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BUSINESS MEETING

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WEDNESDAY, MAY 26, 2021

United States Senate,
Committee on Veterans' Affairs,
Washington, D.C.

The Committee met, pursuant to notice, at 3:00 p.m., in Room 301, Russell Senate Office Building, Hon. Jon Tester, Chairman of the Committee, presiding.

Present: Senators Tester, Murray, Sanders, Brown, Blumenthal, Hirono, Sinema, Hassan, Moran, Boozman, Tillis, Blackburn, Cramer, and Tuberville.

OPENING STATEMENT OF CHAIRMAN TESTER

Chairman Tester. I want to call this hearing to order. I know Senator Moran is on his way but we will keep going.

Today we are going to consider nominations for four key positions at the VA as well as a number of bills on behalf of veterans and their families, including comprehensive legislation on behalf of toxic exposure veterans. For decades, both VA and Congress have been either unable or unwilling to address the issue of toxic exposure in a comprehensive manner. Today we are going to take that critical first step.

The COST of War is comprehensive legislation that establishes a framework to fundamentally address the impacts

1 of toxic exposure on future generations of veterans. It
2 also provides much needed care and benefits to previous
3 generations of veterans already suffering from the impacts
4 of exposure during their military service, from those
5 serving in the jungles of Vietnam to those exposed to burn
6 pits in Iraq or Afghanistan.

7 There is no denying that this is an incredibly complex
8 issue that comes with a high price. If it was easy it would
9 have been done long ago. I am under no illusion that the
10 bill before us is the final product, but our actions today
11 will send an important message to the public, to the
12 veterans, in particular, that we are serious about
13 addressing toxic exposure in a meaningful way, and we are
14 starting today. It is a critical first step that serves as
15 a baseline from which we can work on a bipartisan basis.

16 To that end, my commitment to the Ranking Member is
17 that I will not advance the bill to the floor without his
18 consent, and I commit to all of you to work in a transparent
19 and bipartisan manner to address any concerns related to the
20 cost or potential negative impacts on the VA. That means
21 forcing the VA, OMB, CBO, and others to the table so that we
22 can have as much information as possible before we make our
23 final decision. And after negotiating a path forward with
24 the House and the administration, that means convening this
25 Committee in a public setting so you will have another

1 opportunity to ask questions and share your thoughts.

2 This bill, the COST of War Act, represents a
3 culmination of bipartisan efforts to provide health care and
4 compensation to generations of toxic exposure veterans. We
5 made a promise to the men and women who fought our wars that
6 Congress would fight for them. It is time that we settle
7 our debts and finally address this hidden cost of war.
8 Veterans have waited decades for VA and Congress to act.
9 They should not have to do that. If we get this bill done,
10 they will not have to wait any longer.

11 With that I turn it over to Ranking Member Moran. Over
12 to you.

13 OPENING STATEMENT OF SENATOR MORAN

14 Senator Moran. Chairman Tester, thank you. As you may
15 have said before I walked in the door we are considering
16 four nominations today and six pieces of legislation. I
17 support the nominees and five of our six bills, and am
18 pleased to vote those out of Committee.

19 The COST of War Act is trying to deliver on a promise
20 this country made, and, Mr. Chairman, I agree with a
21 sentiment that you expressed, which is the decision to spend
22 money, provide resources and assistance to our veterans is
23 made the day we ask them to go into battle. Our job is to
24 figure out how to meet their needs. Our job is to figure
25 out how to do that in a way that makes sense, that does not

1 damage other veterans and their interests, and that makes
2 certain that our dollars are spent effectively and
3 efficiently.

4 If you serve in the military and you are injured or
5 made ill because of that service you should not go without
6 health care for those conditions and you should be
7 compensated for loss of income due to those injuries or
8 illness.

9 Unfortunately, the current process is not fulfilling
10 the promise that we made to veterans who are sick due to
11 toxic exposure. I am committed to fixing this process so
12 that veterans can get the care and benefits they need, they
13 have earned, and it is why I will vote to advance the COST
14 of War Act today.

15 But this bill, in my view, still needs a lot of work.
16 Crucially, we do not know the cost or impact of the
17 legislation and how it will impact or affect the operations
18 of the Department of Veterans Affairs. We do not know, for
19 example, what this legislation means to the backlog of over
20 300,000 claims. It would have been my preference for this
21 Committee to resolve those issues before voting on whether
22 or not it is ready for debate on the Senate floor.

23 This Committee has been, for a long time, for as long
24 as I have been involved in it, an example of how both sides
25 can set aside their differences and work together to pass

1 legislation with the goal of supporting our nation's
2 veterans. I talk at home to my constituents, and it is the
3 place that I would tell them is the last, perhaps, bastion
4 of bipartisanship, and I want to keep it that way. It is
5 certainly my desire today to see that that cooperation
6 between the majority and the minority continue.

7 Chairman Tester committed to address the outstanding
8 concerns that Committee members have before any
9 consideration of this bill by the full Senate, so today,
10 despite the vote, there is still much work to be done, much
11 work for us to complete as a Committee, before we truly have
12 a solution that provides the help our veterans are entitled
13 to and need.

14 We must get formal views from the administration and
15 the detailed cost estimates from the CBO and the OMB. I
16 would feel much more comfortable if the Department of
17 Veterans Affairs, prior to today's mark-up, had provided
18 those views. They have declined to do so, and perhaps this
19 effort on our part today will cause them to respond
20 appropriately.

21 We need to understand what actions VA has the authority
22 to do now, and this legislation, how it would affect
23 veterans currently receiving care and benefits. My goal is
24 to make certain that in directing the VA to provide care for
25 additional veterans we do not diminish their ability to care

1 for all veterans.

2 Again, I will support this legislation today with the
3 commitment that we will work together, work in the best
4 interest of veterans, to get this legislation right.

5 Thank you, Mr. Chairman.

6 Chairman Tester. Thank you, Senator Moran, and I do
7 not disagree with anything that you said, so we will move
8 forward.

9 I want to thank everybody for being here. I know it is
10 busy, but we have a quorum. We have four nominations and
11 six legislative agenda items. But first, with your consent,
12 Senator Moran, I want to open the floor to discussion on the
13 COST of War Act, and consider any amendments, then hold a
14 voice vote on the bill, followed by a separate voice vote on
15 the four nominations and the five remaining legislation
16 items en bloc. Are you okay with that?

17 Senator Moran. Please proceed, Mr. Chairman.

18 Chairman Cardin. Okay. The floor is now open for
19 discussion, and I want to recognize Senator Blackburn
20 because I understand she has a commitment.

21 Senator Blackburn. Thank you so much, and yes, I do
22 have a commitment with my grandson, so thank you for letting
23 me go first.

24 First let me say I support dealing with the toxic
25 exposure issue and have worked on K2 legislation to deal

1 with some of our Special Forces members that are at Fort
2 Campbell. But this is not the Committee mark-up that these
3 veterans deserve.

4 The True Cost of War Recognition Act will require the
5 VA to completely reshape the way it processes toxic exposure
6 claims and will establish a presumption of service
7 connection for multiple diseases. Does the VA have the
8 capacity to absorb the provisions in this legislation? They
9 have a significant backlog, so probably not. How long will
10 it take the VA to fully implement it? They have not been
11 able to deal with Community Care. They have not been able
12 to deal with electronic records.

13 These are simple answers to questions that Committee
14 has yet to receive from the VA, because we have chosen to
15 not put the work in on the front end. It is safe to say
16 that this bill would likely exacerbate the growing claims
17 backlog caused by the Agent Orange Veteran Exposure bill and
18 the pandemic. Today, the claims backlog is 188,000. On May
19 12th, the VA testified before this Committee and told
20 Chairman Tester that the claims backlog could reach 240,000
21 by August.

22 So when will the veterans included under this bill see
23 their first benefit? If we cannot answer that simple
24 question we are giving veterans all across this nation a
25 false hope. Our veterans make sacrifices for this nation,

1 and they deserve the high-quality care that they have been
2 promised, at the right place and at the right time, to
3 alleviate the burdens they may carry physically,
4 spiritually, and emotionally.

5 That is why I have submitted an amendment to allow
6 veterans covered under this bill to be immediately eligible
7 to seek services through the Veterans Community Care
8 Program. This amendment will provide veterans with access
9 to the care they deserve, in a timely manner. That is
10 something that we all should agree on.

11 Mr. Chairman, at this time I move to withdraw the
12 amendment to allow you and the Ranking Member to smooth out
13 differences on how to address cost and operational concerns
14 and to receive VA official views to inform the Committee on
15 additional work that is needed for this bill, and to find a
16 way to provide this care that is expected of these veterans
17 in a timely manner.

18 Chairman Tester. Thank you, Senator Blackburn.
19 Anybody else have discussion or an amendment? Senator
20 Tillis. No? What is that? I think Senator Blackburn is
21 done, so you are up next.

22 Senator Tillis. Thank you, Mr. Chairman. First I just
23 want to thank you for the reassuring comments in your
24 opening statement and for working with the Ranking Member on
25 really just being sensitive to the concerns I think that we

1 all share. I appreciate that. I also appreciate the
2 minority and majority staff, particularly the majority staff
3 that have been working with my office.

4 I also want to thank the members of this Committee for
5 passing out, on a unanimous basis, the TEAM Act, in the last
6 Congress, and I appreciate your support along the way. The
7 TEAM Act is part of the COST of War Act, but it goes beyond
8 that. And I think that the issues or the concerns we have
9 are really rooted in knowing what the total cost of the COST
10 of War bill was going to be.

11 The reason I put together an amendment--I intend to
12 withdraw it--is we have got an odd circumstance when we are
13 talking about a bill that could be, once we get a CBO score,
14 in the hundreds of billions, the extreme, \$1 trillion. And
15 the purpose of the amendment, which I would not ask for a
16 vote on today, would be to have the VA Secretary certify
17 that it would not disrupt providing services that they are
18 already responsible for. We cannot have this diminish,
19 given them almost an unfunded mandate that almost certainly
20 has to come from somewhere.

21 But I think that the process that you have used to
22 understand the concerns and the commitment that we have to
23 not move the bill until we get answers, most importantly, a
24 definitive answer from the Department, who seems to think
25 that their study could produce result that would actually

1 not require any congressional action, I find that suspect.

2 But let's just go through that process and work on, you
3 know, in the tradition of this Committee, a good bipartisan
4 outcome. So I will be supporting the COST of War Act. I am
5 withdrawing my amendment, and I look forward to supporting
6 the other amendments that may come forth. Thank you.

7 Chairman Tester. Thank you, Senator Tillis. I
8 appreciate your leadership on this issue.

9 Does anybody else have an amendment?

10 [No response.]

11 Chairman Tester. Comment?

12 [No response.]

13 Chairman Tester. All right. Hearing no further
14 discussion we will proceed with a voice vote on the COST of
15 War Act of 2021, if there is no objection.

16 This is a voice vote, so all in favor, say aye.

17 [Chorus of ayes.]

18 Chairman Tester. Opposed, nay.

19 [No response.]

20 Chairman Tester. The ayes appear to have it. Agenda
21 Item 5 is ordered reported.

22 We are now going to turn to the four nominations.

23 Moving first to Agenda Item 1, is there any discussion
24 on the nomination of Donald M. Remy to be Deputy Secretary
25 of Veterans Affairs?

1 [No response.]

2 Chairman Tester. Hearing no discussion, if there is no
3 objection we will continue to a voice vote.

4 All those in favor say aye.

5 [Chorus of ayes.]

6 Chairman Tester. Opposed, nay.

7 [No response.]

8 Chairman Tester. The motion carries. Agenda Item 1 is
9 ordered reported.

10 Now we are going to move to Agenda Item 2. Is there
11 any discussion on the nomination of Matthew T. Quinn to be
12 Under Secretary of Veterans Affairs for Memorial Affairs?

13 [No response.]

14 Chairman Tester. Hearing no discussion we will go to
15 the voice vote.

16 All in favor of Matthew Quinn to be Under Secretary of
17 Veterans Affairs for Memorial Affairs say aye.

18 [Chorus of ayes.]

19 Chairman Tester. Opposed, nay.

20 [No response.]

21 Chairman Tester. The ayes appear to have it. Agenda
22 Item 2 is ordered reported.

23 Now moving to Agenda Item 3. Is there any discussion
24 on the nomination of Maryanne Donaghy to be Assistant
25 Secretary of Veterans Affairs for the Office of

1 Accountability and Whistleblower Protection?

2 [No response.]

3 Chairman Tester. Hearing no discussion, if there is no
4 objection we will continue to a voice vote.

5 All in favor say aye.

6 [Chorus of ayes.]

7 Chairman Tester. Opposed, nay.

8 [No response.]

9 Chairman Tester. The Agenda Item 3, nomination of
10 Maryanne Donaghy as Assistant Secretary of Veterans Affairs
11 is reported.

12 Now to Agenda Item 4. Is there any discussion on the
13 nomination of Patricia Ross to be Assistant Secretary of
14 Veterans Affairs for the Office of Congressional and
15 Legislative Affairs?

16 [No response.]

17 Chairman Tester. Hearing no discussion we will go to a
18 voice vote, without objection.

19 All those in favor say aye.

20 [Chorus of ayes.]

21 Chairman Tester. Opposed, nay.

22 [No response.]

23 Chairman Tester. Agenda Item 4 is ordered reported.

24 Now we have four remaining bills. I want to turn to
25 Agenda Items 6 through 10. Having no amendments to Agenda

1 Items 6 through 10 I would like to now proceed en bloc with
2 those--I am sorry, with those five items, which include S.
3 89, the Committee Print of Ensuring Survivor Benefits During
4 COVID-19 Act of 2021; S. 189, the Committee Print of the
5 Veterans' Disability Compensation COLA Act of 2021; S. 895,
6 the Committee Print of the Hire Veterans Health Heroes Act
7 of 2021; S. 1031, a bill to require the Comptroller General
8 of the United States to conduct a study on disparities
9 associated with race and ethnicity with respect to certain
10 benefits administered by the Secretary of Veterans Affairs,
11 and for other purposes; and S. 1095, the Colonel John M.
12 McHugh Tuition Fairness for Survivors Act of 2021.

13 I would ask that there is a motion for these five
14 agenda items to be reported favorably en bloc.

15 Senator Moran. Mr. Chairman, I so move to report
16 favorably these five items en bloc.

17 Chairman Tester. Second?

18 Senator Blumenthal. Second.

19 Chairman Tester. Is there any discussion on these
20 items before we vote?

21 [No response.]

22 Chairman Tester. Hearing no discussion we will
23 continue with the en bloc voice vote.

24 All those in favor of reporting Agenda Items 6 through
25 10 favorably say aye.

1 [Chorus of ayes.]

2 Chairman Tester. All opposed say nay.

3 [No response.]

4 Chairman Tester. The ayes appear to have it. Agenda
5 Items 6 through 10 are ordered reported.

6 Before I close, does anybody have a comment they would
7 like to make?

8 I want to express my appreciation to--

9 Senator Boozman. Mr. Chairman?

10 Chairman Tester. Go ahead.

11 Senator Boozman. The only thing I would like is to
12 have a statement put in the record, and I do appreciate the
13 great work that you and our Ranking Member have done in
14 getting us moving forward, and we look forward to gathering
15 a little bit more information and hopefully getting this
16 thing done.

17 Chairman Tester. Without objection, the statement for
18 the record is entered, and I echo those comments towards
19 you, Senator Boozman. You have been very good on this
20 Committee.

21 [The prepared statement of Senator Boozman follows:]

22 / COMMITTEE INSERT

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1 Chairman Tester. And I want to thank everybody for
2 their participation today and their participation on this
3 issue. This is a huge issue. It is going to take input
4 from everybody on this Committee to make sure this bill gets
5 ready for prime time. I look forward to working with each
6 and every one of you to get that done, especially you,
7 Ranking Member Moran. Do you have a statement?

8 Mr. Murphy. I do not, Mr. Chairman.

9 Chairman Tester. Okay. I ask unanimous consent that
10 in preparing the agenda items for reporting that Committee
11 staff be authorized to make any required clerical,
12 technical, or confirming changes.

13 If there is no remaining business to come before the
14 Committee I hereby adjourn. Thanks, everybody.

15 [Whereupon, at 3:44 p.m., the Committee was adjourned.]

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