



# WASHINGTON UPDATE

*Recent news regarding legislation and regulatory actions affecting veterans and people with disabilities.*

Written and produced by Paralyzed Veterans of America - Government Relations Department

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## **SENATE VETERANS' AFFAIRS COMMITTEE HOLDS NOMINATION HEARING FOR ROBERT WILKIE**

On June 27th, Robert Wilkie, President Trump's nominee to serve as head of the Department of Veterans Affairs (VA), testified at his nomination hearing before the Senate Veterans' Affairs Committee. Mr. Wilkie was nominated to the position following a recent stint serving as Acting VA Secretary in the wake of the departure of Dr. David Shulkin.

During the hearing, Democratic Senators pressed Mr. Wilkie on his views concerning privatization of VA health care. Mr. Wilkie consistently stated his opposition to any privatization efforts. He also asserted his intent to be transparent and, if needed, to stand with veterans over the views of the President. Importantly, he also highlighted VA's SCI care on two occasions, noting the importance of VA continuing to provide such specialty care.

The Senate Veterans' Affairs Committee voted on July 10th to send his nomination to the full Senate. Based on support expressed by the committee, it appears that Mr. Wilkie is headed for confirmation. With congressional leaders anxious to have permanent leadership in place at VA as implementation of the VA MISSION Act begins it is likely that a floor vote will take place soon.

## **HOUSE VA SUBCOMMITTEE ON HEALTH ADVANCES LEGISLATION**

On June 27th, the House Veterans' Affairs Health Subcommittee held a markup and advanced seven bills by voice vote to the full committee. These provisions were considered in a subcommittee hearing in early June where PVA offered a statement for the record. Committee members modified the bills based on that feedback. Of particular interest to PVA, was H.R. 5693, the Long-Term Care Veterans Choice Act. This bill would allow VA to contract with non-VA adult foster homes for certain veterans who would otherwise require institutional care. Sponsored by Congressman Clay Higgins (R-LA) and co-sponsored by Congresswoman Julia Brownley (D-CA) the bill received praise and swift support.

Another bill of note was H.R. 5974, the Department of Veterans Affairs Creation of On-Site Treatment Systems Affording Veterans Improvements and Numerous General Safety (VA COST SAVINGS) Enhancements Act. This legislation would require VA to use on-site regulated medical waste treatment systems at VA facilities. Currently, most VA facilities dispose of hazardous waste by contracting for removal by truck. This is both costly and potentially dangerous. On-site systems would mitigate such factors.

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Subsequent to the subcommittee's action, on July 12th, the full committee approved and sent to the House floor several bills for further action, including H.R. 5693 and H.R. 5974. Other bills from the June 27th markup that were approved by the full committee include H.R. 2787, the Veterans-Specific Education for Tomorrow's Medical Doctors (VET MD Act); H.R. 5938, the Veterans Serving Veterans Act of 2018; H.R. 6066, to improve the productivity of the management of Department of Veterans Affairs health care; and H.R. 5864, the VA Hospitals Establishing Leadership Performance (VA HELP) Act.

## **HIRING AND RETAINING VETERANS FOR THE MODERN DAY WORKFORCE**

The House Veterans' Affairs Economic Opportunity Subcommittee held a hearing on June 26th titled, "Hiring and Retaining Veterans for the Modern Day Workforce." There was a single panel that included representatives from Hiring Our Heroes, U.S. Chamber of Commerce Foundation; Walmart; Starbucks; Prudential Financial; and Dell EMC. All panelists agreed that veterans bring a work ethic and leadership skills that are valued by employers. They also agreed that gaps between discharge and the time a service member becomes employed must be identified.

At the hearing, Mr. Matt Kress, Manager, Veterans and Military Affairs, Starbucks, stated that his company has committed to hiring 25,000 veterans and spouses by 2025. Mr. Robert Douthit, Senior Director, Dell EMC, emphasized that his company has a long history of identifying with and working with the military and will continue to do so by focusing on employing veterans and their spouses. It was also noted by panelists that some corporations actually have a difficult time finding qualified veterans for specific leadership positions.

Chairman Jodey Arrington (R-TX) requested that panelists review H.R. 5649 and provide the committee with feedback on how to improve its provisions. This legislation would make improvements to facilitate separating service members' transition. PVA submitted a statement in May in support of the legislation.

## **H.R. 299 UPDATE**

On June 25th, the House suspended the rules and passed the Blue Water Navy Vietnam Veterans Act, as amended, 382-0. Once referred to the Senate, the Senate Veterans Affairs' Committee decided not to send the bill to the floor, but to instead hold a hearing. The committee has since announced that it will review the measure during a hearing scheduled for August 1st.

## **PVA ADVOCACY STAFF GO TO PITTSBURGH FOR ADA TRAINING**

During the week of June 18th, PVA national advocacy staff attended the annual Americans with Disabilities Act (ADA) National Symposium in Pittsburgh, PA. The Symposium was sponsored by the ADA National Network and hosted by the Great Plains ADA center. The event included three days of educational breakout sessions providing updates on the many facets of the ADA. Breakout sessions were presented on topics such as service animals, mapping and way finding, and the most recent ADA court decisions. Representatives from the Department of Justice also gave an update on Project Civic Access and how city and county administrators can comply with Title II public services requirements.

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Another major area of focus was access to health care under the ADA. Sessions included: medical diagnostic equipment in health care, accessible personal health care records, enhancing patient experience in health care, and effective communication in the health care setting. All sessions at the Symposium are eligible for elective credit towards the ADA Coordinator Training Certificate Program (ACTCP), a professional certificate of expertise in ADA compliance.

The 2019 Symposium will be held in Dallas-Grapevine, Texas. For more information about the Symposium go to [www.adasymposium.org](http://www.adasymposium.org).

## **PVA ADVOCATES FOR THE “COMPLETE THE MISSION” AMENDMENT TO THE MILCON-VA APPROPRIATIONS BILL**

On June 19th, PVA joined with more than 30 other veterans and military service organizations in support of the “Complete the MISSION” funding amendment. The amendment, which was spearheaded by Senate Appropriations Chairman Richard Shelby (R-AL) and Vice-Chairman Patrick Leahy (D-VT), would allow Congress to provide VA with sufficient resources to implement the provisions of the recently passed VA MISSION Act without triggering sequestration or requiring cuts to other programs. Shelby and Leahy sought to include the amendment on a “minibus” of appropriations bills, which included the MilCon-VA bill that the Senate passed the last week of June.

The need for the amendment is based on concerns about budgetary pressure resulting from provisions in the VA MISSION Act that would effectively move funding responsibility for care currently provided through the Veterans Choice Program from mandatory appropriations to a new discretionary program. The current domestic budgetary cap for FY 2019, and the anticipated caps for FY 2020 and FY 2021, did not contemplate the new and increased costs associated with the VA MISSION Act. The amendment would allow Congress to appropriate additional discretionary funding to meet the new requirements of the act: \$1.6 billion for FY 2018, \$8.67 billion for FY 2019 and \$9.5 billion for FY 2020.

Despite bi-partisan support for the amendment, concerns about pitting the need for overall fiscal restraint against support for veterans resulted in a decision not to force a vote on the Senate floor. Now that the minibus has passed both the House and Senate, a conference committee is attempting to work out a compromise between the bills. According to the amendment’s supporters it is still in play and could still be included in a final bill.

## **PVA PARTICIPATES IN CANADIAN FORUM ON WHEELCHAIR DAMAGE IN AIR TRAVEL**

Heather Ansley, Acting Associate Executive Director of Government Relations, and Lee Page, Senior Associate Advocacy Director, participated in the Mobility Devices and Air Travel Forum sponsored by the Canadian Transportation Agency in Toronto, June 12th -13th. The forum served as a kick-off meeting for efforts by the Canadian government to address damage to large powered mobility devices in air travel. The effort is led by Oregon State University engineering professor Dr. Katharine Hunter-Zaworski, who has decades of experience in accessible travel.

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The forum brought together a broad range of stakeholders, including Canadian and U.S. disability advocacy groups, Canadian and U.S. airlines, U.S. and Canadian government officials, aircraft and wheelchair manufacturers, airline trade associations, and international air travel policymakers. PVA, the only U.S. disability advocacy group, was invited to give a presentation during the forum regarding our many years of air travel advocacy and our current efforts working with the RESNA Standards Committee on Air Travel. The efforts by the Canadian government are more focused than those of the RESNA committee, which should produce important synergy between these initiatives.

## **CHANGES TO ACCESS FOR SERVICE ANIMALS AND EMOTIONAL SUPPORT ANIMALS IN AIR TRAVEL**

PVA along with other members of our Air Carrier Access Act Working Group, submitted comments on July 9th, in response to an advance notice of proposed rulemaking (ANPRM) published by the U.S. Department of Transportation regarding access for service animals and emotional support animals in air travel. The Department requested public comment on 10 areas, including documentation for psychiatric service animals, conditions of access for emotional support animals, species limitations, and training requirements. The ANPRM is the Department's first effort to revise its regulations since the failed attempt of the Department's Accessible Air Transportation (ACCESS) Advisory Committee in 2016. PVA served as a member of that committee and led the disability community in the negotiation efforts.

In the intervening years, airlines have continued to push for revision of the rules based on concerns primarily about fraud and poorly trained animals that cause safety issues. Earlier this year, these concerns resulted in some airlines moving forward with their own restrictions on emotional support animals and psychiatric service animals. PVA provided comments to the Department in June asserting our belief that in many cases these restrictions go beyond those allowed under the Air Carrier Access Act and cause confusion for not only passengers but also airline personnel. On June 21st, Heather Ansley, Acting Associate Executive Director of Government Relations, also presented on this issue to disability protection and advocacy lawyers from around the country at a national conference in Baltimore.

The Department's ANPRM will likely be followed by a notice of proposed rulemaking that will lay out a new rule for public comment. PVA has three main goals for a revised regulation: continued access for emotional support animals, equal treatment for psychiatric service animals, and improved training for airline personnel and their contractors. In addition, we will oppose any new restrictions on service animals that the Department might propose.

## **SOME VETERANS CAN NOW CLAIM REFUND OF TAXES PAID ON DISABILITY SEVERANCE PAYMENTS**

The Internal Revenue Service announced on July 9th, that certain veterans who received disability severance payments after January 17, 1991, and included that payment as income should file Form 1040X, Amended U.S. Individual Income Tax Return, to claim a credit or refund of the overpayment attributable to the disability severance payment. This is a result of the Combat-Injured Veterans Tax Fairness Act passed in 2016.

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Most veterans who received a one-time lump-sum disability severance payment when they separated from their military service will receive a letter from the Department of Defense (DoD) with information explaining how to claim these tax refunds. The letters will include an explanation of a simplified method for making the claim. Veterans eligible for a refund who did not get a letter from DoD should visit the Defense Finance and Accounting Service (DFAS) and IRS websites for more information.

## Statute of Limitations

The amount of time for claiming these tax refunds is limited. However, the law grants veterans an alternative timeframe - one year from the date of the letter from DoD. Veterans making these claims have the normal limitations period for claiming a refund or one year from the date of their letter from the DoD, whichever expires later. As taxpayers can usually only claim tax refunds within three years from the due date of the return, this alternative time frame is especially important since some of the claims may be for refunds of taxes paid as far back as 1991.

## Amount to Claim

Veterans can submit a claim based on the actual amount of their disability severance payment by completing Form 1040X, carefully following the [instructions](#). However, there is a simplified method. Veterans can choose instead to claim a standard refund amount based on the calendar year (an individual's tax year) in which they received the severance payment. Write "Disability Severance Payment" on line 15 of Form 1040X and enter on lines 15 and 22 the standard refund amount listed below that applies:

- \$1,750 for tax years 1991 - 2005
- \$2,400 for tax years 2006 - 2010
- \$3,200 for tax years 2011 - 2016

Claiming the standard refund amount is the easiest way for veterans to claim a refund, because they do not need to access the original tax return from the year of their lump-sum disability severance payment.

## Special Instructions

All veterans claiming refunds for overpayments attributable to their lump-sum disability severance payments should write either "Veteran Disability Severance" or "St. Clair Claim" across the top of the front page of the Form 1040X that they file. Because all amended returns are filed on paper, veterans should mail their completed Form 1040X, with a copy of the DoD letter, to:

Internal Revenue Service  
333 W. Pershing Street, Stop 6503, P5  
Kansas City, MO 64108

Veterans eligible for a refund who did not receive a letter from DoD may still file Form 1040X to claim a refund but must include both of the following to verify the disability severance payment:

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- A copy of documentation showing the exact amount of and reason for the disability severance payment, such as a letter from the DFAS explaining the severance payment at the time of the payment or a Form DD-214, and
- A copy of either the VA determination letter confirming the veteran's disability or a determination that the veteran's injury or sickness was either incurred as a direct result of armed conflict, while in extra-hazardous service, or in simulated war exercises, or was caused by an instrumentality of war.

Veterans who did not receive the DoD letter and who do not have the required documentation showing the exact amount of and reason for their disability severance payment will need to obtain the necessary proof by contacting the [DFAS](#).

## **ACAA WORKING GROUP MEETS WITH AMERICAN AIRLINES**

PVA national advocacy staff and other disability groups that are part of our Air Carrier Access Act Working Group met with Suzanne Boda, Senior Vice President, American Airlines (AA), and two other AA representatives on July 12th, to discuss the airline's "disability improvement project" and other pending issues. The disability improvement project is an improved accountability program ensuring that AA employees and contract services personnel are trained to proficient standard of knowledge in how to assist passengers with disabilities. Areas of training focus on passenger assistance, from curb to gate, in an airport wheelchair; boarding passengers with disabilities via an aisle chair; and stowage of assistive devices. Also, there is a focus on training of personnel that load and unload wheelchairs into the belly of the plane.

With this improvement project, AA hopes to increase its customer service to people with disabilities. This includes minimizing wait times and ensuring connections. It also includes protecting assistive devices that are stored in the cargo hold of the plane so that they will be returned undamaged to their users.

Ms. Boda also discussed emotional support animal policy changes implemented on July 1st. In addition to the 48 hour notice, passengers who use emotional support animals must attest that their animal has been trained to behave in a public setting. All front line employees, such as gate agents, ticket agents, and flight attendants have been trained on the requirements of the Air Carrier Access Act. AA has also implemented an accountability rating system under which employees will be rated on their performance through survey scorecard responses by passengers with disabilities.

## **CCD VETERANS TASK FORCE RECEIVES BRIEFING ON EMPLOYMENT AMONG VETERANS WITH SERVICE-CONNECTED DISABILITIES**

On July 12th, the Consortium for Citizens with Disabilities (CCD) Veterans Task Force, of which PVA is a member, hosted James Borbely with the Bureau of Labor Statistics (BLS) for a briefing on that agency's collection of data concerning unemployment and labor force participation among veterans with service-connected disabilities. Approximately 60,000 households and 100,000 individuals aged 16 and older are interviewed each month under the Current Population Survey (CPS) conducted by BLS. Of those numbers, between 8,000 and 9,000 respondents are veterans aged 18 and over.

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Each year, in August, additional information is collected by BLS about veterans with service-connected disabilities which is compiled into an annual supplement that is released in March of the following year.

According to the data collected in August 2017, 4.9 million veterans had a service-connected disability, with 28 percent reporting a disability rating of less than 30 percent and 41 percent reporting a rating of 60 percent or higher. Veterans with a rating less than 30 percent were more likely to be in the labor force than those with a rating of 60 percent or higher [53.5 percent and 37.7 percent respectively]. Among the most recent cohort of veterans, those of Gulf War II era, 75.8 percent were in the labor force. However, broken down by disability rating, the data reveals a similar pattern to the broader population of veterans. Those with a VA disability rating less than 30% had the highest workforce participation rate at 91.6 percent, while those with a rating of 60 percent and higher had the lowest workforce participation rate at 61.7 percent. Veterans with a service-connected disability were far more likely to work for the federal government (19%) than veterans without a service-connected disability (7%) or nonveterans (2%). Only 59% of veterans with a service-connected disability worked in the private sector compared to 73% of veterans with no service-connected disability and 80% of nonveterans.

The 2017 BLS report, the Employment Situation of Veterans, can be found at <https://www.bls.gov/news.release/pdf/vet.pdf>.