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June 3, 2020

The Honorable Jackie Speier
Chairwoman, Military Personnel Subcommittee
House Armed Services Committee
2465 Rayburn House Office Building
Washington, D.C. 20515

Fax: 202-226-4183

The Honorable Trent Kelly
Ranking Member, Military Personnel Subcommittee
House Armed Services Committee
1005 Longworth House Office Building
Washington, DC 20515

Dear Chairwoman Speier and Ranking Member Kelly:

This correspondence is to provide your distinguished Subcommittee with the Fleet Reserve Association's (FRA) recommendations on military personnel issues for the upcoming markup of the FY 2021 Defense Authorization.

Healthcare Challenges

DoD released a plan that, if fully implemented, would significantly restructure the military health system's responsibilities in the continental U.S. over the next several years. The list includes 50 existing Military Treatment Facilities whose services would change in some way. Many MTFs would exclude retirees and dependents of active duty service members from seeking care. The Defense Health Agency estimates that 84,000 active duty family members and 110,000 military retiree beneficiaries will be impacted by military treatment facility downsizing proposed. FRA believes that the COVID-19 pandemic requires medical readiness requirements be reassessed and updated with lessons learned from the entire nation's response to this emergency.

Even before the pandemic many TRICARE beneficiaries were worried about the impact these changes will have on their pocketbook. Retirees and their family members who are switched from MTFs to the TRICARE network care would face out-of-pocket cost increases because they would have a co-pay fee for most of their covered services. In a recent online survey (December 2019/January 2020) more than 95 percent of retirees believe access to military healthcare benefits is "Very important" and nearly 93 percent of retirees believe that quality of

health to be “Very important” the top two highest rated categories for retirees. Most FRA members (69 percent) oppose restricting retirees and active duty dependents from using Military Treatment Facilities (MTF) based on another survey (February 2020). Many TRICARE beneficiaries are worried about the pocketbook impact of these changes. In addition, many beneficiaries are concerned that nearby health care providers in the TRICARE network will be overwhelmed with new patients and unable to provide certain specialty care.

FRA supports a TRICARE pharmacy home delivery co-pay waiver for retirees to reduce the economic and financial impact of the coronavirus (COVID-19). This waiver of co-payments for TRICARE mail-order prescriptions for the remainder of the COVID-19 national emergency is an effort to reduce potential exposure to COVID-19 for service members, retirees, their families, and vital medical staff.

MTF pharmacies are high-traffic areas, and they are often congested with beneficiaries, as well as staff. With patients coming to pharmacies to obtain refills of prescriptions amid the COVID-19 pandemic, MTF pharmacies are becoming even busier and more congested than normal. This is exactly the opposite of effective social distancing.

The TRICARE pharmacy co-pay structure strongly incentivizes beneficiaries to fill prescriptions in-person at MTF pharmacies, rather than through mail-order options that reduce the risk of coronavirus exposure. There is no copay to fill prescriptions in-person at the MTF pharmacy, while many beneficiaries pay between \$10 and \$60 for each medication filled through Tricare’s mail-order pharmacy service. This copayment structure creates a strong incentive for patients to visit an MTF pharmacy, potentially exposing themselves, their families, members of our active-duty military, as well as military health personnel, to coronavirus. This exposure could be avoided by eliminating copayments for use of TRICARE’s mail-order pharmacy during the public health emergency.

The National Veterans Legal Services Program and the Veterans Legal Services Clinic at Yale Law School have recently released a study that indicates that veterans who served on the island of Guam between 1962 and 1975 were likely exposed to Agent Orange and other herbicides containing dioxins and may have valid claims to service-related disabilities. FRA supports adding a provision to the upcoming NDAA to authorize the National Academy of Medicine to perform an independent study to determine if Agent Orange was or was not used in Guam.

The Association members believe that the DoD must sufficiently investigate and implement other options to make TRICARE more cost-efficient as alternatives to shifting costs to TRICARE beneficiaries. The Association opposes any indexing of future TRICARE Fee increases beyond CPI indexed to COLA increases.

FRA wants to ensure that pharmacies maintain a broad uniform formulary. FRA supports efforts to reduce prescription costs through “federal pricing” and other discount programs and will encourage increased utilization of home delivery prescriptions to limit co-pays for beneficiaries and reduce costs as alternatives to higher fees, and co-payments. Many military

retirees were encouraged to use generic home delivery by DoD with the promise of no co-pays. Unfortunately, they now pay a \$10 co-pay and that is scheduled to increase. FRA strongly opposes these scheduled pharmacy co-pay increases.

The Association believes Congressional oversight of ongoing implementation of DoD and VA technology upgrades is vital to ensuring improvements to the Electronic Health Record (EHR) system for both VA and DoD. FRA wants to ensure adequate funding for DoD and VA health care resource sharing in delivering seamless, cost effective, quality services to personnel wounded in combat and other veterans and their families. Some members of Congress have expressed concern about the cost. The cost and the long time for implementation notwithstanding, FRA believes there is tremendous opportunity with the two departments using the same EHR.

FRA urges this Subcommittee to give military suicide a high priority. The Association last year welcomed the President's Executive Order titled, "Supporting Our Veterans during Their Transition from Uniformed Service to Civilian Life." This Executive Order directs the DoD, VA, and Homeland Security (DHS) to develop a plan to ensure that all new veterans receive mental health care for at least one year following their separation from service.

Retirement Issues

Concurrent Receipt Reform

The Association's (December 2019/January 2020) survey indicates that nearly 73 percent of military retirees cite concurrent receipt as "very important." FRA supports legislation authorizing the immediate payment of concurrent receipt of *full* military retired pay and veterans' disability compensation for *all* disabled retirees, including medically retired service members with less than 20 years of service. Concurrent receipt refers to the simultaneous receipt of two types of monetary benefits: military retired pay and VA disability compensation.

FRA strongly supports improvements to expand concurrent receipt. The Association supports the recently introduced "Major Richard Star Act" (H.R.5995) sponsored by Rep. Gus Bilirakis and a similar bill (S. 3393) has been introduced in the Senate sponsored by Sens. Jon Tester (MT). The bill would expand eligibility to certain medically retired veterans' receiving combat-related special compensation. Rep. Gus Bilirakis is also sponsoring the "Retired Pay Restoration Act" (HR 303) that provides current receipt for retirees with a disability rating of 40 percent or less for retirees receiving CRDP, and Sen. Jon Tester is sponsoring similar legislation in the Senate (S. 208). Further, Rep. Sanford Bishop (GA) is sponsoring the "Disabled Veterans Tax Termination Act" (HR 333) that provides comprehensive concurrent receipt reform.

Repeal 180-day Waiting Period for Military Retirees

FRA supports an amendment to the FY 2021 National Defense Authorization Act (NDAA), sponsored by Rep. Rob Bishop (UT), to authorize military retirees transition to DoD GS-13 and lower positions directly after retirement. Current law requires a waiting period of 180 days after retirement before a military retiree can be appointed into the Civil Service within

Department of Defense (DoD). This time restriction forces many who wish to continue national service towards other careers. The 180-day waiting period has resulted in a talent management problem for hiring officials who are grappling with an antiquated hiring process that often takes months to hire a qualified candidate with a current security clearance.

Allow Survivors to Draw Full Month's Retired Pay for Month in Which Retirees Die

FRA also supports the retention of the full final month's retired pay by the surviving spouse (or other designated survivor) of a military retiree for the month in which the member was alive for at least 24 hours. FRA strongly supports "The Military Retiree Survivor Comfort Act" (HR 464), sponsored by Rep. John Garamendi (CA), that achieves this goal.

This proposal is in response to complaints from surviving spouses who were unaware that the Defense Finance and Accounting Service (DFAS) should be notified immediately on the death of the military retiree. Those who had joint bank accounts, in which retirement payments were made electronically, gave little if any thought that DFAS could swoop down on the joint account and recoup any overpayments of retirement pay. This action could easily clear the account of any funds remaining whether they were retirement payments or money from other sources.

Current regulations require survivors of deceased military retirees to return any retirement payment received in the month the retiree dies or any subsequent month thereafter. Upon the demise of a retired service member in receipt of military retired pay, the surviving spouse is to notify DoD of the death. DFAS then stops payment on the retirement account, recalculates the final payment to cover only the days in the month the retiree was alive, forwards a check for those days to the surviving spouse (beneficiary) and, if not reported in a timely manner, recoups any over payment(s) made for periods subsequent to the retiree's death. The recouping is made without consideration of the survivor's financial status. To offset some of the costs, if the spouse is entitled to survivor benefit annuities (SBP) on the retiree's death, there will be no payment of the annuity for the month the retirement payment is provided the surviving spouse.

The measure is related to a similar pay policy enacted by the VA. Congress passed a law in 1996 that allows a surviving spouse to retain the veteran's disability and VA pension payments issued for the month of the veteran's death. FRA believes military retired pay should be no different.

No Cuts to COLA

FRA will fight efforts to reduce military retired or retainer pay and ensure equitable cost-of-living adjustments (COLAs) for all military retirees commensurate with their service and sacrifices.

Active Duty/Reserve Issues

Housing Oversight

Recent news reports on privatized military housing condition paints a picture of horrific inexcusable living situations confronting military families. Although Congress took measures to rectify the situation within FY2020 NDAA (S.1790) with an addition of the tenant bill of rights, there is still much room for improvement. On February 25th, Secretary of Defense Dr. Mark T. Esper, Secretary of the Army Ryan D. McCarthy, Acting Secretary of the Navy Thomas B. Modly and Secretary of the Air Force Barbara M. Barrett signed the Military Housing Privatization Initiative Tenant Bill of Rights. However, the secretaries only signed 15 of the 18 stated rights as authorized by congress. The following 3 rights were excluded from the letter:

- Access to maintenance history;
- Process for dispute resolution; and
- Withholding of rent until disputes are resolve.

At a recent House Armed Service Committee FY2021 Defense Budget hearing, Rep. Kendra Horn (OK) asked why the three policies were excluded from the letter, to which Secretary Esper explained, the omission is due to restraints from legal contracts with these companies which needs to be addressed. Rep. Horn noted the exclusions are the crux of accountability in the entire Tenant Bill of Rights. However, the Secretary promised to work with Congress to ensure the benefits of these rights are fully available.

Privatization of military housing began in 1996 with the Military Housing Privatization Initiative (MHPI). Since then, private companies manage, repair, renovate, construct, and operate base housing. Some military families claim that there is little to no accountability or oversight of these companies. FRA wants to ensure service members and their families have safe, quality homes and communities. The Association wants to increase the accountability of privatized housing companies by putting more oversight authority in the hands of local military leaders.

Active Duty Pay and BAH

A top priority of FRA is to secure annual active duty pay increases that are *at least* equal to the Employment Cost Index (ECI) to at least keep pace with the private sector pay. Our recent (January/February) online benefit survey of active duty members indicated that more than 78 percent see the threat of cuts to future pay increases as “Very important” (the highest rating). FRA is thankful for the proposed three percent activity pay increase in the Administration’s budget which, but it still only keeps pace with civilian pay. Our Nation is still at war and there is no more critical morale issue for active duty warriors than adequate pay. It should be remembered that the past administration provided an annual pay increase 0.5 percent below the Employment Cost Index four times. That is why FRA will support annual active duty pay increases that are *at least* equal the ECI.

The Association believes that the DoD should provide dislocation allowance for separating and retiring service members, especially those that are separating at the convenience of the government. Moving household goods on government orders can be costly. Active duty personnel endure several PCS moves during a career in uniform. Each move requires additional expenses for relocating and establishing a new home.

Burn Pits Accountability

FRA supports the “Burn Pits Accountability Act” (H.R. 663/S.191). The bill directs DoD to provide service members in Iraq and Afghanistan to have periodic health assessments during deployment and during military separations an evaluation of whether or not a service member has been exposed to open burn pits or toxic airborne chemicals.

The FY 2020 NDAA mandated exposures to burn pits and blast events to be recorded in a service member’s medical record. FRA believes it is critically important that Congress, specifically this subcommittee, provide adequate oversight to ensure that these provisions are effectively implemented. These toxic exposures could potentially impact millions, and many post-9/11 veterans believe this could be the “Agent Orange issue of their generation.”

Improve Reserve Hazard Duty Pay

FRA supports the Guard and Reserve Hazard Pay Equity Act (S. 3308 and H.R. 5887) that would provide the Reserve Component with same hazard-duty incentive pay (HDIP) as active duty members receive. As part of their service, qualified active duty, National Guard, and Reserve servicemembers are entitled to HDIP while performing hazardous duties such as flying duty, parachute jumping, and demolition of explosives. However, Reserve component are only awarded 1/30th of HDIP compared to their active duty counterparts, while still being required to perform the same requirements and being subject to the same risk. This legislation would allow Guard and Reserve members to be awarded HDIP at the same rate as their active duty counterparts in hazard duty fields critical to the readiness of our Armed Forces.

Reserve Component Issues

The Association supports the TRICARE Reserve Select Improvement Act (S. 164/H.R. 613) that would expand TRICARE Reserve Select (TRS) eligibility to all federal employees serving in the Reserve Component. This legislation, sponsored by Sen. Steve Daines (MT) and Rep. John Garamendi (CA) respectively, would impact more than 70,000 dual status military technicians in the Reserve Component by providing expanded health care options. Current law prohibits access to TRS for Reserve Component members who serve as federal employees in their civilian employment. This can create confusion and lead to more expensive health care for these service members and their families, as well as prevent continuity of care as service members deploy or transition in or out of the federal workforce. Enactment of this legislation will ensure Reservists, and their families have greater choice and equal access to competitive health coverage premiums arising from their military service.

FRA also supports the “Reserve Component Employer Incentive, Compensation, and Relief Act” (H. R. 801), sponsored by Reps Tim Ryan (OH) and Steven Palazzo (MS). The bill provides employers a tax credit aimed to offset costs accrued and hardships undertaken when employees that are members of the Reserve Component (National Guard and Reserves) are activated for military duty. This legislation incentivizes employers to hire and retain these service members.

This bill recognizes that the Reserve Component has transitioned from a “Strategic Reserve” to an “Operational Reserve,” that is fully integrated in ongoing national security

missions around the globe. This transition has led to increased training requirements which go beyond the statutorily required 39 days of annual training to requirements totaling 80 or more days per year.

The Association wants to ensure Congress adequately funds and supports Reserve Component requirements for an operational reserve. Further the Association supports full tax-deductibility of non-reimbursable expenses related to military training and weekend drill.

FRA

The Association is the oldest and largest organization serving enlisted men and women in the active, Reserve, and retired communities plus veterans of the Navy, Marine Corps, and Coast Guard. The Association is Congressionally Chartered, recognized by the Department of Veterans Affairs (VA) and entrusted to serve all veterans who seek its help.

FRA was started in 1924 and its name is derived from the Navy's program for personnel transferring to the Fleet Reserve or Fleet Marine Corps Reserve after 20 or more years of active duty, but less than 30 years for retirement purposes. During the required period of service in the Fleet Reserve, personnel earn retainer pay and are subject to recall by the Secretary of the Navy.

FRA's mission for more than 95 years is to act as the premier "watch dog" group in maintaining and improving the quality of life for Sea Service personnel and their families. FRA is a leading advocate on Capitol Hill for enlisted active duty, reserve, retired and veterans of the Sea Services. The Association is also a founding member of The Military Coalition (TMC), a consortium of military and veteran's organizations. FRA hosts most TMC meetings and members of its staff serve in several TMC leadership roles.

The Association is grateful for the opportunity to provide these recommendations to the Chairwoman and Ranking Member of this distinguished Subcommittee.

Sincerely,

A handwritten signature in black ink, appearing to read "Chris Slawinski", written in a cursive style.

Christopher J. Slawinski
National Executive Director

Cc: SASC Chairman Rep. Adam Smith, & Ranking Member Rep. Mac Thornberry