additionally, the committee acted quickly to pass several bills last Congress in response to COVID-19, to protect student veterans, their eligible dependents and survivors using VA educational assistance benefits, who may have been negatively impacted by the pandemic. The committee will continue to provide oversight of these legislative changes as VA continues to implement and administer them. Additionally, the committee will work with stakeholders to ensure veterans are not negatively impacted by unscrupulous actors and schools who may prey on veterans while utilizing their benefits. Congress provided VA and its partners with accountability tools it can use to hold predatory schools and other bad actors accountable. The committee will continue its oversight to ensure these tools are utilized when appropriate and that VA implements accountability standards correctly.

Survivor Benefits

Survivors of veterans who die in service or as a result of service-connect disabilities are eligible for monthly VA monetary benefits called Dependency and Indemnity Compensation (DIC). Further, spouses and dependents of these veterans are eligible for educational assistance benefits under the Fry Scholarship and VA's Dependents' Educational Assistance (DEA) benefits program. Last Congress, legislation was enacted to expand educational assistance benefits under the Fry Scholarship for survivors of certain National Guard and Reservists who were not previously eligible, as well as legislation to provide additional educational assistance benefits to the survivors of Medal of Honor recipients. The committee will ensure these new benefits are administered correctly and will work with stakeholders on additional needed reforms, such as extending in-state tuition eligibility for out-of-state DEA recipients and improving DIC benefits.

VA Home Loan Guaranty and CARES Act Forbearance

VA administers a home loan guaranty benefit which allows eligible veterans and service members to purchase, construct or refinance homes with little to no down payment. Because of the disruptive impact COVID-19 has had on our economy, veterans being at-risk of foreclosure on their VA-backed homes is a serious concern. Included in the *CARES Act* was mortgage forbearance relief to help veteran homeowners experiencing

economic distress delay their mortgage payments in order to avoid foreclosure. As of August 1, 2020, VA's internal data showed that approximately 149,645 active guaranteed loans are in a *CARES Act* forbearance (approximately 4.3 percent of all active guaranteed loans). Typically, VA can act as intermediaries between veterans and their lenders to avoid foreclosure via a number a service options. However, with VA staff operations also impacted by COVID-19, it is imperative that the committee conduct oversight to determine whether VA has the necessary resources to continue to oversee and assist loan servicers as they pursue loss mitigation options to avoid foreclosure throughout the pandemic and subsequent economic turbulence.

VA Home Loan Guaranty Servicer Tier Rankings Development

The VA Loan Guaranty Service is currently in the process of developing a ranking system for mortgage loan servicers, with implementation expected in the fourth quarter of Fiscal Year 2022 (FY2022). This system will afford the Department another tool to evaluate mortgage loan servicer operations, including loss mitigation efforts and assign tier rankings to servicers. These rankings will then be used to determine levels of incentive payments for successfully completed loss mitigation options. Since mortgage loan servicers provide the primary servicing of VA-guaranteed loans, committee oversight of the Department's regulatory development and timely implementation of this tier ranking system is necessary to ensure veteran homeowners receive the highest quality loan servicing and are protected from foreclosure.

Native American Direct Loan Program

Housed within the VA's Loan Guaranty Service is the Native American Direct Loan (NADL) program, which serves Native American veterans, including veterans living in American Samoa, Guam and the Commonwealth of the Northern Mariana Islands by offering direct loans in certain circumstances. Prior to the NADL program's enactment in the 1990's, VA housing assistance to Native American veterans was minimal. While the NADL program has made VA housing assistance more accessible for Native American veterans, concerns remain regarding whether the program is as effective as Congress intended. Through FY2017, VA had entered into just over 1,000 loans through the direct loan program, only 24 of which were made in that year. Committee oversight is necessary to determine what shortcomings may exist potentially presenting a failure to reach more Native American veterans or whether there is another explanation for the low participation. Ranking Member Moran, Chairman Tester and several other SVAC Members (along with Senator Rounds) requested a Government Accountability Office (GAO) evaluation of the NADL program. GAO will begin this evaluation in the coming weeks; GAO's evaluation will guide the committee's continued oversight into the NADL program moving forward to ensure the program is effectively serving Native Americans veterans in their pursuit of homeownership.

Transition Assistance Program

Improvements made to the Department of Defense (DoD) Transition Assistance Program (TAP) within the *2019 National Defense Authorization Act (NDAA)* give service members and families adequate time to absorb a more tailored TAP experience for a successful transition. Ensuring new veterans have a successful transition from active-duty service to civilian life continues to be a critical component of suicide prevention efforts. Servicemembers and families now experience one-on-one counseling, as well as modified briefings and workshops which align with aptitude and current benefits. Additionally, during the 116th Congress, legislation was signed into law to ensure veterans have access to transition programs at off-military installation locations. However, sporadic personality-based leadership support for TAP and circumstances associated with the COVID-19 pandemic illuminate a need for additional oversight of the modernization. The 117th Congress is an opportunity for the committee to review strategies and areas for improvement, specifically focusing on new curriculum implementation, front line leader buy-in, unemployment statistics for each military service branch, spouse/family engagement and spouse employment. The committee will continue to coordinate with the DoD Military-Civilian Transition Office (MCTO), the Department of Labor's Veterans Employment and Training (VETS) and the VA Office of Transition and Economic Opportunity (OTED) to formulate strategic plans and management oversight opportunities.

Increased Oversight of Homeless Veterans Programs

The VHA Homeless Veterans Program Office received increased flexibilities, additional funding, and an authorization for program expansion during the 116th Congress to provide services for homeless veterans and those at-risk of becoming homeless. The number of homeless veterans has consistently decreased every year since 2009 because of steady yearly budget increases and a sound focus on programs with wrap-around

services associated with a Housing First model. However, there is uncertainty regarding whether the number of homeless veterans have increased since the onset of the pandemic. The annual Point-In-Time (PIT) Count, which is conducted every January, should help clarify how COVID-19 has impacted the number of veterans experiencing homelessness. According to the National Alliance to End Homelessness, an essential factor in making substantial progress toward reducing veteran homelessness in a particular area is whether the relevant VA Medical Center (VAMC) management has made veterans homelessness a priority and insisted on allocating resources accordingly. This is of particular importance in rural areas where transitional housing resources are sparse. The 117th Congress will be an excellent opportunity for increased oversight, including VAMC visits and field hearings, to ensure VAMC management is held accountable for ensuring the aforementioned expanded authority and resources are appropriately managed.



Burial and Memorial Affairs

Cemetery Oversight

To achieve VA's National Cemetery Administration's (NCA) strategic objective of providing 95% of veterans with a burial option within a reasonable distance from their homes, NCA embarked in 2014 on the largest expansion of the national cemetery system since the Civil War. The enacted expansion called for 18 new VA national cemeteries, including 8 rural cemeteries with a smaller footprint than a traditional national cemetery and 5 urban columbarium sites to accommodate cremated remains closer to each city's core. Many of these rural and urban initiative cemeteries are behind schedule and over budget. A September 2019 GAO report cited key NCA challenges of acquiring suitable land, estimating the costs associated with establishing new cemeteries and use of data to inform how its grants program targets unserved veteran populations. Committee oversight would provide an opportunity to learn from VA about the challenges encountered and what GAO recommendations are being adopted to finish the historic expansion and inform the future work of the Veteran Cemetery Grants Program.

Burial Eligibility

Currently, there are a few outstanding efforts to expand eligibility for interment at a national or state grant-funded veterans' cemetery. Such proposed expansions include burial eligibility for segments of ethnic Hmong veterans who served during the Vietnam War in support of American interests, examining if expanding eligibility for burial in grant-funded cemeteries for Guard members and Reservists is in line with recent benefits expansions for these groups, and examination of derivative eligibility for family members of qualifying veterans who have not reached length-of-service requirements for burial eligibility. A roundtable would be helpful to hear from NCA and state departments of veterans' affairs regarding burial eligibility, utilization of national and grant-funded veterans' cemeteries and ways to promote consistency in burial standards across the country.

Arlington National Cemetery (ANC) Eligibility

ANC's new eligibility criteria is currently going through the rulemaking process. The committee will need to monitor this years-long effort which has included input from the VSOs throughout, while remaining cognizant that there are VSOs which remain publicly opposed to certain of the proposed changes. With significant public opposition from VSOs, a roundtable to address current outstanding arguments for and against ANC's proposed eligibility revisions is warranted.



VA Business Modernization

Electronic Health Record (EHR) Modernization

In 2017, VA Secretary Shulkin approved a \$16.3 billion electronic health record modernization effort in order to update VA's decades-old electronic record platform and promote integration with the DOD's new system. In October 2020, VA moved forward with the Cerner Electronic Health Record at its first medical center in Spokane, Washington. To date, it has had major scheduling and productivity setbacks. The next scheduled location for the EHR rollout was to occur in Columbus, Ohio in the spring of 2021, but that deployment is on

hold pending the results of an ongoing investigation by VA in Spokane. Committee oversight would analyze the results of that investigation and guide a path forward to ensure functionality is delivered on time and on budget.

Leasing Process

Current law requires Congressional approval of all VA lease arrangements which are estimated to have annual rent of \$1 million or more. The current requirement of lease approval in law and Congress's inability to timely pass them due to Congressional Budget Office scoring has created a regular bottleneck of unauthorized leases, which slows veterans' access to care. Currently, there are 13 leases awaiting congressional approval in 11 states: Georgia, Indiana, Louisiana, Maryland, Missouri, North Carolina, South Carolina, Tennessee, Texas, Utah and Virginia. All 13 leases were requested in VA's FY2021 Budget Submission, and additional ones will likely be in the FY2022 submission. Oversight would inform a potential process change to improve how Congress authorizes major medical leases.

Focus on Major IT Programs

VA is now simultaneously undertaking more billion-dollar IT modernization programs than at any time in its history. These programs include Electronic Health Record Modernization, Financial Management Business Transformation, VA Logistics Redesign and the Digital GI Bill. Committee oversight will promote standardized reporting and management processes for each program and rigorous analysis to determine which programs have continued viability and which should be shuttered.

Asset and Infrastructure Review (AIR) Act

Contained within the *MISSION Act*, the Asset and Infrastructure Review (AIR) Act establishes an expedited process governing the modernization and realignment of VA's medical facility infrastructure nationwide. The Act requires the nomination of nine individuals with relevant expertise to an AIR Commission which will make recommendations to the President and Congress regarding the disposition of every VA facility using criteria contained in the Act itself. The AIR process has the potential to reshape the face of VA for decades to come, ensuring veterans have access to high-quality medical services in locations convenient to them and in facilities befitting 21st century medicine. The committee will work with VA, VSO stakeholders and the AIR Commission to ensure that the process adheres to the legal requirements of the Act and remains credible in the eyes of the public and, most importantly, veterans.