

LEGISLATIVE HEARING ON H.R. 282; H.R. 1690;
H.R. 2631; H.R. 2772; A Draft Bill Entitled, “To
Amend Title 38, United States Code, To Author-
ize The Secretary Of Veterans Affairs To Furnish
Assistance For Adaptations Of Residences Of
Veterans In Rehabilitation Programs Under
Chapter 31 Of Such Title, And For Other Pur-
poses;” And A Draft Bill Entitled, “To Amend
Title 38, United States Code, To Permit Apprais-
ers Approved By The Secretary Of Veterans Af-
airs To Make Appraisals For Purposes Of Chap-
ter 37 Of Such Title Based On Inspections Per-
formed By Third Parties“

HEARING
BEFORE THE
SUBCOMMITTEE ON ECONOMIC
OPPORTUNITY
OF THE
COMMITTEE ON VETERANS’ AFFAIRS
U.S. HOUSE OF REPRESENTATIVES
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Thursday, June 29, 2017

**COMMITTEE ON VETERANS’ AFFAIRS,
U. S. HOUSE OF REPRESENTATIVES,
*Washington, D.C.***

The Subcommittee met, pursuant to notice, at 2:23 p.m., in Room 334, Cannon House Office Building, Hon. Jodey Arrington [Chairman of the Subcommittee] presiding.

Present: Representatives Arrington, Wenstrup, Rutherford, Banks, O’Rourke, Takano, Correa, and Rice.

OPENING STATEMENT OF JODEY ARRINGTON, CHAIRMAN

Mr. ARRINGTON. All right. Good afternoon, everyone. The Subcommittee will come to order.

I want to thank you all for joining us here today to discuss six pieces of legislation pending before the Subcommittee, with the intentions of benefiting the lives of our servicemembers, veterans, and their families. The bills brought forth by our colleagues today would address employment protections for our Guard and Reserve servicemembers, improve transparency of the relocation of senior executives within the VA, as well as any bonuses provided to high-level VA employees. And it would also provide needed residency protections for the spouses of our Active Duty servicemembers.

I will let our colleagues who introduce these pieces of legislation discuss their bills in greater detail, but I do want to briefly discuss the two draft bills on the agenda today that have not yet been introduced.

The first would modernize the appraisal process for VA-backed home loans, something we discussed in great detail a couple of months ago at a Subcommittee hearing on the appraisal process, where Chairman Greg Walden also joined us after he had been faced with an issue, a related issue, in his own district.

This draft bill would allow VA to utilize new technology, including desktop appraisals. This means that a VA-approved appraiser could make an appraisal based solely off of the information gathered by an approved third-party entity. I believe this change will make this appraisal process quicker and more efficient for many veteran home buyers, and would also save money for taxpayers.

Making this appraisal process in the overall home buying process as seamless as possible for veterans and their families has been of importance to both the Ranking Member and myself. And I look forward to today's discussion on the draft bill that would, hopefully, improve this process.

Now, the last draft bill would improve home adaptations for qualifying disabled veterans. Currently, if a disabled veteran in the Voc Rehab Program needs adaptations made to their home, to make their home more accessible for their day-to-day needs because of the limitations of their disability, then it is the Voc Rehab counselor who has no experience or very little experience in training in home construction, makes arrangements for those adaptations or finds an individual to do so who they believe is qualified to make them. While these folks are masters-level counselors who provide great service to our veterans, it should not be their job to also understand how to build a ramp or affix a grab bar to the wall.

This draft bill, therefore, would allow the employees from the VA Specially Adapted Housing program, who deal with this kind of construction on a daily basis, to step in and take care of the veterans' adaptations to their homes. This will help our disabled veterans immensely by ensuring that they have the right people on the job so that their homes adequately address their service-connected disabilities and their needs.

I believe this is a commonsense change for everyone involved, and the Department has even stated in their written testimony that it would save the government money.

Before I yield to the Ranking Member, I do want to say that—a little disappointed that the Department of Defense declined our invitation to attend today's hearing and provide their views on H.R. 282, the Military Residency Choice Act, and, H.R. 2631, the Justice for Servicemembers Act. Just in the bills' titles, I think it is clear to everyone that these proposed policy changes would directly affect DoD and the men and women who serve this country as well as their families.

So I do appreciate the Department submitted comments for the record for these bills yesterday afternoon. And while I also understand this week has been hectic with markups, it would have been valuable, I think, to have them here to answer questions.

With that being said, I am eager to discuss each of the six pieces of legislation before us today. I am grateful to my colleagues who have introduced these bills and to our witnesses for being here to

discuss. And I look forward to a productive and meaningful discussion.

And now I am going to yield to my friend and fellow Texan, our Ranking Member, Mr. O'Rourke, for opening comments.

OPENING STATEMENT OF BETO O'ROURKE, RANKING MEMBER

Mr. O'ROURKE. Thank you, Mr. Chairman. I want to thank our colleagues who have come to join us to today to testify on their bills, two of whom joined Mr. Banks and Dr. Wenstrup and I on the House Armed Services Committee defense bill markup last night that finished in a record 14 hours. So I want to thank the two chairs who are here who worked on that and on this issue of compelling the Department of Defense to work more closely with the House Veterans' Affairs Committee, given that we have a shared interest in what we are doing for our servicemembers and at the time that they transition into civilian and veteran life. I look forward to working with our colleagues to do that, because I think it is critical that these two Committees work more closely together.

And in anticipation and interest for what our colleagues have to say, I will limit my opening remarks and yield back to the chair.

Mr. ARRINGTON. Thank you, Mr. O'Rourke.

And it is an honor to be joined by our colleagues, Ms. Elise Stefanik and Mr. Robert Wittman of Virginia—Ms. Stefanik of New York—and the gentlelady from New York, Claudia Tenney, and Mr. David Cicilline, the gentleman from Rhode Island; and the gentleman from Virginia, Mr. Scott Taylor, at our witness table today. Thank you all for being here.

And now I am going to recognize each of you for 5 minutes. We will start with Ms. Stefanik.

OPENING STATEMENT OF THE HONORABLE ELISE STEFANIK

Ms. STEFANIK. Thank you, Chairman Arrington and Ranking Member O'Rourke, for the opportunity to testify today before the Veterans Affairs' Subcommittee on Economic Opportunity. I would like to first commend the work of this Subcommittee in improving education, employment opportunities, and housing programs for veterans, as well as assisting servicemembers with civil relief.

I would also like to thank my colleague to my left, Mr. Wittman, who joins me today in testifying before the Subcommittee in support of the Military Residency Choice Act. I know both he and I have the highest respect for military families and have focused our legislative efforts on supporting their cause.

Military families make great sacrifices for the protection of our Nation and the safeguarding of our freedom. And I feel it is my duty as a Congresswoman to help ease the burdens that they face.

I proudly represent two of our Nation's premier military installations: Fort Drum, Home of the 10th Mountain Division, the most deployed unit in the U.S. Army since 9/11; and the Kesselring Site, a Navy nuclear training facility.

In addition, my home district, New York's 21st District, is home to more veterans than any other congressional district within the State. This has given me the opportunity to get to know the many military families within my district and grow familiar with the

unique hardships and challenges they face. For instance, military families must relocate every few years due to their spouse's responsibility to meet the requirements of the military. They sacrifice a great deal during these relocations, uprooting their lives and disrupting their families, all while remaining committed to their duty as the spouse of a servicemember and serving as the critical support symptom for their loved ones. This is often a very difficult and challenging time, with the heaviest burden falling upon military spouses.

I have introduced several bills that target the strain our military spouses face, especially during times of deployment and relocation. And today, I would like to highlight H.R. 282, the Military Residency Choice Act;

Current law allows Active Duty servicemembers to maintain one State of legal residence for tax and voting purposes, even when servicemembers receive military orders requiring them to relocate. Under this law, spouses are only granted the same benefit if the servicemember and spouse have established the same tax residence at the time of their marriage. Essentially, this requires spouses to establish residency every time the servicemember receives orders with assignment to a new location, adding undue stress and anxiety to military families already under the pressure of managing their relocation.

H.R. 282, the Military Residency Choice Act, will give military spouses the choice to establish the same State of residency as the servicemember, giving them the benefit of keeping the same State of residency for voting and tax purposes. Military spouses serve too. And this piece of legislation eliminates the daunting task of documenting multiple tax jurisdictions, which at time causes some spouses to forego the complication of working altogether.

According to a recent study commissioned by the nonprofit group Blue Star Families, military spousal unemployment could cost the United States up to \$1 billion a year in the loss of Federal income tax, the cost of employment benefits, and the cost of health care issues related to unemployment. This commonsense legislation will make this easier for military spouses to work and helps reduce instances of military spousal unemployment.

Through my constituents, I have listened to the sacrifices our military families make to keep our Nation safe. We have a solemn duty to reduce the burden they face while they are fulfilling their duty to our Nation.

I want to thank Chairman Arrington and Ranking Member O'Rourke again for their leadership of the Subcommittee and for the opportunity to speak today.

I would now like to yield to my friend and colleague, Rob Wittman from Virginia, who also deeply understands the sacrifices our military families make and has championed this issue.

Mr. ARRINGTON. Mr. Wittman, you are now recognized.

OPENING STATEMENT OF THE HONORABLE ROBERT WITTMAN

Mr. WITTMAN. Thank you, Mr. Chairman.

Chairman Arrington, Ranking Member O'Rourke, thank you so much. Members of the Committee, thanks so much for having us

here today. I want to thank my colleague too, Ms. Stefanik, for her efforts along these lines.

These, indeed, are extraordinarily important issues for military families. And Ms. Stefanik lays it out perfectly as to the bureaucratic maze that spouses have to navigate that their military members don't. You know, a military member can declare a State of residency, and it stays there. But that is not where they stay physically. They have to move around, based on their assignments. And when they move around, the spouse is now required, under the Military Spouse Residency Relief Act of 2009, to now redeclare residency. So that means new driver's license, new voter registration card, new tax filings—all those things that make it extraordinarily difficult on a family.

And some families, depending on the spouse's military occupational specialty, may find themselves relocating several times, sometimes as much as three times within a single year, which makes it even more impossible for them to be able to track this and be able to be eligible for the benefits under the 2009 Act. This clearly says let's simplify that. Let's make sure that at any time that they can declare residency in the same State as their spouse, who is allowed to do that under the current law, and that way they don't have to worry about chasing around paperwork in order to continue qualification. It just makes sense.

As Ms. Stefanik pointed out, there is a number of studies out there that point to the impact that this has on spouses. It makes it more difficult for them to be employed. A RAND report points out that, for military spouses, the unemployment rate is about 12 percent, compared to 7 percent for comparable civilian spouses. So we see the difference. This creates a greater level of difficulty.

Important part of this too is it doesn't create any additional burdens on States or localities, as far as how they deal with either administratively driver's licenses or tax collections, whatever it may be. So the impact on States and localities is not there. So this should be a simple, straightforward opportunity for us to correct what I am sure was an unintended consequence of the 2009 piece of legislation, and really do what is best for our military families for what they are doing to sacrifice, and make sure that their spouses, along with their families, can continue along as a family.

Sometimes, you know, families will stay behind because of the administrative burdens that this creates. This lets families' together travel and serve our Nation. And, you know, we have an obligation in this Nation to make sure that we are supporting not only our members of the military, but also their families, because we know, as the saying goes, you recruit soldiers, sailors, marines, airmen, and coastguardsmen, but you retain families. If we are going to retain the best and brightest, we have to make sure we are doing everything we can for their families. This bill goes in extraordinarily long ways to do that.

And, again, I want to thank my colleague, Ms. Stefanik, for the great job that she has done. And she and I both jointly want to see this legislation pass.

So, again, Mr. Chairman, thank you so much for the time today. Thank you to the Members of the Committee. Ranking Member

O'Rourke, thank you. And we stand by willing, ready, and able to do what is necessary to get this legislation through.

Mr. ARRINGTON. Thank you guys so much, Ms. Stefanik, Mr. Wittman.

I am going to now recognize Ms. Tenney for 5 minutes.

OPENING STATEMENT OF THE HONORABLE CLAUDIA TENNEY

Ms. TENNEY. [Off mic] Thank you, Chairman Arrington and Ranking Member O'Rourke. I want to thank you for the opportunity to talk about, to this Committee, the Veterans Economic Opportunities Subcommittee for the invitation also to speak on my legislation on the Department of Veterans Affairs Bonus.

This bill would simply require the VA to submit a report to Congress at the end of each fiscal year listing the bonuses that were awarded to senior level executives within the Department.

In 2015, VA employees received more than \$177 million in bonuses, which was 24 percent more than they received in 2014. The average bonus for a senior executive was \$10,000. I have no doubt that the men and women of the VA serve our veterans admirably each day. In fact, I know that many of them do, and I know many of them in my district.

I have spoken with veterans who are grateful for the compassionate care they received from the VA hospital in Syracuse as well as local VA clinics now in Binghamton and also in Rome, New York. VA employees should be fairly compensated for their work and awarded for their achievements in service to our veterans. It is also clear to me that there is more work to be done.

Just recently, an audit of several VA facilities in North Carolina and Virginia revealed that wait times continue to be misrepresented and that nearly 14,000 veterans were denied access to timely care. The audit also found that veterans are waiting an average of 26 days to see mental health specialists, while the VA falsely reported average wait times of 6 days.

In light of such news, the American people are right to wonder who at the VA may be receiving a bonus this year. They are also right to be concerned about the nature and conditions of such bonuses.

H.R. 1690 would add a simple reporting requirement to existing law that will streamline the oversight of bonuses at the VA. It requires the agency to proactively provide information to Congress that details the amount of each bonus awarded to senior executives, as well as the job titles of individuals and the location of their employment.

Given the patterns of mismanagement at the VA, veterans must know how bonuses are being awarded at the agency, and Congress deserves to receive this information in a timely manner as possible without having to request it each year. This bill requires—bill increases transparency over the bonus process without placing an undue burden on the agency. This bill was previously passed as an amendment to the House-passed VA Accountability First Act of 2017. And I remain hopeful that, with the continued support of this Committee and many Members who are here, we will be able to move this legislation forward this year.

It is an honor to represent a district that is home to more than 55,000 veterans in a former Rome Air Force base, known as Griffiss Air Force Base. We owe it to each of them to make sure that the VA is accountable and transparent. This is why I voted for the Veterans Affairs Accountability and Whistleblower Protection Act, which President Trump signed into law just last week. And this is why I encourage my colleagues to support the VA Bonus Transparency Act. And I once again want to thank Chairman Arrington and Ranking Member O'Rourke for giving me this opportunity to testify this afternoon and for your ongoing and bipartisan commitment to our many very worthy veterans throughout our Nation.

Thank you so much.

Mr. ARRINGTON. Thank you, Ms. Tenney. And thank you for your support of the VA Accountability Act and for your testimony.

And now I am going to yield 5 minutes to Mr. Cicilline.

OPENING STATEMENT OF THE HONORABLE DAVID CICILLINE

Mr. CICILLINE. Thank you, Chairman Arrington and Ranking Member O'Rourke and distinguished Members of the Subcommittee, for the opportunity to testify today on H.R. 2631, the Justice for Servicemembers Act, bipartisan legislation to protect the rights of our men and women in uniform.

I would like to begin my testimony by thanking the veterans and servicemembers who are here today, not only for their presence, but for the extraordinary service to our country. I would also like to thank my colleagues who are originally cosponsors of this bill, including Representatives Joe Wilson, Jackie Walorski, Walter Jones, and Ranking Member Tim Walz, for their support.

Our veterans and their families have sacrificed much in the service to our country and the fundamental idea that we are a Nation of laws and institutions that guarantee the rights of every American and ensure their access to justice. We are a stronger Nation because of these rights, which includes the Uniformed Services Employment and Reemployment Rights Act, or USERRA. This law guarantees veterans and servicemembers, including the Reserves and National Guard, the right to be free from discrimination in the workplace on the basis of their military service.

Enacted in 1994 following the Persian Gulf War, Congress intended USERRA to serve as a bulwark against the exploitation of veterans and servicemembers in the public and private workplace. But too often, veterans and servicemembers are unable to enforce these rights under USERRA in court because of the increased use of forced arbitration in employment contracts. Often buried in the fine print of employment contracts and presented as a condition for employment, these clauses waive the rights of veterans and servicemembers to a day in court before a dispute even arises.

As The Military Coalition, a consortium of military service organizations representing more than 5-1/2 million current and former servicemembers explains, these clauses block access to the justice system and funnel servicemembers employment discrimination or wrongful termination USERRA claims into private costly arbitration systems set up by the same employers.

For example, Kevin Ziober was a lieutenant in the U.S. Navy Reserves who had served since 2008. In the fall of 2002, he was called

into Active Duty for a 1-year deployment in Afghanistan. Kevin notified his employer of his deployment, while also conveying his desire to resume work upon his return.

On Kevin's last day of work before his deployment, his employer and colleagues threw a farewell party, attended by dozens of his colleagues and the company's CEO. They gave Kevin a cake decorated with an American flag along with balloons, cards, and a gift. Just a few hours later, Kevin was fired on the basis of his deployment.

In April 2014, Kevin returned to civilian life and attempted to file a suit in Federal court alleging that his former employer had violated USERRA. But his company forced his claim into arbitration, setting an arbitration clause in Kevin's employment contract that he was required to sign for employment at the company waiving his constitutional right to a jury trial. Make no mistake, this result was never intended by Congress.

USERRA includes a robust protection against the waiver of rights by prohibiting the enforcement of any contract, and I quote, that reduces, limits, or eliminates in any manner any right or benefit established by USERRA.

But the judicial aggrandizement of the Federal Arbitration Act of 1925, a law that was never intended to apply to employment contracts that violate Federal law, has upended these protections. Along with several of my Republican colleagues and Ranking Member Walz, I filed an amicus brief in support of Kevin's petition in the Supreme Court to review this case.

The Supreme Court did not grant cert to this petition, underscoring the need for Congress to act. The ball is now in our court. For over a decade, under both Democratic and Republican administrations, the Defense Department has warned Congress about the effects of forced arbitration in contracts with servicemembers.

In a 2006 report to Congress, the Department advised Congress to, and I quote, "prohibit provisions and loan contracts that require servicemembers and family members to waive their rights to take legal action," end quote. Importantly, this report was clear that waiver is not a matter of choice in take-it-or-leave-it contracts of adhesion, end quote.

Since then, the Pentagon has prohibited the use of forced arbitration agreements in certain financial service contracts recognizing that unscrupulous conduct was undermining military readiness and servicemembers' access to relief in court. It is time to follow suit by prohibiting forced arbitration in veterans' and servicemembers' employment contracts through passage of the Justice for Servicemembers Act.

There is broad bipartisan support for this legislation. Over 25 military organizations, including the Military Order of the Purple Heart, the National Military Family Association, Veterans of Foreign Wars, and the Reserve Officers Association support this legislation. The Justice Department servicemember and veterans affairs initiative stated and supported this bill last Congress that USERRA gives servicemembers the right to enforce their rights under USERRA in Federal court and to request legal representation from the Department of Justice. If servicemembers are forced

into arbitration through one-sided employment agreements, these rights would be jeopardized, end quote.

The assistant secretary over Veterans' Employment and Training at the U.S. Department of Labor has similarly observed that this legislation is critical, and I quote, to ensuring that USERRA operates to safeguard both substantive and procedural rights and benefits from reduction, limitation, or elimination. Since the Second World War, Congress has expanded and strengthened the rights and protections for veterans in the workforce out of a sense of obligation that we must honor and protect our men and women in uniform. As a Nation devoted to protecting American servicemembers and their families from unscrupulous conduct, we must draw upon the strength of our laws to ensure that their rights are enforceable in courts to hold unlawful conduct accountable.

In closing, I thank the Subcommittee for its consideration of the Justice for Servicemembers Act, and I look forward to working with the Members of the Committee, with each of you, on protecting the rights of our Nation's veterans. And I thank you again for the opportunity to appear before the Subcommittee.

Mr. ARRINGTON. Thank you, Mr. Cicilline. I appreciate your remarks.

And now for my fellow freshman and former Navy SEAL—we appreciate your service, Scott. Mr. Taylor, you have got 5 minutes.

OPENING STATEMENT OF THE HONORABLE SCOTT TAYLOR

Mr. TAYLOR. Thank you, Chairman Arrington and Ranking Member O'Rourke and Members of the Subcommittee. I appreciate the opportunity to testify today about an important matter. I proudly represent the fastest growing area in the country for veterans of the OIF/OEF conflicts, as well as women veterans as well.

During a recent visit to the Hampton VA Medical Center near my district, I learned that the Center's end-of-the-year hospital star rating for fiscal year 2016 was increased from a 1 star to 2 stars out of a 5-star rating. It was also on that visit that I learned that the director that oversaw the Center during its 1-star rated period was simply transferred to a different center, meaning that a poor performer was transferred to another one without any accountability. Further, taxpayer dollars paid for the reassignment cost.

We should never defend mediocrity, and our veterans certainly deserve the best health care and a lot more. We should expect nothing less than excellence from our VA administrators. And this bill aims to bring much needed oversight and accountability to ensure just that.

The VA Senior Executive Accountability, or SEA Act, would require the VA to submit semiannual reports to Congress outlining all instances of senior executive transfers within the Department during the period covered by the report. Each report will describe the purpose and each reassignment and the cost associated with such reassignment.

The bill would also require the Secretary of Veteran Affairs to personally sign off on all transfers of senior executives. Reports shall be submitted to Congress no later than June 30 or December 31 of each year.

A version of this language was offered as an amendment to H.R. 1259, the VA Accountability First Act of 2017. It was well received in a very bipartisan manner on a voice vote on March 16. And these provisions are in line with Secretary Shulkin's own calls for increased accountability at the VA.

I thank the Subcommittee for the opportunity to speak to you today, and I look forward to answering any questions that you may have.

Mr. ARRINGTON. Thank you, Mr. Taylor.

And I think I can speak on behalf of the Subcommittee when I say thank you all for your passion and your commitment and engagement in this process and for service to our veterans. So very thoughtful pieces of legislation for us to consider. I look forward to giving strong consideration to each one of your policy proposals as we move it through the process.

Now, unless there are any questions from my colleagues, I think I will just excuse you all, and we will have our next set of panelists.

So thank you very much for your time.

Mr. TAYLOR. Thank you, Mr. Chairman.

Mr. ARRINGTON. Okay. Now, I want to recognize our second panel of witnesses today. I want to welcome back Mr. Curt Coy, Deputy Under Secretary for Economic Opportunity at the Department of Veterans Affairs, who is accompanied by Ms. Tia Butler, Executive Director of the Corporate Senior Executive Management, Office of HR&A; and Mr. Jeff London, Director of VA's Loan Guaranty Service.

I also want to welcome Major General Jeff Phillips, executive director of the Reserve Officers Association; and Mr. Gabriel Stultz, legislative counsel of the Paralyzed Veterans of America.

Again, thank you all for coming and joining us today. And I am going to recognize each of you for 5 minutes. We will start with you, Mr. Coy.

STATEMENT OF CURTIS L. COY

Mr. COY. Good afternoon, Chairman Arrington, Ranking Member O'Rourke, and Members of the Committee. Thank you for the opportunity to be here today to discuss legislation pertaining to the Department of Veterans Affairs.

As this is my first hearing with you as Chairman of the Economic Opportunity Subcommittee, I would like to thank you for your leadership and passionate interest in our Nation's veterans. And if I may, I would also like to compliment the Committee staff for their professionalism, hard work, and complimentary passion to assist veterans.

Accompanying me today is Tia Butler, executive director, Corporate Senior Executive Management Office; and Jeff London, director of the VA Loan Guaranty Program.

There are a few bills under discussion today that would affect programs or laws administered by other agencies. We respectfully defer to those agencies for comment.

H.R. 1690 would require the VA to submit an annual report to Congress regarding performance awards and bonuses awarded to high-level and executive employees at the VA. The VA would be re-

quired to submit this report no later than 30 days after the end of the fiscal year. The VA supports this requirement, but would suggest that the report be submitted no later than 120 days after the fiscal year. This timeframe would allow us to complete the necessary statutory requirements of the SES performance management.

H.R. 2772 would prohibit the reassignment of VA senior executive employees to similar positions within the Department without written approval by the Secretary. It would require the VA to submit semiannual reports to Congress on the reassignment of such individuals and include the purpose and cost associated with any such reassignments. The VA supports the requirement that the Secretary approve the reassignment of senior executive personnel. We would recommend some revisions to narrow the focus of the report to include the cost of incentives rather than the other more routine costs associated with reassignments.

An unnumbered draft bill would streamline the provision of housing modifications currently authorized under Chapter 31, known as the Vocational Rehabilitation and Employment program, or VRE, by administering them under Chapter 21, the specially adapted housing program. You would also cap the amount of such modifications at the same amount as specially adapted housing—as to specially adapted housing grant, but allow the Secretary to waive the cap, if deemed necessary, for rehabilitation program. VA supports this bill. Beneficiaries who qualify for benefits under SAH are able to seek out and hire contractors of their choice, whereas those who qualify for benefits under VRE are subject to the VA's procurement process and have little or no control over the contractor's selection process.

Additionally, the VA determine the home adaptation program of the independent living rehabilitation plan would best be administered by the professionals of the SAH program who are well versed in home construction.

Another unnumbered bill would authorize VA-designated appraisers to rely on information provided by third parties when valuing properties for the VA home loan program. VA also supports this bill as it would enable VA-designated appraisers to expand their coverage to areas, and it would increase the number of appraisals they could perform in a timely manner. The bill would better align the VA appraisal policy and procedures, industry standards, address recent industry concerns regarding timely delivery of VA appraisal product and likely encourage more use of the VA home loan program by making VA financing more attractive within the mortgage industry.

Mr. Chairman, this concludes my statement. Thank you for the opportunity to appear before you today. We would be pleased to respond to any questions you or the other Members may have.

[THE PREPARED STATEMENT OF CURTIS L. COY APPEARS IN THE APPENDIX]

Mr. ARRINGTON. Thank you, Mr. Coy.

Now, Major General Phillips, you are now recognized for 5 minutes.

STATEMENT OF MAJOR GENERAL JEFFREY E. PHILLIPS

General PHILLIPS. Thank you for the opportunity to testify today on proposed legislation. My written testimony addresses the bills that affect National Guard and Reserve servicemembers and their families. Today, I will focus on binding or predispute arbitration and servicemember claims in connection with the Uniformed Services Employment and Reemployment Rights Act. This issue directly affects members of the reserve components who tend to have civilian jobs when they return from war.

H.R. 2631 decisively addresses this issue and has ROA support. Former Congressman Michael Michaud, who was a Member of this Committee and the Assistant Secretary of Labor for Veterans Employment and Training said, "USERRA prohibits discrimination in employment based on an individual's prior service in the uniformed services, current service in the uniformed services, or intent to join the uniformed services."

USERRA also guarantees that civilian employees who take military leave can return to their jobs without penalty. The Supreme Court has called this law critical to manning the Armed Forces. When Congress enacted USERRA, it adopted protections intended to ensure that servicemembers would not waive any of their rights under USERRA. Congress wanted to ensure the integrity of the law's provisions. Specifically, section 4302(b) of Title 38 voids any agreement, "that reduces, limits, or eliminates in any manner any right or benefit provided by USERRA." This section codifies anti-waiver principles that the Supreme Court established in the 1940s and 1950s to protect servicemembers' rights.

Additionally, the House report that enacted this section explained an arbitration is not required and that arbitration awards involving USERRA can't be enforced. But abuses have, indeed, occurred and shows us that the intent of USERRA is being thwarted. We just heard about the case of Navy reservist Kevin Ziober. We think that such decisions by the Court are contrary to the intent of Congress, that servicemembers can't be forced to arbitrate their USERRA claims, that they can't be forced to weaken their USERRA rights.

You may not know about Rodney Bodine, an Army reservist. Rodney was told by his supervisor that military folks don't work out at that particular place of business. His supervisor ridiculed him for performing his military duty instead of working on the weekend and pressured him to choose between the military and his civilian job. Bodine was fired for extending his contract with the military. He was fired without the employer showing cause of substandard performance. The Court, in 2015, enforced the arbitration agreement he had made and his USERRA rights were sacrificed.

ROA does not, per se, oppose arbitration. It is when a person is compelled under the pressure of getting hired to forfeit his or her rights, contrary to the spirit of the law, to submit to involuntary consent that we find cause for alarm.

Further, arbitration agreements silence the servicemember's voice by requiring confidentiality. Thus, we can't fully gauge the extent of the issue. For every Ziober, how many others never go to court, never go to the media, never go to their Members of Congress?

We do know that even after nearly 20 years of war and flag waving, some employers are still firing servicemembers for serving their Nation. We can only imagine the effect of these abuses on rates of depression, suicide, and other destructive behaviors within the veteran community. Without strong USERRA rights, many Guard and Reserve members literally cannot afford to serve in the military.

Congress invoked its war powers when it enacted USERRA, because USERRA and the associated issues are matters of national security, as opposed to commerce or the workplace. Congress is clear that servicemembers cannot be required to arbitrate their USERRA claims, but the Federal courts need unequivocal language. Federal judges apparently sympathize with servicemembers and their families but believe the statute, as written, is not clear enough for them to bar forced arbitration.

When the Ninth Circuit ruled against Kevin Ziober, it concluded the opinion by stating: "Congress can fix this problem to make clear that it does not render predispute agreements to arbitrate USERRA claims unenforceable." In this sentiment, the Ninth Circuit has been joined by other courts which have ruled similarly. Judges are stymied by unclear language. The Supreme Court has not yet stepped in, even though a group of 20 Representatives and Senators filed a brief in May asking the Court to hear the case and rule in favor of our servicemembers.

ROA asked Congress to amend the statute to eliminate binding arbitration and protect servicemembers from waiving their rights under USERRA. The passage into law of H.R. 2631 would help ensure that servicemembers can serve their country and their employers without penalty. ROA urges Congress to pass this bipartisan legislation for all those patriots who serve and have served us so well and so faithfully.

I thank the Economic Opportunity Subcommittee for holding this hearing and for your leadership on such key issues, and I welcome your questions. Thank you.

[THE PREPARED STATEMENT OF MAJOR GENERAL JEFFREY E. PHILLIPS APPEARS IN THE APPENDIX]

Mr. ARRINGTON. Thank you, General Phillips.
Now, I recognize for 5 minutes Mr. Stultz.

STATEMENT OF GABRIEL STULTZ

Mr. STULTZ. Thank you, sir.

Chairman Arrington, Ranking Member O'Rourke, Members of the Subcommittee, Paralyzed Veterans of America appreciates the opportunity to present our views on pending legislation.

Forced moves between States, sometimes more than once in a given year, lead to complicated and burdensome tax situations for military personnel. The Servicemembers Civil Relief Act alleviated this burden by allowing them to keep one tax domicile, or State of residence, throughout their career.

While the same benefit was eventually afforded to spouses, there is a caveat in the law that requires them to share the same domicile or residency as the servicemember. This requirement has led to unintended consequences in some circumstances, specifically for

couples who marry after the servicemember has established residency elsewhere. If the spouse is unable to independently establish residency in the servicemember's home State or if the servicemember doesn't want to change their State, perhaps because it has no income tax, the spouse is effectively precluded from this benefit. The Military Residency Choice Act would cure this issue by allowing the spouse to adopt the domicile of the servicemember. Given the sacrifices these families make, this is appropriate.

We also support H.R. 1690 and H.R. 2772, both of which would dovetail nicely with the recent enactment of the VA Accountability and Whistleblower Protection Act. These bills help address two issues that have caused people across the country to scratch their heads in frustration and ask how employees who find themselves in hot water end up getting transferred or getting a bonus instead of getting fired. Greater transparency through reporting on the VA's utilization of bonuses and employee transfers will help answer these questions.

With regard to H.R. 2631, the Justice for Servicemembers Act, Congress should be aware that, last week, the Supreme Court sent a clear signal that veterans and servicemembers subjected to arbitration as part of an employment contract will not find relief in the courts when they end up not liking the forum. By deciding not to hear the case, the Court is leaving in place the lower court's interpretation that USERRA does not extend protections to procedural rights. This means that if Congress intends to preclude forced arbitration of disputes arising under USERRA, it must do so in unmistakable language. Two circuit judges in separate cases went so far as to write concurring opinions expressing the importance of clearly articulating congressional intent to preclude forced arbitration in light of strong policies favoring arbitration. We support this legislation because it does just that.

To be clear, this bill permits veterans and their employers to continue to utilize arbitral instead of judicial forum to resolve disputes if they so choose. We find, though, that veterans seeking protections under USERRA are doing so precisely because of the significant risk of discrimination placed upon them when forced to leave their job for months or even over a year in order to serve their country.

Growing numbers of employers are turning to mandatory predispute arbitration agreements. And in light of the sacrifices veterans make, it is consistent with the intent of USERRA to afford them every advantage in ensuring their rights remain protected.

I will close by addressing the draft bill that deals with a very important issue for paralyzed veterans: home modifications and adaptations. Having an accessible home is critical for service-connected, catastrophically disabled veterans seeking to reintegrate in society in a meaningful way. Currently, the VA administers a number of programs designed to meet this need. This draft bill would consolidate certain redundant administrative functions within the VA by shifting authority from the Voc Rehab Program to the loan guaranty office to carry out home adaptations veterans are entitled to under Chapter 31.

It is important the VA explore ways to better utilize resources instead of simply throwing more money at problems. Our biggest concern with this draft bill is that the expected gains in efficiency might fail to be realized if the loan guaranty office isn't able to scale up in a way that corresponds with the increased workload as a result of changes.

Just a year ago, our organization testified before this Subcommittee calling for greater investment in staffing and expedited processing for terminally ill veterans, including those with ALS. Some of the specially adapted housing programs are operating smoothly. I just checked in with our—many of our service officers across the country, and they have had favorable things to say, but others still suffer from delays. Spreading staff too thin in this Department could exacerbate these kind of issues. So if this bill moves forward, we would expect strong oversight.

Thank you, Mr. Chairman. This concludes my statement. I would be happy to answer any questions the Subcommittee may have.

[THE PREPARED STATEMENT OF GABRIEL STULTZ APPEARS IN THE APPENDIX]

Mr. ARRINGTON. Thank you, Mr. Stultz.

I now yield myself 5 minutes for questions.

Let me just follow on what Mr. Stultz raised with respect to concerns, resources. It seems to me to make way too much sense to allow the specially adapted housing agents, as opposed to the Voc Rehab counselors, to work on these Voc Rehab cases. But to your point, without resources and the fact that they have been flat in their budget over the last several years, Mr. Coy, could you address those concerns? Are you also concerned? Do you think you all have the capacity to manage that and serve our veterans in this respect?

Mr. COY. Thank you, Mr. Chairman. I would suggest we are always concerned to make sure that we have the resources necessary to serve veterans in the way that they deserve. This particular bill would increase our workload within the SAH folks about 10 percent. And so we looked at that very vigorously, and we have about 173 current SAH agents across the country, and we believe that we can absorb this additional workload and not cause any delays in the housing projects that we have now.

Mr. ARRINGTON. Thank you, Mr. Coy.

We had a hearing in April where, in the Ranking Member's experience and wisdom, directed the panelists to go back and solve the problem for us and not look to the government, believe it or not, to solve the problem. I really appreciated him making that recommendation to the Committee. This had to do with the appraisal process.

And, Mr. London, I think you were there. And so maybe Mr. London could address this, but I am happy for you to address it as well, Mr. Coy.

What have we—what solutions have come out of that? We ask that the stakeholders come together, Department of Defense, we had folks from industry. What solutions have come from those discussions since April?

Mr. COY. We did follow up. I know Mr. London got all the people on the panel together—

Mr. ARRINGTON. Great.

Mr. COY [continued].—in the beginning of May. We discussed all of the issues. There are some pending assignments from each of the Members of the panel. But I will turn it over to Mr. London, and he can give a little bit more explicit, detailed report on some of the things that he did with the panel.

Mr. LONDON. Yes. Thank you, Mr. Coy.

Good afternoon. We had a very productive meeting at the beginning of May with the other panelists from the appraisal hearing that we held in April. And it was about a 3-1/2 hour meeting where all of the stakeholders were very much engaged.

And one of the key things that we discussed at the very beginning of the meeting is we wanted to come to a common understanding of what our goals are. And we came to three points that we believed that we needed to focus on, and that really shaped the conversation.

First, we wanted to make sure that any changes or enhancements or opportunities for improvement that we came up with, that first and foremost needed to protect the veteran. We also decided that whatever solutions we come up with, it also has to, obviously, take into account the taxpayer burden and make sure that we are not adding additional cost. And also the integrity of the program. And, thirdly, we wanted to make sure that any changes that we decided to implement, we would still be in compliance with the Uniform Standards of Professional Appraisal Practice. So, again, that shaped the conversation.

And so each entity had an opportunity to address concerns and also pose different ideas. And the bottom line of the discussion is, one of the key things that we wanted to do and we are currently working through this process, is, as we talked about in the appraisal hearing, we wanted to make sure that, in rural areas, that we had adequate coverage to make sure that we had the right number of appraisers. But, of course, in rural areas, there is a lot of travel time that is needed for the appraiser.

So one of the things that, obviously, came out of that is the desktop appraisal. So we are going to test the various desktop appraisal products against appraisals that are being done today to ensure that the integrity of that process is still there. And that will be a part of our market research as we are about to let a new appraisal contract in about a year or so.

The other thing that—

Mr. ARRINGTON. Mr. London, just in the interest of time, and you can finish it, but let me ask on that desktop, since that is the draft legislation, on the desktop appraisal initiative.

Mr. LONDON. Yes, sir.

Mr. ARRINGTON. It is, I think, intuitive that it will streamline the process not having somebody travel. But will it also reduce costs, given that the VA pays for that travel? Do you anticipate cost savings in this?

Mr. LONDON. Well, the appraisal fee that is given to the appraiser, in most cases, does not take into account travel time. Really, what we are paying for is that appraiser's professional evaluation opinion based on his or her market knowledge of the subject property and the comparables.

So looking at it at first glance, I don't think that it would have an immediate cost savings, because we don't currently include mileage in the appraisal fee. If there is mileage, that is an additional cost. So in that sense, it would reduce some but not the appraisal fee itself.

Mr. ARRINGTON. With the permission of the Ranking Member, would you mind if he finished the—

Mr. O'ROURKE. Not at all.

Mr. ARRINGTON. So we had desktop appraisals. Could you just finish? You said you had three. Then I am going to defer to the Ranking Member for any questions and comments.

Mr. LONDON. Absolutely. And I will be succinct for the sake of time.

The second action item that came out of the meeting was about making sure that the VA work together with industry to come up with uniform training on the VA appraisal process to ensure that new and current appraisers understand the VA requirements. Because a lot of times, there is—as we discussed in April, there are misnomers about the process, and people think that the VA process is more complicated than FHA or conventional appraisals. So we want to make sure that we have uniform training out there so that stakeholders know what the expectations are.

And the last outcome was centered around continuing education credits. We wanted to make sure that, as we work to recruit new appraisers, that—one incentive that we potentially could provide is to offer continuing education credits for those appraisers who currently work in the program or who are thinking about working in the VA program.

And I know I said there were three things, but there actually was a fourth thing that is somewhat tied to the training aspects. Both the Appraisal Institute and NAR made the commitment that they will work with the VA to work with their members to educate them about the VA process and to, hopefully, recruit more appraisers.

Mr. ARRINGTON. Well, Mr. London, I just want to say thank you for taking our request seriously and for being so diligent about it. And I am encouraged to hear some of the outcomes of your stakeholder meeting.

And with that, I want to recognize Ranking Member O'Rourke for any comments he has.

Mr. O'ROURKE. I would just like to add to the Chairman's thanks to you, Mr. London, for working with those other Members of that panel following the hearing in April, and look forward to some formal presentation of the solution that comes from all the stakeholders. And, ultimately, is up for us to assist in whether it is authorizations that are necessary or working with the VA where they can implement these things administratively. So really grateful for the work that you are doing. I am looking forward to the final product on that.

For Mr. Coy, I wanted to follow up on Mr. Taylor's testimony regarding the Senior Executive Accountability bill. And I begin by saying, I really am grateful for what he is trying to do, which is—if I had to boil it down and if I were sharing this with my constituents, I would say it is to make sure that we don't just shuffle

around mediocre senior executives where, after they fail in one place, they are moved to another. And he gave some pretty compelling examples of the consequences of doing that.

I would also add, and I do not think this is contained in Mr. Taylor's bill, this Committee and the VA needs to find a better way of attracting the very best talent we can for these positions. And if that involves increasing pay or flexibility or, as we found in El Paso where we waited 2 years to fill a vacant directorship, the candidate who was interested had to spend a year in the hiring process, fill out endless paperwork, write essays that were then graded and returned to him for improvement when we were desperate for leadership. And we had decided—I say we, the government—that this was our man for the position. He had decided he was willing to work for us, and we made it just about as hard as we could on him.

So, yes, let us get rid of unproductive mediocre senior executives that are in the way of excellence at the VA. Let us also attract and retain the very best. Those two need to go hand-in-hand.

Your testimony suggested that you wanted to narrow the cost language to only the cost of incentives associated with reassignment. Can you expand on that and perhaps answer what I think Mr. Taylor's interest was, and I think mine is as well? I want to know what the full cost is of shuffling people around just in terms of what we pay out. So, our all-in costs on doing this.

Mr. COY. Well, for that question, I will turn it to my colleague, Ms. Butler, and she has been working this issue 24/7. So it is probably more appropriate that she answer that question.

Mr. O'ROURKE. Thank you. Ms. Butler.

Ms. BUTLER. Thank you. So to answer the first question about relocation incentives as opposed to relocation costs, the costs are no different than any other permanent change of station cost that would be incurred in any other Federal agency when an employee is moved on the request of the government. So those costs are really predetermined, if you will, under the GSA contract where moves are concerned.

Where we have flexibility within the VA—or where we have an option as to how we decide whether or not there would be an incentive involved is based on whether or not the position is otherwise likely hard it be filled absent the incentive. So that is why we were asking to make that distinction. We can certainly work with our colleagues in the financial management side of the house to find out how much we spend in entirety on relocation expenses. But with respect to incentives, it is a much smaller number, and that was why we were asking to make that distinction.

Mr. O'ROURKE. Great. And I wonder if we can't—it sounds like that distinction might be important, if we can make that distinction the presentation of costs and still present the entirety of those costs, the incentive costs and what you say is a standardized set of costs when you are relocating any Federal senior executive service employees. Is that—maybe to bring it back to Mr. Coy, who is presenting the VA's official response on this legislation? Is that amenable to you? And could we then—if the bill were changed to reflect that, could we then get the VA's support for this?

Mr. COY. The bill does have our support, and so we will be happy to work with the Committee to make sure that any concerns that we have and/or you have or the Committee does, that we will get them resolved.

Mr. O'ROURKE. Okay. That answers my questions.

I will yield back to the chair. Thank you.

Mr. ARRINGTON. Thank you, Mr. O'Rourke.

And now I want to recognize the gentleman from Ohio, our Chairman, Brad Wenstrup, for 5 minutes of comments and questions.

Mr. WENSTRUP. Thank you. Thank you.

Mr. Coy, General Phillips had talked about, in the 1690, the possibility of report on bonuses and talked about possibly a report on those that did not receive a bonus.

What would be the Department's feeling on that?

Mr. COY. On—I am not clear. What is the Department's feeling on not giving out bonuses?

Mr. WENSTRUP. No, no, no, on having in the report those that did not receive a bonus.

Mr. COY. I don't think the Department has an issue with that. And I think—I am looking at my colleague over here, and she went no. We officially don't have a problem with that, and we will be happy to do that, sir.

Mr. WENSTRUP. Yeah, I am just thinking if there are any pros and cons to it. I think that, speaking for myself, that I look at a bonus as something exceptional and retaining your job is the norm, so I just—I wouldn't want necessarily it to be viewed as because you didn't get a bonus that you weren't doing your job when you were doing your job, but bonuses are for going above and beyond. At least I think that is the approach we should maybe take going forward, and so I just wanted some input on that.

Mr. COY. I have been a senior executive for close to 20 years, and the way we do it at the VA essentially is, is that if your rating is fully successful—in other words, you are doing your job—you don't qualify for a bonus. The people that qualify for bonuses are those folks that are rated outstanding and exceptional. At least I know that is the way we do it in VBA. And I think that is the way we do it across the Department. My colleague here is nodding her head again. So those people that are fully successful do not get a bonus.

Mr. WENSTRUP. General Phillips, what was your intent with that?

General PHILLIPS. Dr. Wenstrup, it was to achieve a totality of information so that we could see—we are not necessarily disagreeing with how bonuses are given out or not given out, but we wanted to see if there are trends, there are indicators of problems in various geographic areas or specialty areas.

Mr. WENSTRUP. When senior executives are reassigned what, as far as the Secretary goes, what is the level of awareness? Do these things happen off the Secretary's radar? Does the Secretary sign off on that? How does that work.

Mr. COY. I am not intimately familiar. Most of the issues that we have heard of and that has been talked about are in the world of VHA and moving hospital directors as shown by the examples, so I will let Tia answer that very quickly.

Ms. BUTLER. That is correct. Most of the examples are typically with respect to reassigning executives within VHA, but in terms of approval level, currently in the Department under this Secretary and under prior Secretaries, the authority to approve personnel actions where executives are concerned has been delegated to the chief of staff.

I would say that the Secretary is typically involved where the medical center director positions have been the primary case, if you will. And then, in the previous administration, the Deputy Secretary was very much involved because we were looking to make certain that we had many of those positions filled and were looking at the timeliness within which we could get them filled, as well.

Mr. WENSTRUP. So it is not necessarily signed off by the Secretary or Deputy Secretary, but they sometimes want to be involved. Would you recommend that they be involved at some level when those—made aware or sign off on those moves?

Ms. BUTLER. I would say that we certainly would want our Secretary to have the flexibility to, you know, to be able to be aware but then also to be able to delegate where he sees fit. But I do believe that, especially with many of our high-profile cases, the Secretary is very much aware of what the selection is as well as the timing of things like that.

Mr. WENSTRUP. Anyway because—

Ms. BUTLER. Yes.

Mr. WENSTRUP [continued].—he obviously has a keen interest in those particular moves.

Ms. BUTLER. Yes.

Mr. WENSTRUP. General Phillips—and thank you for that answer—you mentioned there is no such thing as voluntary consent for arbitration. I am not sure I understand that, if you could explain that.

General PHILLIPS. I was thinking that—I was referring to the fact that when we include an arbitration clause in a hiring document, we are essentially involuntarily causing that person to opt into arbitration because they want the job, and they are not at the hiring table going to say: Well, I am not going to—

Mr. WENSTRUP. Right.

General PHILLIPS [continued].—can we take this out? So does that answer your question?

Mr. WENSTRUP. It certainly does. Thank you.

And I yield back.

Mr. ARRINGTON. Thank you, Mr. Chairman, and I now recognize the gentlelady from New York, Miss Rice, for 5 minutes of questions and comments.

Miss RICE. Thank you, Mr. Chairman.

So I just want to talk about the Accountability Act that we are discussing here. We had a Committee hearing in the last Congress, and after that hearing, Representative Mike Coffman and I requested that the VA OIG review allegations that a supervisor at a VA facility in the Bronx, my home State, made unauthorized contract purchases for prosthetics totaling more than \$50 million. It obviously gave the appearance of maybe there was some kind of a fraud going on.

After the investigation, they showed that one of the purchase card program managers had knowingly entered inaccurate data related to the purchases which resulted in about a half a million dollars' worth of unauthorized purchases that could not be accounted for.

So the supervising manager was at fault. He was found to be at fault for not providing adequate and required oversight, and that supervisor was removed from that particular role at the VA and then subsequently transferred to a different role at another VA facility.

Now, I mean, OIG obviously acknowledged that the actions such as these obviously harm the public trust, that the VA is actually properly executing their duties. Shuffling people around does not do any good. Obviously, this is one of the reasons why we are here talking about this today. I guess just my question to you, Mr. Coy would be in addition to what—the language that is in the bill, is there any additional information that you believe should be reported by the VA regarding reassignments of senior executives?

Mr. COY. I think—thank you for the question. I think the legislation is pretty clear that you want the cause of the particular reason for the reassignment, the cost associated with it, and that senior management, most certainly the Secretary, is aware and knows of it.

As Ms. Butler indicated, I have had a number of interactions with the Secretary, and he is a very hands-on Secretary. He is aware of these things.

Miss RICE. Okay. Ms. Butler, just to you, in terms of the cost of reassignment and all that, are there any challenges that you foresee in the ability to obtain the necessary information regarding all of the costs, regardless of what the language of the changes, the costs associated with reassignments as required for reporting under the bill, any obstacles that you see?

Ms. BUTLER. So the relocation expenses are typically covered by our office of finance and the travel office, so I do not have complete purview over that. I can say, however, though, that let's say an employee is scheduled to move and/or become effective at their new duty station July 1st. They have so many days to actually execute the move, and in the process of doing that, you know, there may be some expenses that follow along after that. So, in terms of knowing, you know, kind of clean cut points and things like that, there may be some—I won't say challenges with it, but I think it may not be as clean cut as we all hope it might be in knowing that, well, the person is now at this location, but they may or may not have fulfilled all of their moving requirements, if you will.

Miss RICE. How would you address that?

Ms. BUTLER. So, again, because this is done by, you know, the travel office underneath of the office of finance, it is not something that is under my purview, but we can certainly work with them to make certain that they articulate what would be the best way to report it moving forward.

Miss RICE. Okay. Great. Thank you.

I yield, Mr. Chair.

Mr. ARRINGTON. Thank you, Miss Rice.

And I want to recognize the gentleman from Florida, Mr. John Rutherford, for 5 minutes.

Mr. RUTHERFORD. Thank you, Mr. Chairman.

And thank you, panel, for being here this afternoon, and, Ms. Butler, I would like to ask a question concerning the bonuses and other awards that are available to personnel, senior executives particularly. Is there a list somewhere of those disqualifiers that would preclude a senior executive from receiving a bonus?

Ms. BUTLER. So, because most or, I would say, all of the awards, bonuses are performance-based in the Department, it really is potentially a different list every year based on how the employee actually performed throughout the year.

This past year, as Mr. Coy stated, we actually were able to give performance awards to those executives who rated outstanding and/or exceptional. However, due to the CARA limitations we had across the Department, our funding was limited. So even some of our exceptional employees were not given performance awards because our awards dollars were limited.

Mr. RUTHERFORD. Well, the matrices that are used to award the bonuses then, are there those that are strictly, you know, numbers-driven, "we did X number of these things," or are there also issues of individual performance, working, showing up at work on time and those sorts of things, or are they all just performance for the unit, or are there individual standards as well?

Ms. BUTLER. All of our executives are on individual performance plans. All of their results-driven critical elements are aligned to organizational goals, as well. But the other elements that are very much specific to the executive are things like leading people, leading change, their business acumen, and things like that. So I would say the best way to describe it is a combination of all of those factors, both individual as well as—

Mr. RUTHERFORD. Okay. So there is a list of those somewhere?

Ms. BUTLER. In terms of the performance standards?

Mr. RUTHERFORD. Yes.

Ms. BUTLER. Yes.

Mr. RUTHERFORD. Could I get a copy of that?

Ms. BUTLER. Certainly.

Mr. RUTHERFORD. I would just be interested in seeing what is actually being measured.

Thank you.

Let me ask Mr. Stultz, I am going to switch over now to the arbitration process. Can you tell me how many instances you have observed where you think the member was negatively impacted by going through arbitration? Is that a high number, low number? Give me a feel for that.

Mr. STULTZ. I honestly couldn't give you an accurate number, sir.

Mr. RUTHERFORD. Do you have—

Mr. STULTZ. Well, given the number of cases that have reached the circuit and been disposed of, one making it all the way to the Supreme Court, there is obviously a number of servicemembers that have been negatively affected to the point where they have taken it that far.

Mr. RUTHERFORD. Could I ask all the panel just very briefly, yes or no, do you support the language in 2631 dealing with the arbitration?

General PHILLIPS. Sir, ROA supports it. The Reserve Officers Association supports it.

Mr. RUTHERFORD. Thank you. I wasn't here earlier.

Mr. STULTZ. We support it, as well.

Mr. RUTHERFORD. Okay. And so you hear those that are saying: Well, this is just, you know, trial lawyers trying to get into the system deeper.

Obviously, you don't agree with that?

Mr. STULTZ. Quite frankly, sir, this allows the servicemember to choose. And so arbitration is still available to be fully employed. These are in the instances where somebody feels like the cards are really stacked against them, where they have been treated in a way that arbitration just isn't going to satisfy them.

So I don't live in fear of trial lawyers taking all the money away because now they are going to use litigation. Nothing is forcing you into litigation in this bill.

Mr. RUTHERFORD. I concur.

Thank you, Mr. Chairman. I yield back.

Mr. ARRINGTON. Thank you. Mr. Rutherford. I am going yield some time for more questions for my colleagues if they have any, and if not, I would like to follow up with just a few questions.

Mr. Stultz, just following on Mr. Rutherford's line of questions regarding H.R. 2631, what is the problem we are trying to solve? Sometimes I feel like we have got solutions looking for a problem here. Why does the servicemember need to have an exception here under USERRA and be precluded from these arbitration provisions and these employment contracts, and then I want to talk about maybe some adverse unintended consequences to that, but what is the problem?

Mr. STULTZ. Well, I would say the problem is, like I said, there are circumstances where a returning servicemember, maybe I am a private first class, I have a high school education, and I don't have the resources to go stack up the lawyers and take on Circuit City. Circuit City is one of the seminal cases on this issue. They obviously have a wide variety of resources at their disposal. When you sign the contract of adhesion essentially is what it is called, when you sign up for employment, you don't realize that you have just elected to travel to wherever it is they said they want arbitration to take place. Sometimes you have those kind of clauses in there where you essentially say: If I want to fight this, I have got to figure out a way to get somewhere and live there until this arbitration is resolved.

So my question is, what is the harm in having a very tiny population of servicemembers have this choice when it comes to how they litigate a form of discrimination against them. And if it is such a pervasive problem, if it is a wider population, you need to start asking why servicemembers are being discriminated against at such a large scale.

Mr. ARRINGTON. It seems to me that if it was a problem for the servicemember it would be a problem for civilians, for all Americans, right? I mean—

Mr. STULTZ. No.

Mr. ARRINGTON. Or is that not the case? I mean, educate me on it. It is more of a question.

Mr. STULTZ. The only distinction that I would offer you is there is not a lot of civilians out there that say that: Somebody just made me take a 12-month break, and by the way, I might need some lead-up time to that, and when I come back, you are going to give me you're my full job back.

You know, I used to work for a government agency as a prosecutor in Sarasota, Florida. They can absorb me back in, but if I am at a mom-and-pop business, that puts them under serious strain. So there is a much higher propensity for discrimination against people who are going to interrupt a business flow to that degree.

Mr. ARRINGTON. I think that is a great point, and one I haven't thought of. So I am going take that into consideration. Thank you for that.

Do you think there is a chance—and I guess there is always a chance, but we have got to weigh the pros and cons here—so there might be the unintended consequence of veterans not being hired because they have this exception? So, from the outset, it might—not veterans, servicemembers rather. Do you think there is a probability—what level of probability you think that could happen? It seems realistic to me that it could happen.

Mr. STULTZ. I disagree. I think there is such a movement now to address veterans' unemployment because it is higher. It already is higher regardless, and there is such a movement to expose the skills that me and the others that have served bring to the job environment that I think, you know, like I will use Circuit City again just because they were one of the cases.

Mr. ARRINGTON. Yes.

Mr. STULTZ. The fact that they would forego hiring a select number of veterans simply because this clause wouldn't apply to them I think would be a very small thing for them to absorb.

Mr. ARRINGTON. Okay. Your first point I agree with that one I am not sure I do, but I wouldn't want it to happen, I would say that. I would not want that, and I don't think anybody would, so I worry about it, though.

Last comments, last question on the bonuses. You know, I have no problem with rewarding excellent behavior and performance, and I think that is the best practice in the best organizations. But you have got to be able to use the other tools to hold folks accountable and remove poor performers, and that is the culture we all want at the VA. I am sure it is the culture you want at the VA. I am not as interested in seeing who gets them, who doesn't get them. I am interested in what Mr. Rutherford talked about, and that is goals, strategic goals, performance, key performance indicators: Are you delivering the service, the product? Are you serving the customer, the taxpayer in managing and stewarding resources? Are you serving the customer and the veteran and delivering quality and timely service? To me, that, as a Committee, we ought to be looking at that level of strategy and policy making.

And if you are not meeting those goals, then we shouldn't reward you all. We shouldn't reward the Secretary. And that is how it

ought to be all through the organization because then we don't have to focus on process all the time. To me, process takes care of itself if you hold people accountable for the results, and so I would be really interested at some point in seeing some of these key performance, these metrics at the various divisions and departments at the VA. I am going to be looking at that as we move forward, but to me, that is what we ought to be thinking about and focusing on. Any comments about that?

Mr. COY. I would agree, sir. As I indicated before, I have lots of gray hair and been around too long, way too long probably. I will tell you my performance plan right now is about 15 pages long, and as Tia indicated, there is pretty much two aspects to it. One are the numbers. For example, I have a timeliness requirement for contacting veterans for their SAH grants within 30 days. I have also passed that on to Mr. London, and so, if he doesn't make his goal, I don't make my goal.

Mr. ARRINGTON. That is right.

Mr. COY. And so we have come a long way in VA. It is going further and further, and so my only comment would be, is, at some point, are you saturated with—if he doesn't make his timeliness goals because the phone system went down for 6 months, do I hold him accountable for the same goal? And so there also needs to be a little bit of mitigating circumstances there.

Mr. ARRINGTON. Sure.

Mr. COY. But I would suggest VA is very much on the right track, and I would suggest that my colleague, Ms. Butler, would probably indicate that, as well. She does it full-time, 24/7.

Ms. BUTLER. Yes, that is true. And I would also say that part of the reason why we asked for more than 30 days to be able to respond is because part of that—one of the statutory requirements is the performance review board, where we have a board of other senior executives who are reviewing the performance appraisals, the ratings from their supervisor, the executive's self-assessment against the benchmark criteria to indeed say or evaluate whether or not they have met the mark and whether or not they have met the mark across the board. And those executives that are participating on that panel participate for about 2 weeks in order to review the nearly 500 performance appraisals for all of the executives across the VA.

So we do indeed have a very rigorous process in terms of evaluating executive performance at the end of the year, and we would be more than happy to share the results of that.

Mr. ARRINGTON. Terrific. Well, I appreciate—yes, last call for comments and questions.

Mr. Rutherford.

Mr. RUTHERFORD. Just very quickly, Mr. Chairman.

I want to follow up on what Mr. Stultz said and highlight the fact that all the parties have to consent to this arbitration. So those employers, I think he is probably right, are not going to be put off by a process that they have to agree to, right?

Mr. STULTZ. My understanding is this would change it so that parties would agree after the dispute has arisen as opposed to the beginning of employment, so yes, I agree.

Mr. RUTHERFORD. And I just had—I just remembered I had this on my phone. Because I know we bring a lot of problems to you guys, and I just want to mention this. A veteran in Jacksonville sent me this just this morning. It is a picture of a valet parking for our handicapped people at the Jefferson Street VA Clinic in Jacksonville, Florida. He said: This is what greeted me this morning.

He didn't know that this program started about a month ago, a couple months ago maybe.

And then it says: 8 a.m. appointment this a.m. They called me to see the doctor at 7:58.

So things are working well at that clinic. So thank you.

Mr. COY. Thank you, sir.

Mr. RUTHERFORD. I yield back.

Mr. ARRINGTON. Thank you, Mr. Rutherford. And for that clarification. I am just getting all kinds of good counsel from you guys.

This has been a great discussion from my perspective, and I really appreciate your time.

And, Miss Rice, any further comments or questions?

Miss RICE. No, thank you.

Mr. ARRINGTON. I really appreciate you guys hanging in there with us, and this is very important. I think some great proposals for us to consider.

Mr. London, again, thanks for following up and doing what we asked you to do.

With that, I want to again thank everybody for coming, and I want to announce that the Subcommittee is tentatively scheduled to hold a markup on some or all of these bills on July 12.

I ask unanimous consent that written statements from the Department of Defense and the U.S. Chamber Institute for Legal Reform, the U.S. Chamber of Commerce, be included in the hearing record.

Mr. ARRINGTON. I finally ask unanimous consent that all Members have 5 legislative days to revise and extend their remarks and include extraneous material on any bills under consideration this afternoon.

Without objection—where is my gavel?

Without objection, so ordered.

This hearing is adjourned. Have a great weekend.

[Whereupon, at 3:38 p.m., the Subcommittee was adjourned.]

A P P E N D I X

Prepared Statement of Curtis L. Coy

Good morning, Chairman Arrington, Ranking Member O'Rourke, and Members of the Committee. Thank you for inviting me here today to present VA's views on several bills that would affect VA programs and services. Accompanying me today is Tia Butler, Executive Director, Corporate Senior Executive Management Office, Human Resources and Administration, and Jeff London, Director Loan Guaranty Service, VBA.

H.R. 282 - Military Residency Choice Act

H.R. 282 would amend the Servicemembers Civil Relief Act regarding various tax and residency matters. Because this bill concerns responsibilities under the purview of the Department of Defense (DoD), the Internal Revenue Service, the Department of Justice, and others, VA defers to the views of those agencies on H.R. 282.

H.R. 1690 - Department of Veterans Affairs Bonus Transparency Act

H.R. 1690 would require VA to submit an annual report to Congress regarding performance awards and bonuses awarded to high-level and executive employees at VA in the most recent fiscal year. The report must include the amount of the award, the title of the recipient, and the location at which the recipient is stationed. VA would be required to submit this report no later than 30 days after the end of the fiscal year.

VA supports the requirement to submit an annual report regarding performance awards and bonuses to the appropriate committees of Congress. However, VA does not support providing the report within 30 days of the end of the fiscal year, and recommends that the report be submitted no later than 120 days after the end of the fiscal year. Based on the VA's rigorous Performance Appraisal management program for Senior Executives, submitting a report within 30 days after the end of the fiscal year is not feasible. Prior to completing the performance-based awards process, there is a statutory requirement to convene a Performance Review Board (PRB). The PRB typically meets more than 30 days after the end of the fiscal year (September 30), which is also the end of the VA's Senior Executive performance cycle. In addition, the 120 day timing results from statutory requirements intended to achieve accuracy and equity in SES performance management, a process that focuses on getting the ratings right through several steps.

Before the requested report could be issued to Congress, the following detailed process needs to occur on/after September 30:

- The performance appraisal review process must commence, which includes executive self-assessment, rating official assessment, and issuance of an initial summary rating by the rating official;
- Administrative review by the performance management team and an opportunity for higher level review;
- The PRB convenes for two weeks to evaluate approximately 500 senior executive appraisals, and prepares its recommendations to the Secretary; and
- The Secretary then reviews recommendations and makes final decisions on ratings and performance awards only after considering results of the process.

For these reasons, VA requests 120 days after the end of the fiscal year to provide the requested report in order to accommodate this process and account for potential delays associated with three major holidays in the first quarter of the fiscal year.

H.R. 2631 - Justice for Servicemembers Act of 2017

H.R. 2631 would clarify the scope of procedural rights of servicemembers with respect to their employment and reemployment rights under the Uniformed Services

Employment and Reemployment Rights Act (USERRA) of 1994. Because this bill concerns procedures and protections that largely fall under the purview of the Department of Labor (DOL), VA defers to the views of DOL and other agencies on H.R. 2631.

DOL has advised that it strongly supports H.R. 2631, which would guarantee the availability of procedural rights included in USERRA, particularly enforcement rights.

H.R. 2772 - VA Senior Executive Accountability (SEA) Act

H.R. 2772 would amend title 38 of the U.S. Code to add a new section 719, which would prohibit the reassignment of VA senior executive employees to similar position within the Department without written approval by the Secretary. H.R. 2772 would further require VA to submit semiannual reports to Congress on the reassignment of such individuals, and include the purpose and costs associated with any such reassignments.

VA supports the requirement that the Secretary approve the reassignment of senior executive personnel. However, we propose two revisions to this section. First, we recommend revising proposed section 719(a) to read: "No individual employed in a senior executive position at the Department may be reassigned to another such position at the Department unless such reassignment is approved in writing and signed by the Secretary or his designee." Based on the extremely demanding schedule of the Secretary, this would clarify that the Deputy Secretary or Chief of Staff may approve reassignments on the Secretary's behalf. Second, we recommend editing the last sentence in proposed section 719(b) to read: "Each such report shall describe the purpose of each such reassignment and the cost of incentives associated with such reassignment." This narrows the focus to the cost of incentives rather than the other more routine or costs associated with reassignments.

H.R. — - Home Adaptations for Chapter 31 Beneficiaries

This committee draft bill would amend title 38 of the U.S. Code to authorize VA to furnish assistance for adaptations of residences of Veterans and Servicemembers in rehabilitation programs under chapter 31 of such title, and for other purposes. This bill would streamline the provision of housing modifications currently authorized under chapter 31 by administering them under chapter 21. It would cap the amount of such modifications at the same amount as Specially Adapted Housing (SAH) assistance, but allow the Secretary to waive the cap if the Secretary determines it is necessary for the Veteran's or Servicemember's rehabilitation program. The current SAH program cap amount is \$77,307 and is typically adjusted annually to match the Turner cost of construction index.

The Secretary would be required to report biannually to Congress. Finally, the bill would authorize the Secretary to implement the changes in advance of regulations and would make conforming amendments to other provisions of chapters 21 and 31.

VA supports enactment of this bill. Restructuring the chapter 31 housing modifications so that assistance is provided under chapter 21 will encourage more Veteran or Servicemember involvement and enhance the Veteran or Servicemember experience. Veterans or Servicemembers who qualify for benefits under chapter 21 are able seek out and hire contractors of their choice, whereas Veterans who qualify for benefits under chapter 31 are subject to VA's procurement processes, and have little or no control over the contractor selection process. VA determined the home adaptation program portion of an Independent Living rehabilitation plan would be best administered through the SAH program due to staff expertise in home renovations and consistent oversight of the construction process by VA.

The proposed authority would not create eligibility for additional benefits, and applying the established SAH grant amount limit will control escalating costs. Savings to the Readjustment Benefits account are estimated to be \$486 thousand in the first year, \$2.67 million over five years, and \$6 million over ten years.

H.R. — - Loan Appraisals

The committee draft bill would amend 38 U.S.C. § 3731 to authorize VA-designated appraisers to rely solely on information provided by third parties when valuing properties for VA's home loan program. VA supports enactment of this bill, as it would enable VA-designated appraisers to expand their coverage areas and would increase the number of appraisals they could perform in a timely manner.

The bill would not change the qualifications for VA-designated appraisers, nor would it make any substantial change to VA oversight requirements. It would, however, better align VA appraisal policy and procedures with industry standards, ad-

dress recent industry concerns regarding timely delivery of the VA appraisal product, and likely encourage more use of the VA Home Loan program by making VA financing a more attractive option within the mortgage industry. VA has not yet determined costs.

Mr. Chairman, this concludes my statement. Thank you for the opportunity to appear before you today. We would be pleased to respond to questions you or other members may have.

Prepared Statement of Maj. Gen. Jeffrey E. Phillips, USAR (Ret.)

The Reserve Officers Association of the United States (ROA) is a professional association of commissioned, non-commissioned and warrant officers of our nation's seven uniformed services. ROA was founded in 1922 by General of the Armies John "Black Jack" Pershing during the drawdown years following the end of World War I. It was formed as a permanent institution dedicated to national defense, with a goal to inform America regarding the dangers of unpreparedness. Under ROA's 1950 congressional charter, our purpose is to promote the development and execution of policies that will provide adequate national defense. We do so by developing and offering expertise on the use and resourcing of America's Reserve Components.

The association's members include Reserve and Guard Soldiers, Sailors, Marines, Airmen, and Coast Guardsmen who frequently serve on active duty to meet critical needs of the uniformed services. ROA's membership also includes commissioned officers from the United States Public Health Service and the National Oceanic and Atmospheric Administration who often are first responders during national disasters and help prepare for homeland security.

President: Col. James R. Sweeney II, USMC (Ret.) 202-646-7706

Executive Director: Maj. Gen. Jeffrey E. Phillips, USAR (Ret.) 202-646-7726

Legislative Director: Lt. Col. Susan Lukas, U.S. Air Force Reserve (Ret.) 202-646-7713

DISCLOSURE OF FEDERAL GRANTS OR CONTRACTS

The Reserve Officers Association is a member-supported organization. ROA has not received grants, contracts, or subcontracts from the federal government in the current or previous two fiscal years by the witness or by ROA. All other activities and services of the associations are accomplished free of any direct federal funding. Additionally, ROA has not made payments to or contracted with a foreign government in the current and preceding two calendar years.

STATEMENT

ROA appreciates the opportunity to provide testimony on several of the proposed bills.

H.R. 282, Military Residency Choice Act, to authorize spouses of servicemembers to elect to use the same residences as the servicemembers.

While this proposed legislation would affect more Active Component spouses than it would Reserve Component spouses, the proposed legislation has and should be passed into law.

H.R. 1690, Department of Veterans Affairs Bonus Transparency Act, to submit an annual report to specified congressional committees on the performance awards and bonuses presented to Regional Office Directors of the VA, Directors of Medical Centers of the VA, Directors of Veterans Integrated Service Networks, and any other individual employed in a senior executive position.

ROA appreciates that Chairman Roe has provided oversight of the Department of Veterans Affairs Senior Executive Service since 2007 with a hearing to ensure VA's process works for SES bonuses.

The proposed legislation supports this oversight by directing an annual report on performance awards and bonuses. This is important because bonuses can be as high as 10 percent of the aggregate payroll for career executives, a significant amount of money. According to various sources, awards of more than \$142 million were given in 2014 and more than \$177 million in 2015 were paid to SES and non-executive employees. There are more than 300 senior executives at VA out of approximately 7,000 government-wide.

Awarding bonuses is not problematic if they are based on VA's own guidance from VA HANDBOOK 5027/1, which establishes a program whereby executives must demonstrate "... a high level of individual and/or organizational performance." ROA is hopeful that an annual report that reviews who receives SES bonuses will iden-

tify trends associated with the award of bonuses; however we believe the report should also identify by job title and location those senior executives who did not receive a bonus. Trend identification in the non-award of bonuses can be as helpful as examination of winners and the factors influencing those awards.

H.R. 2631; "Justice for Servicemembers Act," This bill amends the Uniformed Services Employment Rights Act of 1994 to: (1) consider procedural protections or provisions under such Act concerning employment and reemployment rights of members of the uniformed services to be a right or benefit subject to the protection of such Act, and (2) make any agreement to arbitrate a claim under such provisions unenforceable unless all parties consent to arbitration after a complaint on the specific claim has been filed in court or with the Merit Systems Protection Board and all parties knowingly and voluntarily consent to have that particular claim subjected to arbitration.

Currently, the courts have interpreted that employed uniformed members are not afforded procedural right protections under USERRA under binding arbitration clauses. Specifically, the courts' decisions in separate federal districts, indicate that legislative intent as determined from the committee reports, cannot establish procedural right protections in the area of employment and reemployment under USERRA. The courts' past decisions demonstrate that only substantive right protections can be interpreted through the language of the Act.

However, the original intent of the legislature was to provide both substantive and procedural right protections under USERRA. Vague language contained in the Act caused courts to deprive uniformed members of the procedural right protections that Congress intended to grant. Section 4302 makes it clear that USERRA is a floor and not a ceiling on the rights of servicemembers as a person who is serving or has served.

It is hard to accept that consent is voluntary when a person agrees to binding arbitration upon employment: most people take jobs because they need to pay the rent and put food on the table. It is perhaps unsurprising that they may overlook the "future risk" of arbitration for the "present need" of income. Binding arbitration holds hostage the ability to provide food and housing for individuals and their families.

H.R. XXXX, to make appraisals based on inspections performed by third parties for housing and small businesses.

While this may seem like a minor change to Title 38, Chapter 37, it has major ramifications to veterans. Recently ROA's legislative director made an offer on a home, but it was not accepted because the homeowners wanted a quick closing and they believed a home loan would take too long to process. That is, in fact, not true because of changes the Department of Veterans' Affairs has made with appraisals. The legislative director ultimately made an offer and closed with a VA home loan in 19 days.

ROA recognizes it can, however, take longer for a VA appraisal in markets other than the Washington, D.C., metropolitan area due to the number of inspectors available to serve a large number of individuals needing an appraisal. This bill would help the department accomplish appraisals in a timely fashion during high peak periods of home buying or in smaller markets that have fewer inspectors.

CONCLUSION

The Reserve Components bring essential capabilities to the total force. Adequately resourced, as they have since the Guard's advent in the 17th century, Citizen-Soldiers provide our nation a unique and affordable augmentation of its military capability. We appreciate the committee considering legislation that positively affects the National Guard and Reserve, as well as, family members who support their efforts.

Prepared Statement of Gabriel Stultz

Chairman Arrington, Ranking Member O'Rourke, and members of the Subcommittee, Paralyzed Veterans of America (PVA) would like to thank you for the opportunity to provide our views on pending legislation before the Subcommittee.

H.R. 282, the "Military Residency Choice Act"

PVA supports the Military Residency Choice Act. Forced moves between states, sometimes more than once in a given year, lead to complicated and burdensome tax situations for service members. The Service Members Civil Relief Act alleviated this burden by allowing them to keep one tax domicile or state of residence throughout

their career. The Military Spouse Residency Relief Act (MSRRA) later extended the same benefit to spouses who share the same domicile or residence as the service member.

The caveat in the law requiring the couple to share the same state unfortunately excludes from the benefit a number of military spouses who marry after the service member established domicile or residency elsewhere. For example, if the service member maintained his home state domicile of Florida while stationed in Georgia, and then he marries his spouse who is a resident of Georgia, the spouse is unable to maintain her Georgia residency for tax purposes when the service member subsequently gets stationed in Kentucky. While she can feasibly maintain domicile in Georgia, current law does not protect her from statutory residency laws in Kentucky. If she was able to independently establish domicile in Florida, she would be eligible for this benefit upon moving to Kentucky. Similarly, if the service member changed his domicile to Georgia, she would be eligible. But it is unlikely the spouse can meet the requirements for Florida, and because Florida has no state income tax, few service members would abandon that state as their domicile.

The language used permitting the spouse's election of the service member's state "regardless of the date on which the marriage . . . occurred" leaves some ambiguity in the wake of evolving marital laws. State tax agencies may fail to realize this bill's intent. For clarity, we suggest the committee include language indicating that the spouse's inability to independently establish domicile or residency within the service member's designated state shall not be a bar to such an election. We would also offer this same suggestion for the language in the proposal amending 50 U.S.C. § 4025 pertaining to residency and voting rights.

H.R. 1690, the "Department of Veterans Affairs Bonus Transparency Act"

PVA supports greater oversight of Department of Veterans Affairs' (VA) utilization of bonuses and other incentives. Over the last few years, numerous instances of gross mismanagement by senior officials and misconduct among the rank-and-file within VA have been exposed. The impact on veterans produced a national outrage. But what really inflamed the issue was the fact that in many of these instances, some leading to avoidable harm, the employee's job was not only protected, but he or she collected a bonus. The recent passage of the Department of Veterans Affairs Accountability and Whistleblower Protection Act of 2017 included provisions allowing VA to claw back bonuses earned through misconduct.¹ This is a welcome step forward because it continues to incentivize hardworking employees while punishing those who put themselves before the veterans they serve. This proposal considered here dovetails nicely with this recently enacted provision. With roughly \$230 million allotted for VA bonuses this year alone, it is important to keep a watchful eye on what type of behavior VA is rewarding.

H.R. 2631, the "Justice for Service Members Act of 2017"

The Supreme Court of the United States recently denied a petition for certiorari in *Ziober v. BLB Resources, Inc.* on June 19, 2017.² In doing so, the Court sent a clear signal to Congress that veterans and service members subjected to arbitration as part of an employment contract will not find relief in the courts when they end up not liking the forum. A number of the federal circuit courts took up the question of whether a provision of the Uniformed Services Employment and Reemployment Rights Act (USERRA) precludes the enforcement of individual contracts to arbitrate employment disputes.³ Arbitration is considered a choice of forum, rendering it a procedural, not substantive, aspect of litigation. Because the language in USERRA does not suggest that the protections extend to procedural rights, each circuit concluded that no such prohibition exists in the statute. The Supreme Court's decision leaves this collective interpretation undisturbed.

It is important to note that the Federal Arbitration Act (FAA) "was enacted in response to judicial hostility to arbitration."⁴ Subsequent jurisprudence has "established a liberal policy of favoring arbitration agreements."⁵ In fact, the burden is

¹ Pub. L. No. 115-41 (2017).

² *Ziober v. BLB Resources, Inc.*, 839 F.3d 814 (9th Cir. 2016), cert. denied, No. 16-1269, 2017 WL 1437638 (U.S. June 19, 2017).

³ *Garrett v. Circuit City Stores*, 449 F.3d 672 (5th Cir. 2006); *Landis v. Pinnacle Eye Care, LLC*, 537 F.3d 559 (6th Cir. 2008); *Ziober v. BLB Resources, Inc.*, 839 F.3d 814 (9th Cir. 2016); *Bodine v. Cook's Pest Control Inc.*, 830 F.3 1320 (11th Cir. 2016).

⁴ *CompuCredit Corp. v. Greenwood*, 565 U.S. 95, 97 (2012).

⁵ *Id.* at 98.

on the veteran “to show that Congress intended to preclude a waiver of a judicial forum for the particular claim.”⁶ This comes from the belief that arbitration “allows a plaintiff to vindicate his or her substantive statutory rights to the same extent as filing a lawsuit in federal court.”⁷ Some veterans have unsuccessfully argued that the legislative history indicated an intent to preclude arbitration, but even if the history supported their claims, courts as a matter of practice do not consider legislative history unless the statute is ambiguous. Legislative history is rarely used in statutory interpretation, and it should not be relied upon.

If Congress intends to preclude forced arbitration of disputes arising under USERRA, it must do so in unmistakable language. Two circuit judges in separate cases went so far as to write concurring opinions to express the importance of clearly articulating congressional intent to preclude forced arbitration in light of the strong policies favoring arbitration.⁸ We support this legislation because it does just that. We appreciate that our laws and jurisprudence have placed arbitration on equal footing with legislation. And this bill permits veterans and their employers to continue to utilize an arbitral, instead of judicial, forum to resolve disputes if they so choose. We find, though, that veterans seeking protections under USERRA are doing so precisely because of the significant risk of discrimination placed upon them when forced to leave their job for months or even over a year in order to serve their country. Growing numbers of employers are turning to mandatory pre-dispute arbitration agreements, and in light of the sacrifices veterans make, it is consistent with the intent of USERRA to afford them every advantage in ensuring their rights remain protected.

H.R. 2772, the “SEA Act”

The VA Senior Executive Accountability Act or “SEA Act” would require the VA Secretary to personally approve senior executive reassignments. It would also require semiannual reporting to Congress on the reasoning for such reassignments. We will echo some of our comments above discussing H.R. 1690. Two years ago, seniors executives were caught gaming the system through beneficial reassignments. This practice went unchecked due to limited oversight at the highest levels of VA leadership, and it only exacerbated an already frustrated population of veterans failing to receive health care as a result of other misconduct. The Department of Veterans Affairs Accountability and Whistleblower Protection Act of 2017 included a provision allowing for recoupment of relocation expenses in such circumstances. But in addition to reinforcing this recently-enacted provision, this bill would help address an even bigger problem. VA has long been hamstrung by burdensome employment laws forcing VA to transfer bad employees rather than attempting the arduous process of terminating them. Most would expect this to at least result in burying the employee somewhere within VA in an inconsequential role, but a surprising number of these employees end up promoted. This reporting requirement would begin to shed light not only on how pervasive this practice has become, but how effective the recently-enacted accountability law ends up being for VA.

Draft bill authorizing VA to furnish adaptations of residences under chapter 31

VA administers a number of programs designed to help veterans modify their homes to make them accessible. These include the Specially Adapted Housing Grant (SAH), the Special Housing Adaptation Grant (SHA), the Home Improvement and Structural Alterations Grant (HISA), and the Vocational Rehabilitation and Employment (VR&E) Independent Living services. This draft bill would shift authority from the VR&E program to the Loan Guaranty program to carry out home adaptations veterans are entitled to under chapter 31. Because the Loan Guaranty office currently administers both the SAH and SHA grants, the effect would be to consolidate all administrative authorities for home modifications under one office within VA. The HISA grant would remain separate and continue to be administered by the Prosthetics and Sensory Aids department within the Veterans Health Administration (VHA).

Consolidating these legal authorities will likely translate into administrative efficiency through elimination of redundant efforts and processes. These gains, however, will fail to be realized if the Loan Guaranty office is unable to scale up in a way that corresponds with the increased population it will now be required to serve.

⁶ *Gilmer v. Interstate/Johnson Lane Corp.*, 500 U.S. 20, 26 (1991).

⁷ *Ziobar*, 839 F.3d at 821 (citing *Gilmer* at 30).

⁸ *Ziobar*, 839 F.3d at 821–823 (Watford, concurring); *Landis v. Pinnacle Eye Care, LLC*, 537 F.3d 559, 564–565 (6th Cir. 2008) (Cole, concurring).

Congress must ensure that this program serving the most catastrophically disabled veterans is not suddenly disrupted with an unfunded or under-resourced mandate. Just a year ago, our organization testified before this subcommittee calling for greater investment in staffing and expedited processing for terminally ill veterans, including those with amyotrophic lateral sclerosis (ALS). Veterans with ALS are critical users of the SAH program, and the disability claims system is not designed to be responsive to such rapidly changing disorders. Spreading staff too thin in this department could exacerbate such issues. If not executed well, this consolidation could produce more harm than good. If this Committee moves forward with this proposal, we encourage strong oversight throughout implementation.

Draft bill permitting appraisals based on inspections conducted by third parties

PVA has no position on this draft bill.

Thank you for the opportunity to submit our views on pending legislation. We would be happy to answer any questions the Subcommittee may have.

Statements For The Record

THE DEPARTMENT OF DEFENSE

Chairman Arrington, Ranking Member O'Rourke, and members of the Subcommittee, the Department of Defense (DoD) appreciates the opportunity to provide this statement for the record addressing legislation pending before the Subcommittee. This statement will focus on only those bills that will affect DoD; we defer to the Department of Veterans Affairs to provide responses on those bills with no significant DoD impacts.

H.R. 282, "Military Residency Choice Act"

This bill amends the Service members Civil Relief Act to authorize spouses of Service members to elect to use the same residences as the Service members. The Department has no objection to Section 2 of this bill which would allow the spouse of a Service member to elect to use the same residence for tax purposes regardless of the date of marriage. Section 3 of this bill would provide an opportunity for military spouses to retain their original voting residence if they are stationed with their spouse at another location and/or choose to use the same residence as the Service member, regardless of their marriage date. DoD does not object to section 3 since it does not negatively impact the Federal Voting Assistance Program's ability to provide voting assistance to military spouses.

H.R. 2631, "Justice for Servicemembers Act of 2017"

This bill would amend title 38, United States Code, to clarify the scope of procedural rights of Service members with respect to their employment and reemployment rights under the Uniformed Services Employment and Reemployment Act of 1994 (USERRA).

USERRA establishes rights and responsibilities for uniformed Service members and their civilian employers. The proposed legislation clarifies that section 4302(b) of USERRA protects both substantive and procedural rights and benefits from reduction, limitation or elimination by contract, agreement, policy, plan, practice or other matter including by arbitration agreement, and prevents the enforcement of arbitration agreements unless all parties voluntarily consent to arbitration after a claim is filed in court or with the Merit Systems Protection Board. DoD does not object to this legislation since it does not lessen cooperation and understanding between Reserve Component Service members and their civilian employers. It also does not adversely impact the Employer Support for Guard and Reserve's ability to help resolve conflicts arising from an employee's military commitment.

Closing

The Department of Defense thanks the Subcommittee for its outstanding and continuing support of our Service members and Veterans.

**U.S. CHAMBER INSTITUTE FOR LEGAL REFORM AND U.S. CHAMBER
OF COMMERCE**

Chairman Arrington, Ranking Member O'Rourke and members of Subcommittee on Economic Opportunity of the House Veterans' Affairs Committee, the U.S. Chamber of Commerce ("Chamber") and the U.S. Chamber Institute for Legal Reform ("ILR") submit this statement for the record regarding H.R. 2631, the "Justice for Servicemembers Act of 2017," and appreciate the opportunity to offer it.

The U.S. Chamber of Commerce is the world's largest business federation representing the interests of more than three million companies of all sizes, sectors, and regions, as well as state and local chambers and industry associations, and is dedicated to promoting, protecting, and defending America's free enterprise system. ILR is an affiliate of the Chamber dedicated to making our nation's civil legal system simpler, faster, and fair for all participants.

The Chamber and ILR deeply value servicemembers and their contributions both at home and abroad. The Chamber and ILR also vigorously support the goal of the Uniformed Services Employment and Reemployment Rights Act ("USERRA") to "encourage noncareer service in the uniformed services by eliminating or minimizing the disadvantages to civilian careers and employment which can result from such service."¹ Employers should never discriminate on the basis of membership in the uniformed services when making employment, reemployment, promotion, or benefits decisions; and those who leave civilian employment to serve our country properly should receive reemployment protections.² However, the Chamber and ILR oppose H.R. 2631 because the legislation would make it harder for servicemembers to obtain relief pursuant to USERRA by effectively eliminating arbitration as an available means of resolving USERRA disputes.

Servicemembers are entitled to a fair, accessible, and speedy means of vindicating the rights conferred by USERRA. Forcing them into our overcrowded court system and requiring them to depend entirely on plaintiffs' lawyers will not serve those goals.

First, the vast majority of employment-related claims are individualized and relatively small in the USERRA context, for example, claims that an employer refused to rehire a particular servicemember or that a particular person was passed over for promotion after applying to join the uniformed services. But those are the precise category of cases for which it will be difficult for a servicemember to secure a lawyer, because most plaintiffs' lawyers seek to handle either lucrative class actions or high-dollar contingency fee claims.³ Without a lawyer, the servicemember will be unable to vindicate his or her rights in court, because complex court rules, and the requirement that litigants representing themselves appear in person, effectively make a lawyer mandatory.

To interest a lawyer, moreover, a servicemember likely would be required to sign an agreement promising the plaintiffs' lawyer a significant percentage of any settlement or damages award; even if the court awards attorneys' fees under USERRA's fee-shifting provision, the servicemember will be obligated to pay the lawyer an additional amount out of the servicemember's recovery if that is necessary to reach the payment required under the contract. That is because the Supreme Court has held that a fee-shifting statute "controls what the losing defendant must pay, not what the prevailing plaintiff must pay his lawyer," and that fee-shifting statutes "do[] not interfere with the enforceability of a contingent-fee contract."⁴ More broadly, the "trend" is for courts to require a prevailing plaintiff to pay the difference between a fee award and a higher contingency fee set by agreement.⁵

Arbitration, by contrast, provides servicemembers with a simple, low-cost mechanism for dispute resolution with procedures so simple that servicemembers can represent themselves if they wish:

¹ 38 U.S.C. § 4301(a)(1).

² Id. §§ 4311(a) & 4312(a).

³ Studies indicate that a claim must exceed \$60,000 in order to attract a contingent-fee lawyer. Elizabeth Hill, *Due Process at Low Cost: An Empirical Study of Employment Arbitration Under the Auspices of the American Arbitration Association*, 18 Ohio St. J. on Disp. Resol. 777, 783 (2003). In some markets, this threshold may be as high as \$200,000. Recommendations of the Minnesota Supreme Court Civil Justice Reform Task Force 11 (Dec. 23, 2011), <https://www.leg.state.mn.us/docs/2012/other/120214.pdf>.

⁴ *Venegas v. Mitchell*, 495 U.S. 82, 90 (1990) (interpreting 42 U.S.C. § 1988's fee-shifting provision).

⁵ See 1 Robert L. Rossi, *Attorneys' Fees* § 2:13 (3d ed. 2013) (explaining that "unless . . . the retainer agreement makes specific provision for" a fee-shifting award, "the trend is to calculate the contingency fee based on the amount of the judgment exclusive of the fee award, and then credit the fee award to the client as an offset against the contingency fee owed").

- Studies reveal that individuals fare at least as well in arbitration as they would have in court, if not better.⁶
- Arbitration is inexpensive for servicemembers. The American Arbitration Association (“AAA”), for example, requires the business to bear most arbitration costs; many companies pay even the consumer’s share, which the AAA caps at \$200.⁷ A large percentage of servicemembers will pay no attorneys’ fees, either.⁸
- Courts invalidate arbitration agreements that include unfair procedural rules, or unfair processes for selecting arbitrators, under generally applicable unconscionability principles.⁹
- Arbitration is flexible and can be tailored to servicemembers’ needs. The AAA, for example, offers hearings by telephone, and participants can file documents and otherwise communicate with the AAA and arbitrator through email.¹⁰ Arbitration’s simplicity and flexibility mean that servicemembers can resolve their claims themselves if they wish-without a lawyer.
- Studies show that arbitration is much quicker than bringing a lawsuit in the overburdened federal and state court systems.¹¹

The proponents of H.R. 2631 have not offered sufficient systemic evidence to conclude that servicemembers generally face difficulty pursuing their claims effectively and efficiently through arbitration. Rather, the evidence of consumer arbitration generally reveals that those who want to present their claims quickly-without our court system’s delays-are able to do so in arbitration.

The primary effect of eliminating arbitration would be to give plaintiffs’ lawyers a monopoly over litigating these claims and leave servicemembers’ ability to enforce their rights at the mercy of those lawyers. It therefore is not surprising that the chief proponents-and the principal beneficiaries-of prohibitions or restrictions on arbitration are the trial lawyers. One of the “[t]op lobbying goals” of the American Association for Justice (formerly the Association of Trial Lawyers of America or “ATLA”) has long been to “outlaw mandatory binding arbitration in consumer contracts.”¹²

Second, private class actions in court will not protect servicemembers.

To begin with, the vast majority of USERRA claims likely could not be brought as class actions because they are individualized-turning on specific facts relating to specific individuals and specific employers. Class certification would normally be denied in such cases.

Even in the event of a systemic problem that adversely affected a large number of our servicemembers in similar ways, class actions (and the huge fees they reap for plaintiffs’ attorneys) would not be needed. USERRA authorizes servicemembers to report suspected USERRA violations to the Department of Labor’s Veterans Employment and Training Service (“VETS”); VETS, in turn, is required to investigate these complaints and to “mak[e] reasonable efforts to ensure that the person or entity named in the complaint complies with” the law.¹³ This process allows for the resolution of most complaints without any need for further formal processes. The statute also provides that a servicemember whose complaint is not resolved by VETS

⁶Compare Christopher R. Drahozal & Samantha Zyontz, An Empirical Study of AAA Consumer Arbitrations, 25 Ohio St. J. on Disp. Resol. 843, 897 (2010) (studying claims filed with the American Arbitration Association and concluding that consumers win relief 53.3% of the time), with Theodore Eisenberg et al., Litigation Outcomes in State and Federal Courts: A Statistical Portrait, 19 Seattle U. L. Rev. 433, 437 (1996) (observing that in 1991–92, plaintiffs won 51% of jury trials in state court and 56% of jury trials in federal court, while in 1979–1993 plaintiffs won 50% of jury trials).

⁷AAA, Employment Arbitration Rules and Mediation Procedures 33, <https://www.adr.org/sites/default/files/Employment%20Rules.pdf> (“AAA Rules”).

⁸Hill, *supra* note 3, at 802 (finding that lower-income employees “paid no forum fees” in 61% of the cases studied; employees also paid no attorney’s fees in 32% of the cases).

⁹Marmet Health Care Ctr., Inc. v. Brown, 565 U.S. 530, 533–534 (2012); see also, e.g., Chavarria v. Ralphs Grocery Co., 733 F.3d 916, 923 (9th Cir. 2013) (provision requiring employee to pay an unrecoverable portion of the arbitrator’s fees “regardless of the merits of the claim”); Alexander v. Anthony Int’l, L.P., 341 F.3d 256, 263 (3d Cir. 2003) (provision barring punitive damages).

¹⁰AAA Rules, *supra* note 7, at 25.

¹¹See Drahozal & Zyontz, *supra* note 6, at 845 (average time from filing to final award in consumer arbitrations studied was 6.9 months); U.S. District Courts-National Judicial Caseload Profile (2016), <http://www.uscourts.gov/file/19995/download> (average civil lawsuit in federal court took 26.7 months to reach trial).

¹²Sharon Theimer and Pete Yost, THE INFLUENCE GAME: Lobbyists adapt to power shift, USA Today, Nov. 14, 2008, <http://usatoday30.usatoday.com/news/washington/2008-11-14-567071791-x.htm>.

¹³38 U.S.C. § 4322(a), (d).

can request that the complaint be referred to the Justice Department; the Justice Department can choose to sue on behalf of the servicemember and can obtain injunctive relief requiring the employer to comply with the law.¹⁴ And state attorneys general likewise have the ability to enforce employment nondiscrimination laws. In short, there are ample enforcement mechanisms for addressing systemic violations of USERRA-without the need for lawyer-driven class actions.

And those class actions provide little in the way of relief for anyone other than lawyers. Members of a class typically receive pennies on the dollar-if they receive anything at all. Even a 2015 study of arbitration by the Consumer Financial Protection Bureau-which was clearly seeking to make a case for class actions and against arbitration-showed that only 13% of putative class actions studied were finally approved for classwide settlement, with absent class members in the remaining 87% of class actions receiving nothing.¹⁵

When a trial lawyer is negotiating a class action settlement-and virtually all private class actions that are not dismissed end up in a settlement, because class actions are almost never decided on the merits-there is an inherent conflict between the lawyer's desire to maximize revenue for serving as class counsel and maximizing the recovery for the class. Although courts are supposed to police this conflict, the reality is that they are unable to do so when both sides are urging approval of the settlement and the court has no independent source of information. The interests of the class members all too often lose out.

That is why the data show that only a small percentage of class members are benefited by settlements. Very few bother to collect a payment, both because the settlement process is complex and the amounts available small, and because trial lawyers, eager to compromise with defendants in order to obtain their fee award, may agree to a form of notice calculated to produce little interest by class members. Although settlement distribution rates typically are not disclosed, they are very low. The CFPB study found a "weighted average claims rate" by class members of just 4%.¹⁶ A declaration filed in court by a settlement administrator stated that in the absence of direct outreach to the class members, the median rate at which class members file claims in consumer cases is 0.023%.¹⁷

As a practical matter, therefore, counsel for plaintiffs (and for defendants) are frequently the only real beneficiaries of class actions. A study of insurance class actions by the RAND Corporation found that attorney's fees amounted to an average of 47% of total class-action payouts, taking into account benefits actually claimed and distributed, rather than theoretical benefits measured by the estimated size of the class. "In a quarter of these cases, the effective fee and cost percentages were 75 percent or higher and, in 14 percent (five cases), the effective percentages were over 90 percent."¹⁸ The CFPB's recent study similarly showed that attorneys' fees amounted to 41% of the average class action settlement-working out to more than \$1 million per case.¹⁹

Removing arbitration and forcing class actions on servicemembers' attempts to resolve USERRA appears intended to profit trial lawyers, rather than servicemembers. Claims brought as class actions rarely yield real benefits for class members. Most class actions are settled without any benefit to the class members, and even when class members are eligible to receive a settlement payment, they rarely bother to file a claim. Thus, the primary beneficiaries of class actions are not class members, but plaintiffs' lawyers-the group that has the most to gain by banning arbitration.²⁰

¹⁴ Id. §§ 4323(a), (d)(1).

¹⁵ Consumer Fin. Protection Bureau, Arbitration Study: Report to Congress, pursuant to Dodd-Frank Wall Street Reform and Consumer Protection Act § 1028(a) at section 6, page 37 (Mar. 1, 2015) ("CFPB Study").

¹⁶ CFPB Study at section 8, page 30.

¹⁷ Declaration of Deborah McComb at ¶ 5, *Poertner v. The Gillette Company and The Proctor & Gamble Company*, No. 6:12-CV-00803-GAP-DAB (M.D. Fla., filed Apr. 22, 2014), ECF No. 156.

¹⁸ Nicholas M. Pace et al., Insurance Class Actions in the United States, Rand Inst. for Civil Just., xxiv (2007), <http://www.rand.org/pubs/monographs/MG587-1.html>. Another RAND study similarly found that in three of ten class actions, class counsel received more than the class. See also Deborah R. Hensler et al., Class Action Dilemmas: Pursuing Public Goals for Private Gain (Executive Summary), Rand Inst. for Civil Just., 21 (1999), <http://www.rand.org/content/dam/rand/pubs/monograph-reports/2005/MR969.1.pdf>.

¹⁹ CFPB Study at section 8, page 33.

²⁰ The benefits of arbitration compared to the judicial system are discussed in detail in the Chamber/ILR's comment filed in opposition to a proposal by the Consumer Financial Protection Bureau to promulgate a rule effectively banning arbitration in consumer contracts. That comment, incorporated by reference, is attached to this letter.

Third, the proponents of the bill will surely claim that it preserves arbitration by allowing parties to agree to arbitrate after a dispute arises. But that possibility is entirely illusory.

Employee-friendly arbitration programs are costly to businesses, which agree to pay or reimburse arbitration fees, filing fees, attorneys' fees, and other costs. They agree to do so because they gain certainty that they will not have to incur the transaction costs of defending class actions. Without that certainty, however, businesses will not subsidize arbitration, instead relegating all disputes to the court system—leaving servicemembers to fend for themselves except in rare cases when they can secure plaintiffs' lawyers.

Less rational factors also prevent parties from agreeing to post-dispute arbitration: “parties are loath[] to agree to anything post-dispute when relationships sour.”²¹ That is why the evidence demonstrates that opposing parties virtually never agree to arbitration after a particular dispute arises.²²

Accordingly, the Chamber and ILR urge the Subcommittee to reject H.R. 2631.

THOMAS MURPHY LETTER

The Honorable Jodey C. Arrington
Chairman
Subcommittee on Economic Opportunity
Committee on Veterans' Affairs
U.S. House of Representatives
Washington, DC 20515

Dear Mr. Chairman:

The agenda for the House Committee on Veterans' Affairs Subcommittee on Economic Opportunity legislative hearing on June 29, 2017, included draft legislation to amend title 38 of the United States Code to authorize the Department of Veterans Affairs to provide assistance for adaptations of residences of Veterans and Servicemembers in rehabilitation programs under chapter 31.

After further analysis of the draft legislation, we have determined that the cost estimate originally provided for the bill was incorrect. Our testimony initially stated that savings associated with the bill would be \$486,000 in the first year, \$2.67 million over

5 years, and \$6 million over 10 years. The revised savings associated with the bill are estimated to be insignificant at \$117,000 in the first year, \$643,000 over 5 years, and

\$1.5 million over 10 years. The new estimated savings reduces the likely number of affected Veterans because nearly 96 percent of the current home modifications fell below the proposed maximum payable amount.

Thank you for your continued support of our Veterans.

Sincerely,

Thomas J. Murphy
Acting



²¹ Amy J. Schmitz, *Building Bridges To Remedies For Consumers In International Econlicts*, 34 U. Ark. Little Rock L. Rev. 779, 785 (2012).

²² Theodore J. St. Antoine, *Mandatory Arbitration: Why It's Better than It Looks*, 41 U. Mich. J.L. Reform 783, 790 (2008) (addressing employment arbitration).