

Government Affairs Report

June 24, 2018

New Jersey Senate Military and Veterans' Affairs Committee

As we move along in the current legislative session (2018-2019), there are some changes and one new face on the Senate Military and Veterans Affairs committees.

Senate Military and Veterans Affairs Committee

Chairman Troy Singleton (District 7) is now the chairman.

Vice Chairman Jeff Van Drew (District 1) continues to serve on the committee.

Christopher Connors (District 9) continues to serve on the committee.

Joseph Pennacchio (District 26) is new to the committee.

Joseph A. Lagana (District 38) is new to the committee.

Of course there are new faces on other committees in both chambers also. There is currently one vacancy to fill yet in the Assembly.

Under ideal conditions, it would be great to have at least one person in every chapter responsible for legislative activities. The more contact we have with our elected officials, the more likely they will respond to our requests.

There are 7,509 bills introduced in Trenton as of June 21, 2018. 391 deal with veterans' affairs or with military matters. There will be many more before this session is over in early January 2020.

Keeping Busy

May and June have proven to be very busy in terms of legislation. I have attended several VELAC meetings since the last report plus attending a number of committee hearings in both the Senate and Assembly during that time. Progress on some legislation is being made. I have also met with Terry Dearden, Department of Military and Veteran Affairs, Office of Government Relations to discuss veterans' and military legislation.

VA National Suicide Data Report 2005–2015

The VA has just released the VA National Suicide Data Report 2005–2015 and the news is not good.

The report states that there continue to be at least 20 suicides per day. And of the 20.6 suicides per day recorded, 16.8 were veterans and 3.8 were active-duty servicemembers, guardsmen and reservists. That's new information. These numbers never before differentiated between active-duty troops and veterans.

That means at least 1,387 servicemembers died by suicide in one year. That's 42 times the number of troops killed in combat in 2017!

The 48 page report is available at:

https://www.mentalhealth.va.gov/docs/data-sheets/OMHSP_National_Suicide_Data_Report_2005-2015_06-14-18_508-compliant.pdf

VA Provides Reorganization Plan to Strengthen and Modernize Department

June 21, 2018 the Department of Veterans Affairs (VA) announced specific recommendations in the President's "Delivering Government Solutions in the 21st Century" - Reform Plan and Reorganization Recommendations."

The plan outlines five modernization initiatives currently underway that will enable VA to more effectively deliver benefits and services to America's Veterans. These initiatives include: Electronic Health Record, Community Care, Appeals Modernization, Financial Management Business Transformation and Legacy IT System Modernization.

Additionally, the plan calls for the transfer of 11 military and Veterans cemeteries from the Department of the Army to VA's National Cemetery Administration. The transfer would increase efficiency, limit mission overlap and ensure that these cemeteries are maintained to national shrine standards. VA and the Department of Defense are working together to develop plans for the transfer, continuous care and operation of these 11 sites.

Steps Taken to Improve Physician Staffing, Recruitment, and Retention, but Challenges Remain

Statement of Debra Draper, Director, Health Care (Testimony Before the Subcommittee on Health, Committee on Veterans' Affairs, House of Representatives "MORE THAN JUST FILLING VACANCIES: A CLOSER LOOK AT VA HIRING AUTHORITIES, RECRUITING, AND RETENTION")

GAO-18-623T June 21, 2018

This statement is based on GAO's October 2017 report and examines (1) VHA information on how many mission critical physicians provided care at VAMCs, (2) VHA guidance for determining its physician staffing needs, and (3) the strategies VHA used to support the recruitment and retention of physicians at VAMCs, and the extent to which it has evaluated these strategies to determine their effectiveness.

For this statement, GAO updated the information from its October 2017 report and obtained information from VHA officials in June 2018 about steps they have taken to implement the 2017 recommendations.

Note: In addition to the 170 VAMCs, VHA also operates 1,082 outpatient sites of care, such as health care centers and community-based outpatient clinics.

Michael J. Missal Inspector General Department of Veterans Affairs also addressed the Subcommittee on Health Committee On Veterans' Affairs U.S. House of Representatives at the hearing.

The VA Office of Inspector General (OIG) recently conducted a review in response to newly established requirements in the VA Choice and Quality Employment Act of 2017 (VCQEA). The law requires the OIG to report a minimum of five clinical and five nonclinical VA occupations that have the largest staffing shortages at each medical facility. This is in contrast to the prior mandate to report the five largest staffing shortages throughout VHA. This is OIG's fifth annual determination of staffing shortages in VHA.

The report, "OIG Determination of Veterans Health Administration's Occupational Staffing Shortages" REPORT #18-01693-196 was released June 14, 2018.

Reduce AFRH Huge Rent Increase for Military Retirees

Armed Forces Retirement Home military retiree residents in Gulfport, Mississippi and Washington, DC are scheduled to see a huge increase in rent effective October 1, 2018. Fees for those in the independent living program (75 percent of residents) are based largely on income. Beginning October 1, 2018, these fees will increase from 40 percent of income to 60 percent of income. The current maximum rent is \$1,458 per month. After October 1, the maximum rent will be \$3,054 per month. Many of the residents who live there are elderly and on a fixed and limited income. This extraordinary raise in rent will put a financial burden on those who have served our Nation.

The NDAA, recently passed by the Senate provides a cap on rent increases and prohibits removal of a resident solely on their ability to pay.

Please contact your Representative to urge them to support this provision in the final bill.

Another Bill Targeting VA Execs Clears Congress

Congress has sent to President Trump HR-2772, the latest in a years-long series of measures targeting senior executives at the VA, this one a response to a 2015 IG audit questioning some reassignments as more for personal benefit than for official need.

H.R. 2772, "VA Senior Executive Accountability Act" or the "SEA Act," introduced by Representative Scott Taylor of Virginia on June 6, 2017. H.R. 2772 would require the Secretary of the U.S. Department of Veterans Affairs (VA) to personally approve of a reassignment of any VA employee, submit a semiannual report to Congress identifying those employees who were reassigned and the costs associated with this reassignment.

A House report on the bill (H. Rept. 115-248) also cited "the perceived practice that VA moves senior officials to another location within the department instead of providing true accountability for the misconduct or poor performance for members of the SES."

The bill would require the VA to semiannually report to Congress about where senior executives are being moved and to report all expenses associated with such moves. In addition, the VA secretary would have to personally approve all reassignments of SES employees to ensure that such moves are justified and are in the best interests of the department, veterans, and taxpayers.

The report added that in light of the IG audit and subsequent attention in Congress, the VA suspended the use of the "appraised value offer" (AVO) program that the department used to help sell the homes of SES employees when they were reassigned to a new position within the department, "often at a significant expense to the taxpayer," but then "quietly reauthorized the AVO program with little to no transparency on its use or new implementation policy to avoid abuse."

Oppose NDAA TRICARE Fee Increase!

The Senate version of the National Defense Authorization Act (NDAA) that passed the Senate will increase TRICARE fees on retirees under age 65 who retired before January 1, 2018. This provision would increase TRICARE Prime annual fees (currently \$282 for individuals/\$565 for families) to \$350 for individual/\$700 for family. TRICARE Select annual fee (currently \$150 for individual/\$300 for family) would increase to \$450 for individual and \$900 for family. These increases are achieved by repealing the "grandfather clause" created with the 2017 NDAA.

The House NDAA does NOT have a TRICARE fee increase and it passed the House in May. Now that both bills have passed their chamber of origin a conference committee will be appointed to resolve the differences between the two bills.

Please urge your Representative to oppose this provision in the final bill.

Help Make Air Travel Safer For Our Veterans With Disabilities

The Air Carrier Access Act (ACAA) was passed more than 30 years ago to protect the rights of people with disabilities. Today, right now, we have an opportunity to make flying safer for veterans, and all people, with disabilities.

Your help is needed to cross the finish line. The Senate's version of the House-approved FAA Reauthorization Act (H.R. 4) will likely reach the floor this month. Please call your Senators now and help build the support needed to pass this critical bill promising to:

- Develop a bill of rights for passengers with disabilities
- Increase civil penalties for damage done to passengers or their wheelchairs
- Evaluate areas for increased accessibility

Too often we hear horror stories about flying from our veterans. Inaccessible restrooms, broken lifts and costly wheelchairs getting lost or damaged to the point they can't be used again. Why can't air travel be safer for people with disabilities?

The truth is, it can be. But ONLY if we come together right now and take action on behalf of our brave heroes and others with disabilities. Please call your Senators and ask them to pass the FAA Reauthorization Act (S. 1405) when it comes to the floor.

Congressman Frank LoBiondo (NJ-2) cosponsored this legislation.

Veterans Treatment Court Improvement Act of 2018 (HR 2147)

H.R. 2147, passed by the House June 13, 2018 requires the Department of Veterans Affairs (VA) to hire at least 50 Veterans Justice Outreach Specialists under the Veterans Justice Outreach Program. Each of these specialists must serve as part of a justice team in a veterans treatment court or other veteran-focused court.

A specialist hired under this bill must be placed at a VA medical center that:

- complies with VA guidelines for specialist placement;
 - works within a local criminal justice system with justice-involved veterans;
 - maintains an affiliation with one or more veterans treatment courts or other veteran-focused courts;
- and
- provides specialists or establishes a VA-approved plan to provide specialists to serve as part of a justice team.

The VA shall prioritize the placement of these specialists at medical centers that have an affiliation with a court that was established after this bill's enactment or is not fully staffed with specialists.

The Government Accountability Office shall report to Congress on the effectiveness of the Veterans Justice Outreach Program.

This legislation was cosponsored by Rep. Donald Norcross (NJK-1) & Rep. Thomas MacArthur (NJ-3).

H.R.4635 - To direct the Secretary of Veterans Affairs to increase the number of peer-to-peer counselors providing counseling for women veterans

This bill, passed by the House June 13, 2018, directs the Department of Veterans Affairs (VA) to emphasize appointing peer support counselors for women veterans. The VA shall recruit women peer support counselors with expertise in gender-specific issues and services, VA services and benefits, and employment mentoring.

The VA shall:

- emphasize peer support counseling for women veterans who suffered sexual trauma while in the Armed Forces, have post-traumatic stress disorder or another mental health condition, are homeless, or are at risk of suicide;
- conduct program outreach;
- coordinate with community, business, educational, and state and local government entities; and
- provide peer support counselor training.

H.R. 5553, the Loya-Sears Warrior Transition Assistance Reform Act

April 18, 2018, Congressman Don Bacon introduced H.R. 5553, the Loya-Sears Warrior Transition Assistance Reform Act. This bill requires the Department of Defense (DoD) to implement an action plan to improve the DoD Transition Assistance Program (TAP) by mandating earlier pre-separation counseling, standardizing curriculum, increasing participation rates, and improving transition assistance resources. The bill also requires the development and measurement of long-term metrics to assess outcomes and provide continuous feedback to DoD transition assistance program managers, in coordination with the VA and the Department of Labor.

Current policy allows retiring service members to start TAP two years before they retire and separating service members to start the program one year, but no later than 90 days, before getting out of the military. DoD does not track averages of when service members go through the program, however a recent Government Accountability Office report found more than half of service members, 53.3 percent, are not completing TAP by the 90-day mark, and only 2.6 percent are completing the program nine months or more before leaving the military. In addition, there is little oversight to ensure that the program includes veterans service organizations (VSOs) like the DAV, to be incorporated in its workshops.

H.R. 5553 bill would require service members to start TAP one year before separation, establish reporting metrics that can be used to glean successes of the program, and would ensure unit and installation compliance with applicable statutes governing TAP program management, to include VSO participation.

Please reach out to your Representative to cosponsor and support passage of H.R. 5553, the Loya-Sears Warrior Transition Assistance Reform Act.

VA Telemedicine

VA regulations allowing Department physicians to “provide care from anywhere to anywhere” went into effect this month. The regulations allow VA providers to treat patients anywhere in the United States, regardless of location, through telemedicine. The Department of Defense already has this authority. Lawmakers are beginning to talk about expanding this into the private sector in order to increase access to specialty care (especially mental health and substance use disorder) in rural areas.

S.2141, the Military Justice Improvement Act of 2017

VVA supports S.2141, the Military Justice Improvement Act of 2017, introduced by Senator Kirsten Gillibrand (D-NY). This legislation, with 28 co-sponsors from both sides of the aisle, would modify various authorities related to procedures for courts-martial under the Uniform Code of Military Justice. Both Senator Booker and Senator Menendez are cosponsors.

Senator Gillibrand has been a leader in the effort to change the way sexual assaults in the military are adjudicated.

The number of sexual assaults in the military reported by victims increased to 6,769 in 2017, a 10 percent increase over 2016 and the largest percentage increase in four years. Each of the military services saw significant increases in the number of reports of sexual assaults from the previous year, with the Marine Corps reporting the largest spike, a 14.7 percent increase. The Army reported an increase of 8.4 percent, the Navy 9.3 percent, and the Air Force a 9.2 percent increase, according to the Annual Report on Sexual Assault in the Military for Fiscal Year 2017.

VVA has long been vocal on this issue, testifying as early as 1992 in congressional hearings precipitated by the Navy's Tailhook scandal. We stand with the thousands of victims – men as well as women – many of whom suffered in silence and/or whose military career was terminated when they insisted upon charging a superior officer. The disturbing military 'secret' of sexual assault can no longer be swept away, thanks in great measure to the efforts of Senator Gillibrand.

VVA's Founding Principle is Never again will one generation of veterans abandon another. The men and women of our Armed Forces deserve to be treated with dignity and respect, which is part of the reason why we strongly support S.2141.

Please reach out to our Senators asking them to support S.2141, the Military Justice Improvement Act of 2017, on the Senate floor as an amendment to the National Defense Authorization Act of 2019.

GAO Questions DoD's Figures on Excess Capacity

In a report that could throw yet more cold water on Pentagon plans to conduct another base realignment and closures round, GAO has challenges DoD's assessment of its excess capacity, which the department has cited repeatedly as the justification for another round.

The report - DOD's Excess Capacity Estimating Methods Have Limitations GAO-13-535 was publicly released June 20, 2013.

GAO's report likely will have little immediate impact since, unlike in previous years, the Pentagon did not ask during this year's budget cycle for authority to hold another round of closings and consolidations like those that in the past resulted in the loss or transfer of tens of thousands of civilian DoD jobs. However, the department has continued to say it has a fifth too much capacity and that the money spent on it would be better used for improving military readiness; it has indicated it wants to revisit the issue in the future.

GAO's report was done in response to language Congress inserted in the 2016 DoD budget bill--one of a series that rejected what had been annual DoD requests for a new BRAC round--requiring the department to submit a "force structure plan and a categorical infrastructure inventory of worldwide military installations" as the report summarized. The Pentagon issued that report late last year.

GAO said the report met most of the standards Congress had set for the assessment but "did not provide a complete picture of the infrastructure needed" to support the force structure. GAO said the report used a baseline dating to 1989 that "does not reflect updates in DoD facility standards and requirements or requirements associated with new weapon systems"; it "includes assumptions . . . that may not be reasonable"; the "method for estimating excess capacity is not always sufficient because the installation selection process does not result in a generalizable sample"; and the military services "did not follow a consistent approach."

GAO made three recommendations, saying that without them, "neither DoD nor Congress will have the necessary information to make decisions concerning the management of excess infrastructure capacity across the department." The department agreed with one and partly agreed with the other two "and plans to incorporate them in any future capacity analysis," GAO said.

Incentives Not Making Up for Inadequate Pay at VA, Says Report

VA medical facilities say that non-competitive salaries, high staff turnover and a lack of qualified applicants are the primary reasons behind the department's difficulties in recruiting and retaining employees, particularly in the medical fields, according to an IG report.

The report - OIG Determination of Veterans Health Administration's Occupational Staffing Shortages FY 2018, 18-01693-196 was issued June 14, 2018.

Inadequate pay commonly is blamed for shortfalls in other federal occupations, particularly in cybersecurity and other IT-related fields; shortcut hiring procedures and various types of financial incentives commonly are recommended as a response. However the report said the problem persists at the VA even though it already uses such flexibilities.

The House Veterans Affairs Committee held a hearing to consider VA recruiting and retention issues, including findings of the report and those of a 2017 GAO report which found the department does not have even a good count of its medical personnel and has not fully evaluated its recruitment and retention programs.

The IG survey of 141 VA medical facilities found that psychiatry, HR management, primary care, psychology and medical technologist were the occupations most commonly designated as shortage categories. "Facilities reported encountering recruitment challenges generally related to the competition for quality healthcare professionals. . . Facilities noted that many position descriptions and their associated pay determinations were too low to be competitive with private sector salaries."

It said that the facilities "have made use of multiple recruitment endeavors such as special salary rates, incentives (for recruitment, relocation, and retention), and the education debt reduction program. It was noted that even with these options, recruitment challenges continued for certain professions." The VA also uses streamlined "direct hire" procedures for a variety of occupations, some in the medical field, but "without the financial resources to fund the positions [that authority] has little impact."

Since the early 1980s, bipartisan compromise has become harder to achieve in Congress, in part because of the disappearance of moderate Republicans and conservative Democrats. We have watched as the distance between the most conservative Democrats and the most liberal Republicans has grown significantly.

To the extent that major legislation still gets done, it tends to happen on a bipartisan basis, but it is harder to build those coalitions in a time of polarized parties. As a result our Congressional leaders are

heading into legislative environments where ideological positions make it more difficult to work collaboratively, regardless of the tactics they use.

The emphasis on messaging and the potential of shifts in party control also means that there can be increased value in putting bills on the floor that are intended to fail. A majority party may think it worthwhile to write a piece of legislation that it knows will not become law in order to signal to its voters and interest group allies what it would do if it had more power after the following election. Aside from the waste of time and resources; and other than catering to the supporters of the party engaging in this activity; nothing viable results from these activities.

We watch as both parties exploit all of their individual procedural rights to try to achieve political goals. To us it appears that once interest group allies and other external audiences began rewarding our elected officials for using obstructive tactics in the chambers, these elected individuals' incentives to engage these behaviors increased. Take, for example, the government shutdowns or threats to shutdown.

It seems that some believe there is political value in using all of the available procedural tools, and thus some are likely to do so at the expense of bipartisan legislative work.

These broader political circumstances have also made it more difficult for legislators of both parties to unite to do the work necessary to keep our government functioning at optimum levels. The hardship imposed by the sequestration is a prime example of how a dysfunctional government can impact the operations of our Armed Forces.

We are still sending many members of the Armed Forces into dangerous, hazardous areas. The military contains a large potential for danger under peaceful conditions by the very nature of its operations. When Congress fails to provide regular funding on time, it adds unnecessarily to the risks faced by those in uniform. Those serving in uniform to protect our nation and its values deserve better. It is time those in elected office understand their responsibilities to those serving in uniform.

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