

LEGISLATIVE HEARING ON: TOXIC EXPOSURE
FUND IMPROVEMENT ACT OF 2024

HEARING
BEFORE THE
COMMITTEE ON VETERANS' AFFAIRS
U.S. HOUSE OF REPRESENTATIVES
ONE HUNDRED EIGHTEENTH CONGRESS

SECOND SESSION

THURSDAY, MARCH 21, 2024

Serial No. 118-56

Printed for the use of the Committee on Veterans' Affairs



Available via <http://govinfo.gov>

U.S. GOVERNMENT PUBLISHING OFFICE

WASHINGTON : 2025

55-438

COMMITTEE ON VETERANS' AFFAIRS

MIKE BOST, Illinois, *Chairman*

AUMUA AMATA COLEMAN RADEWAGEN, American Samoa, <i>Vice-Chairwoman</i>	MARK TAKANO, California, <i>Ranking Member</i>
JACK BERGMAN, Michigan	JULIA BROWNLEY, California
NANCY MACE, South Carolina	MIKE LEVIN, California
MATTHEW M. ROSENDALE, SR., Montana	CHRIS PAPPAS, New Hampshire
MARIANNETTE MILLER-MEEKS, Iowa	FRANK J. MRVAN, Indiana
GREGORY F. MURPHY, North Carolina	SHEILA CHERFILUS-MCCORMICK, Florida
C. SCOTT FRANKLIN, Florida	CHRISTOPHER R. DELUZIO, Pennsylvania
DERRICK VAN ORDEN, Wisconsin	MORGAN MCGARVEY, Kentucky
MORGAN LUTTRELL, Texas	DELIA C. RAMIREZ, Illinois
JUAN CISCOMANI, Arizona	GREG LANDSMAN, Ohio
ELIJAH CRANE, Arizona	NIKKI BUDZINSKI, Illinois
KEITH SELF, Texas	
JENNIFER A. KIGGANS, Virginia	

JON CLARK, *Staff Director*

MATT REEL, *Democratic Staff Director*

Pursuant to clause 2(e)(4) of Rule XI of the Rules of the House, public hearing records of the Committee on Veterans' Affairs are also published in electronic form. **The printed hearing record remains the official version.** Because electronic submissions are used to prepare both printed and electronic versions of the hearing record, the process of converting between various electronic formats may introduce unintentional errors or omissions. Such occurrences are inherent in the current publication process and should diminish as the process is further refined.

C O N T E N T S

THURSDAY, MARCH 21, 2024

	Page
OPENING STATEMENTS	
The Honorable Mike Bost, Chairman	1
The Honorable Mark Takano, Ranking Member	3
WITNESSES	
PANEL 1	
The Honorable Jon Rychalski, Assistant Secretary for Management and Chief Financial Officer, U.S. Department of Veterans Affairs	7
Accompanied by:	
Ms. Laura Duke, Chief Financial Officer, Veterans Health Administra- tion, U.S. Department of Veterans Affairs	
Ms. Lasheeco Graham, Chief Financial Officer, Veterans Benefits Admin- istration, U.S. Department of Veterans Affairs	
APPENDIX	
PREPARED STATEMENT OF WITNESSES	
The Honorable Jon Rychalski Prepared Statement	37

LEGISLATIVE HEARING ON: TOXIC EXPOSURE FUND IMPROVEMENT ACT OF 2024

THURSDAY, MARCH 21, 2024

COMMITTEE ON VETERANS' AFFAIRS,
U.S. HOUSE OF REPRESENTATIVES,
Washington, DC.

The committee met, pursuant to notice, at 10:30 a.m., in room 360, Cannon House Office Building, Hon. Mike Bost (chairman of the committee) presiding.

Present: Representatives Bost, Radewagen, Rosendale, Miller-Meeks, Murphy, Ciscomani, Crane, Self, Takano, Brownley, Pappas, Cherfilus-McCormick, Deluzio, McGarvey, Ramirez, Landsman, and Budzinski.

OPENING STATEMENT OF MIKE BOST, CHAIRMAN

The CHAIRMAN. Good morning. The committee will come to order. You know, today we want to consider the Toxic Exposure Fund Improvement Act. Now, before we get that I want to address the business meeting that we scheduled and then canceled last week. The committee staff met to hold another transcribed interview on the witness of—in the sexual harassment investigation, and without warning 2 minutes prior, or 10 minutes—2 minutes prior to interview the minority declared they would not participate in the interview and the VA quickly followed suit.

I was prepared to hold another subpoena vote to compel the Department of Veterans Affairs (VA) to participate. VA assured us that they will cooperate in transcribed interviews regardless of whether the minority is in attendance or not. This is consistent with House rules.

Therefore, I decided a business meeting to consider another subpoena is not necessary today, and I hope that you will be—will not be—there will not be any more obstructions to the committee's oversight.

There is, and I will not hesitate—if there is I will not hesitate to ask for a subpoena vote. Now back to the matter at hand here today.

This bill is attempting to fix the unintended consequences of creation of the toxic exposure fund (TEF) that have handcuffed this committee from moving legislation forward. Some of the mechanics are complicated, but the goal is very simple. We need a toxic exposure fund that pays for the healthcare expansions and the cost to deliver the benefits under the The Sergeant First Class Heath Robinson Honoring our Promise to Address Comprehensive Toxics (PACT) Act. Let me say that again. We need a toxic exposure fund

that pays for the health expansion and the cost to deliver the benefits under the PACT Act.

However, the TEF was never intended to cover VA healthcare on or benefits not related to the toxic exposure or that existed before the PACT Act. Everything we were covering before it should not take away from that and should not be used for that. We should actually—and should not be counted against it. There is no reason that the fund has to meddle with the Budget Act and create budget problems for other pieces of veterans legislation that we think are vitally important.

I want to address the bad faith policy attacks and scary rumors right now. Right now. This bill would not abolish, let me say that again, would absolutely not abolish or cut or undermine the toxic exposure fund under any circumstances.

In fact, the bill is even more generous than the VA says they will need to deliver—what they will need to deliver the PACT Act care and benefits to our veterans and their families.

My bill would continue the dollar amounts that Congress already appropriated to fund for Fiscal Year 2024 and 2025, and the bill would allow almost \$4 billion more, if you will look, than VA has requested for 2026.

After that, the amount available increases by 8 percent every year. The rate of increase is larger than VA's own healthcare inflation numbers.

Now, beyond 2033 the bill requires proposing the next 10 years of funding and that would receive special consideration in Congress. It would also give VA more flexibility to carry dollars over from year-to-year to the fund. It would finally solve a wonky inside Beltway problem that has stopped a lot of good bipartisan legislation from moving through this committee.

Right now, any bill that we try to advance relating to healthcare, research, VA administrative operations, or Information Technology (IT) has a mandatory cost. As many of you know, this committee only has one major offset to pay for our legislation to get it passed out of the House. Now, once that offset is used up and unless stakeholders want to identify new offsets, our ability to pass bills is limited for the rest of the year.

We have been working for months to finalize with the Senator Elizabeth Dole's veterans package, and this issue has made doing that much more difficult. The Toxic Exposure Fund Improvement Act is my proposal to solve this problem without, let me say that again, without impacting PACT Act authorities.

We have been discussing how unfortunate the situation is since the fall of 2022. It is time to stop playing Monday morning quarterback. We all have to get off the sidelines and get on the field and start doing something about it.

I have said this before and I will say it again. If anyone has a proposal I will welcome it. Let us work together. Let us find a compromise. Let us be bipartisan.

Without a doubt this is a bipartisan problem, but if we do not fix it the Congressional Budget Office (CBO) has assured us that it will continue to plague the next chairman and future committee members while they try to legislate. That is a disservice to every single veteran, caregiver, and survivor.

The PACT Act was a historic achievement, and I want to thank the ranking member for his hard work on that, but it would be a tragedy if it was the last major law this committee is able to produce. We are responsible for authorizing all VA programs and services for all veterans so that they can get care and benefits they have earned.

Now, in order to carry out that responsibility, we need to get these handcuffs off.

I want to welcome our witnesses, and I hope to have a productive conversation about the best way to accomplish that.

Ranking Member Takano, I now recognize you for your opening statement.

OPENING STATEMENT OF MARK TAKANO, RANKING MEMBER

Mr. TAKANO. Well, thank you for yielding, Mr. Chairman.

The cost of War Toxic Exposure Fund created by my and our PACT Act is a vital component of the law and represents our promise to toxic exposed veterans that we will not waver in our commitment to delivering the care and benefits they have earned.

Congress voted to establish this fund to ensure that the Department of Veterans Affairs, and most importantly veterans, would have access to the funding necessary to carry out this law in perpetuity. Honoring our pact is a promise, one that I have no interest in reneging on.

The majority is proposing to hamstring that fund less than 2 years after the PACT Act became law by capping appropriations and narrowing its purpose. This would seriously impair VA's ability to perform the task we have signed it to do. In short, it would undermine the PACT Act, and I cannot support that.

The PACT Act is a huge step forward for America's veterans because it takes seriously the implicit promise our Nation makes to servicemembers when they enlist in our military. If you get injured or disabled or sick because of your service we will have your back. You will get medical care. You and your dependents will get compensation if you are disabled.

Fulfilling this promise is clear when a servicemember loses a limb from a roadside bomb or suffers a neurological complication from a nerve agent deployed by the enemy. The immediate effects of war are seen as the costs of war. It would be untenable for anyone to say these costs should be met based on whether we could afford to pay them. We have an obligation to pay for them, therefore we must pay for them as the cost of war.

The effects of toxic exposure are often not so immediate, but they are no less debilitating. Chronic respiratory illnesses linked to exposure to burn pits, for example, can show up in veterans many years after their deployments are done. Cancers that show up disproportionately in young adults after their service can reasonably be linked to service-connected toxic exposure, but they do not manifest themselves immediately either.

Congress decided that 23 categories of illnesses would be presumed to be service-connected for servicemembers known to have deployed in geographic areas where they could have been exposed to toxins. We decided to treat these debilitating illnesses as the

cost of war and not as expenses that we would decide on an annual basis because it was the morally right thing to do.

Classifying care and benefits for toxic exposed veterans as a mandatory cost instead of an optional or discretionary cost is what we owe veterans. This was our promise through the PACT Act, much like Medicare and Social Security are our promises to the broader public.

This means not subjecting veterans to a Hunger Game scenario of pitting veteran against veteran or veterans against other Americans to fight for funding. We agreed that we would not pit toxic exposed veterans against other Americans in need, whether it be hungry children, seniors, those going to college, Americans who need job training, or even other veterans who use these programs.

This legislation could have the effect of, I mean, the majority's legislation could have the effect of taking us back to a situation of deciding which veterans programs would get cut or whether we would have to deny benefits to some cohort of toxic exposed veterans.

However, we have today a wonderful opportunity to once again lay bare the differences between our sides and our respective approaches to providing care and treatment to toxic exposed veterans. Sadly, it seems that from my colleagues this has only ever been a budgetary issue to solve, or more accurately, that our solution to addressing toxic exposure should be constrained by fiscal concerns instead of doing what is right for veterans.

When the committee began consideration of the PACT Act in June 2021, my colleagues were strongly opposed with the then ranking member now Chairman Bost saying, "We need to stop wasting time marking up legislation that we know has no path to success." In fact, the chairman was the very first no vote against the PACT Act in committee. Dr. Murphy even went on to state, "We simply cannot spend away because of emotional needs."

Toxic health—excuse me—healthcare for toxic exposed veterans is not an emotional need. It is a medical one that deserves our time, attention, and investment.

Now fast-forward to this time 2 years ago and the House for the first time passed the most expansive increase in veterans' healthcare and benefits since the GI Bill, a vote which Chairman Bost was not present for. Yet my colleagues on the other side of the aisle still largely objected to it, both in scope and cost.

Led by then Minority Leader McCarthy and Whip Scalise, 174 Republicans voted against the bill. As Chairman Bost said at the time, "House Democrats shoved the deeply flawed policies of wildly expensive costs of the PACT Act through the House," and then referred to the PACT Act as, "empty promises".

I doubt any of the hundreds of thousands who have benefited from the law views the PACT Act as deeply flawed. Thankfully, there were 34 Republicans who showed leadership and courage and voted for the bill, but it should have been unanimous from the beginning.

Indeed, Chairman Bost chose to push a less than half measure in the Healthcare for Burn Pits Veterans Act a provision, mind you, that we included in the PACT Act, but that in its entirety alone increased healthcare access by only 24,000 veterans com-

pared to the over 270,000 and growing list added because of the full PACT Act being enacted. Apparently, shutting out the other 250,000 veterans was okay with our majority because it kept the “wildly expensive” costs down.

Thankfully, when the House voted for the final time on the PACT Act in July 2022, most of my Republican colleagues, including the chairman, had seen the light or read the political tea leaves and came around to supporting the legislation.

Yet even though my colleagues expressed reservations about the funding mechanism in the bill, so again quote the chairman, “The fund is also a budgetary ploy by the Democrats to take existing healthcare costs that have nothing to do with toxic exposure and transfer them from discretionary to mandatory spending.”

Well, Mr. Chairman, shifting healthcare costs from the discretionary side of the ledger to the mandatory side was exactly the point. We have made a promise through the PACT Act to our veterans, and that is what the P in PACT stands for, that they will have access to health care for conditions related to toxic exposure.

The cost of war toxic exposure fund is the mechanism through which we are ensuring that promise is kept for this generation and future ones as well. Why are you now trying to walk away from that?

I refuse to go back to a time when veterans must compete with other domestic spending priorities for funding, and I refuse to concede that cost should be an issue when addressing the legacy of toxic exposure among our veterans.

Does the majority propose to tell us today which of the 270,000 veterans newly enrolled into VA healthcare they do not want to serve? I doubt it.

Will you detail for us today which of the 830,000 veterans with approved PACT Act disability claims you feel should not have been awarded benefits? Of course, you will not, but perhaps the majority intends to send with caps on the cost of toxic war exposure fund is that what—is that VA has done enough. That perhaps—that they should not have—that they should not approve any more disability claims or add any more veterans to the healthcare rolls or create any new presumptions of service connection. I highly doubt that that is the case either.

Then why are we here? The only answer to that question that I can muster is that the majority once again wants to pretend that it is the party of fiscal conservatism, only this time it comes at the expense of toxic exposed veterans and their care.

To that, Mr. Chairman, I will leave you with another quote, this time from the gentleman from Montana, Representative Rosendale, who so aptly said, “We are willing to spend far too much money to engage in conflict and far too little to care for warriors, our warriors, once they come home.”

Mr. Chairman, I could not agree more and I yield back.

The CHAIRMAN. Well, I thank the ranking member for his opening statement. We both read our scripts now, and now I am going off script.

I just came off of an election where half-truths and misquotes were used against me. I think I just saw that again because let me explain to you when the first PACT Act first tried to move out of

the House, even the Senate itself and the VA said under the existing language they could not implement the PACT Act to what we know today as being very good and being able to achieve the goal of the PACT Act. Instead, it was trying to be shoved out of the House for what I believe was a political move.

Now, we came to a point where we got to an agreement and we used the PACT Act. Even then though I talked about the concern that we had with the toxic exposure fund of double-counting, and that is the problem. It double counts the dollars and therefore takes away from the ability for us to implement things like the Elizabeth Dole Act, which we are trying so desperately to do.

It is an error in the way that we wrote it. I am in no way, let me make very, very clear and very honest, like I said, I am not scripted here, it is in no way wanting to, regardless of the political spin, saying we want to take away from our veterans. We want to add to what we can do for our veterans.

We need to drop the political rhetoric that our staff writes and actually start setting down together and working, and that is what this hearing is about today.

Listening from the VA on where they are at with this, whether they are opposed or not to my particular legislation, and I said if you have got other ideas come forward because right now we are being dragged down by the fact when CBO scores what we are doing and we do not have the advantage of actually doing the things that many of you on your side of the aisle and our side of the aisle want to continue to do for our veterans because of a improper, what I believe an improper, counting of the dollars that we are spending.

Why in the world if someone is already receiving their medical care do we double count it the way this legislation is written? Why in the world would we all of a sudden write this so that when the VA decides to move forward with something that really does not have to do with toxic exposure we are going to go ahead and say, oh, well, the way it is written you can take money from the TEF and not go for toxic exposure but building a building over here or do something else over here, instead of providing it for our veterans, who I believe both I and the ranking member want to support.

Now, we have listened to the rhetoric, because I went on like that, I will be glad to let you have a response, but then we will listen to the witnesses and such.

Mr. TAKANO. Well, thank you, Mr. Chairman, for the time to respond. Let me just first of all dispense with the notion that the TEF was the reason why the Elizabeth Dole Act was not able to go forward.

My staff spent a lot of time with CBO to come up with a revised score, a modicum of which might have been related to TEF, but most of all it was, we pointed out, the mistaken way in which they were calculating the sheer costs of Elizabeth Dole. Also let us not associate the difficulties with Elizabeth Dole with primarily being connected with the TEF. That is not true.

We are going to hear testimony today from our witness from the VA that will show the very rigorous way in which they account for the cost and how the way the TEF is structured has facilitated VA

to be able to reach out to so many people, to have a backlog that is far less than everybody agreed. I agree that we do need to take a look at how CBO scores in light of the TEF. but that is something that we can take care of by working with our appropriators and with each other. To fundamentally change the way that we have assigned the costs of toxic exposure to the mandatory account and now revising it back to a discretionary frame I think is a big mistake and is the fundamental disagreement.

I do not want to go back to the good old bad days, especially when we have a very, very large new obligation that we said we must take on that we are going to pit veterans against other veterans' programs and pit them against other Americans in need.

I will stop there. I am eager to hear from our witness from VA to actually hear how the TEF has worked with their being able to facilitate reaching so many veterans and how they are going to reach so many more.

I yield back.

The CHAIRMAN. Thank you.

Now, I would like to introduce the witnesses for the Department of Veterans Affairs. First we have Hon. John Rychalski, the assistant secretary of management and chief financial officer.

We also have Laura Duke, the chief financial officer of Veterans Health Administration (VHA) and Ms. Lasheeco Graham, the chief financial officer of the Veterans Benefits Administration (VBA).

If each one of you would rise? I would ask the witnesses to rise and raise their right hand. Do you solemnly swear under penalty of perjury that the testimony you are about to provide is the truth, the whole truth, and nothing but the truth?

[Witnesses sworn.]

The CHAIRMAN. Thank you, and let the record reflect that the witnesses answered in the affirmative.

Mr. Rychalski, you are recognized for 5 minutes to deliver your opening statement, and we thank you for being here.

STATEMENT OF JON RYCHALSKI

Mr. RYCHALSKI. Thank you. Good morning, Chairman Bost, Ranking Member Takano, and members of the committee. Thank you for inviting us here today to present our views on the draft Toxic Exposure Fund Improvement Act. Joining me today, as you introduced, are Laura Duke from VHA and Lasheeco Graham from VBA.

The Sergeant First Class Heath Robinson Honoring our Promise to Address Comprehensive Toxics, or PACT Act, signed into law by President Biden on August 10, 2022, authorizes VA to deliver veterans' healthcare and benefits associated with exposure to environmental hazards during military service.

Section 324 of the PACT Act established the cost of war toxic exposures fund, or TEF. The pairing of this transformational legislation with a highly effective funding mechanism, the toxic exposures fund, has unquestionably benefited veterans in substantial ways. I would like to illustrate one example of that.

A veteran exposed to herbicides while serving in Thailand in the early 1970's had been trying to get service connection for Parkin-

son's disease, Type 2 diabetes, and peripheral neuropathy for the last 7 years. All his previous claims and appeals had been denied.

On the first day we granted PACT Act benefits, that vet was granted a service connection for 13 disabilities. That is because the PACT Act added a presumptive for his service in Thailand. For him that is a retroactive and monthly benefit that will go a long way in supporting his well-being for the rest of his life, and the toxic exposures fund provided the resources to make that possible.

The same scenario is playing out thousands of times each day. As of February 2024, VA has completed more than 5 million toxic exposure screenings and there are more than 4 million current enrollees in the PACT Act planning population. VA has approved over 700,000 claims related to the PACT Act for veterans or survivors and over 900,000 total veterans and survivors have completed PACT Act-related claims.

The toxic exposures fund has allowed us to fully deliver what we owe to this veteran and many others in health and compensation benefits without jeopardizing other VA programs because of competing funding requirements.

We have approached our use of the toxic exposures fund responsibly with great care and thought. The fund is not available for use for all PACT Act provisions. We have worked closely with our general counsel, the Office of Management and Budget (OMB), as well as the organizations receiving toxic exposure funding to develop allocation methodologies that adhere to the intent of the law and are effective, traceable, and auditable, while not impeding our ability to serve veterans.

Once all parties agree an allocation methodology has met this high standard, we publish the methodology and requirements in a financial policy. In 2023, we asked the Office of the Inspector General (IG) to review our work. In February 2024 they issued a report that commended the Office of Management for proactively seeking legal guidance from the Office of General Counsel to ensure (OGC) that TEF allocations are used in accordance with their authorized purposes.

We have since briefed the details of our approach on the use of this fund and our methodologies to numerous authorizer and appropriator staff, as well as veteran service organizations and the Office of the Inspector General. We have made our TEF use policies available on our policy website, and we provide monthly execution reports to oversight committees detailing our use of the funds.

Given the great success of the PACT Act and the toxic exposures funds, we are concerned about the certain provisions contained in the Toxic Exposure Fund Improvement Act and potential unintended consequences that may adversely affect veterans. We are happy to discuss the proposed legislation and look forward to working with this committee to ensure veterans continue to receive the healthcare and benefits they have earned without jeopardizing other VA programs. Thank you and I look forward to your questions.

[THE PREPARED STATEMENT OF JON RYCHALSKI APPEARS IN THE APPENDIX]

The CHAIRMAN. Thank you, Mr. Rychalski. Let the written statement of Mr. Rychalski will be entered into the hearing record.

We will now proceed to questions, and I will recognize myself for 5 minutes as soon as I get to my questions. Mr. Rychalski, if we do not solve the mandatory cost problem and restore this committee's ability to legislate, sooner or later VA will ground to a halt. There will be legislation that you need that we cannot pass. Do you agree that the problem has to be solved?

Mr. RYCHALSKI. Yes. I do agree that problem needs to be solved.

The CHAIRMAN. Okay. Also then going that way, the administration and the VA oppose my legislation. How do you propose to solve the problem?

Mr. RYCHALSKI. Well, I believe that Congress, you know, created this problem and Congress is going to have to solve it. Congress did not ask us for an opinion on creating the TEF for mandatory funding at that time—

The CHAIRMAN. But you—

Mr. RYCHALSKI. Now they are asking us to fix it, so I guess we see how that works.

The CHAIRMAN. Yet you say you are opposed to this proposal but we still have the prior one, so—

Mr. RYCHALSKI. Right. What I would say, Chairman Bost, is I recognize the problem. We just have concerns with how this is structured and maybe what some of the longer term effects of it will be. I do not dispute the problem. The solution is complicated. You know, if it were easy it would already be solved here.

The CHAIRMAN. Well, putting the budget jargon aside, so let us go to the VA receives the toxic exposure fund dollars from Congress, just like any other dollar. You do not really have any guarantee now, but my bill sets spending levels through 2033 that lets VA propose funding through 2045. Is not that actually more of a guarantee than what we have now?

Mr. RYCHALSKI. Well, I think that, sort of, the elephant in the room is if discretionary funding was possible it would have been used initially. I think that the problem is discretionary funding was not available, which is why they used mandatory and that makes me skeptical that you are going to be able to turn this into discretionary funding and that we are going to be able to see that funding.

The CHAIRMAN. Okay. The administration is using the toxic exposure fund to move VA spending out of discretionary so they can spend more money on other agencies. You mentioned Labor, Housing and Urban Development (HUD), and Health and Human Services (HHS). Republicans have never had a problem prioritizing veterans. We have proved that over and over again when even people are saying, oh, no, they are going to cut veterans. We have shown over and over again we do not.

Now, your opposition to the bill seems to be more about the other agencies and less about VA. How do you respond to that?

Mr. RYCHALSKI. Well, it is definitely about—I mean, that is a concern but it is more about the VA. Let me just give you a couple, just a short example. We are early in the PACT Act. You know, just 2 weeks ago we expanded health benefits under Section 103. We do not know what that is going to cost.

We were given the authority to expand, look at presumptives in relation to toxic exposure. We do not know where that is going to

lead us. My concern is that it is premature to narrow the scope, sunset this and to put caps at this point in time. We just do not know.

We need a guaranteed source of funding. You have seen we have been able to do with the funding and the PACT Act. We have done a lot for veterans. My concern is that this bill may—the intended consequence may be to limit our ability to do that.

The CHAIRMAN. Here is the thing. If we do not go forward with this bill, and believe me I am not the person that says okay, I am always going to be right on every bill, but if we do not have this conversation that we are having here today what is going to happen is we are going to be like the guy who jumps off the Empire State building and they ask him at the 30th floor how is everything going? They are fine just now.

We are going to hit the bottom and when we do all of these things that we want to do as members we are not going to be able to do it because we are double counting. Do you agree with me that we are double counting, according to CBO not according to VA, but the CBO is double counting. Do you believe that?

Mr. RYCHALSKI. I mean, I cannot speak to CBO's estimates. With respect to what our counting and our execution I absolutely do not agree with that. We are not double counting.

The CHAIRMAN. Okay. VA is not, but when it counts against us when we are trying to present any bill through we have got to have an advantage that allows us to say no, no, no. This person was already receiving care.

Now they do qualify under the PACT Act, but they were already receiving care, but now we are going to count them again. You do not do that because you are going to do your budget just the way your budget is, but CBO does. Therefore it ties us, as I said in my opening, it handcuffs us.

I am not bound to this particular piece of legislation, but it is the idea that we have come up with that we can clearly see that we meet those requirements, above and beyond at times, what VA estimates the cost are going to be. When and how, and I am out of time here and I want to keep this on schedule today, but I would like to know as the other witnesses are asking question, or other members are asking questions, each of us need to weigh out when we are told we do not want to pit veteran against veteran, but we actually are because of the way CBO is scoring this.

With that, I will yield back and turn it over to the ranking member for his questions.

Mr. TAKANO. With regard to the way CBO is scoring all of this, I believe that, you know, we do have ways to get with the appropriators, and so that is a whole other question. I just want to point out that on the first page of this bill, the majority changes the name of the fund dropping the cost of war section. Instead of calling it the cost of war toxic exposure bill they just call it—so I want to know what the purpose of that is?

They claim to agree with us that the true cost of war includes care for veterans when they return home, yet the very first action of the bill undermines or belies that fact. The same party that cheered and high-fived when Senate Republicans, led by former Senator Toomey, blocked passage of the PACT Act because of the

fund, which they labeled a slush fund, and that was sort of implied by the chairman's comments. The same party that had to be shamed by veterans sleeping on the steps of the Capitol into doing the right thing is now asking veterans to simply trust that they are not undermining the law's promise.

Yet we have before us this poorly drafted bill with no guarantees of funding for care and benefits either now or in the future. The majority uses a shell game proposing to take money that only exists on paper and transferring that to an imaginary lockbox at the Treasury.

Then they would prevent that money from being used by the VA to help toxic exposed veterans until Congress gives its blessing. That would hinder VA's agility implementing the law and inject a great deal of uncertainty into the system as VA could not count on funding being available in any given year. This uncertainty would start now in Fiscal Year 2024. All of this to achieve less than 1 year of relief from the TEF tax according to CBO analysis of the bill.

As I mentioned, I view this bill, at best, as a serious impediment to VA's ability to implement the PACT Act for current and future veterans and at worst a cynical attempt to shrink a law they always thought was too big.

Mr. Rychalski, how has the cost of war toxic exposure fund helped VA implement the PACT Act?

Mr. RYCHALSKI. Well, it has helped us tremendously and I will just give a couple of examples. Before the TEF fund, VBA claims production was, like, in the 5,000, 6,000, 7,000 range. Today after TEF and hiring it is approaching 11,000 a day.

They had projected a backlog of 600,000 to 700,000 because TEF and hiring. The backlog is between 300,000 and 350,000, so almost half of that.

You know, we had the gradual ramp in of the healthcare benefits, enhanced healthcare benefits under Section 103. It was supposed to, I think, go through 2032, but we opened that to all veterans this year. Like for some veterans that is 8 years earlier and that is because of the TEF funding so it has been remarkable.

Mr. TAKANO. We have been able to accelerate to all potential beneficiaries. That is an extraordinary achievement.

Mr. RYCHALSKI. It is. It is an extraordinary achievement. That is 8 years for some veterans, 8 years sooner that they are getting healthcare and that is because we are adequately funded, which is why we are—whether it is the TEF, however it is, adequate funding is critical and—

Mr. TAKANO. Well, I remember arguments actually on the Senate side against passing the PACT Act, that this was going to cause a huge backlog, that they did not trust VA's ability to. They looked at previous history, but the TEF has shown—the TEF has enabled the ability to move tremendous numbers of people. Well, we see it, 820,000 claims being approved.

There seems to be some disagreement between CBO and VA regarding whether the new TEF would be mandatory or discretionary. As the agency that is tasked with implementing this law in conjunction with OMB, what is your take on this?

Mr. RYCHALSKI. If the bill came over as it is written today it would be discretionary and that is affirmed by OMB, their budget division and also their general counsel. Whether that was the intent or not I do not know, but that is how it is read.

Mr. TAKANO. Well, what feels like a gimmick to me is that the majority is proposing to put monopoly money in the fund that is funded that just exists on paper. VA cannot use it until Congress appropriates it a second time. I do not know about you, but I would not have high confidence in this Congress appropriating anything once, let alone a second time. Is that VA's understanding of how this legislation works?

Mr. RYCHALSKI. Well, it is true that the scoring does not generate cash to put into the account and that gets back to my previous comment about it. Because discretionary funding was not available to fund this initially, I do have concerns going forward if it is changed to discretionary and the ability to appropriate and receive those funds.

Mr. TAKANO. Well, thank you very much.

My time is up and I yield back.

The CHAIRMAN. Thank you.

Representative Radewagen, you are recognized for 5 minutes.

Ms. RADEWAGEN. Thank you, Chairman Bost and Ranking Member Takano for holding this hearing. Thank you to the panel for your testimony.

Mr. Rychalski, what prevents the Toxic Exposure Act from becoming a slush fund?

Mr. RYCHALSKI. Well, first is the legislation and how it is written, but second, how we are implementing it. We are doing that in strict consult with our general counsel, OMB, their general counsel, and asking for the IG's review of our execution to make sure that it does not become a slush fund.

Ms. RADEWAGEN. You have been using the toxic exposure fund to move VA activities out of discretionary funding and into mandatory spending. Putting aside the budget implications of that, I am also concerned that it limits Congress' oversight. Do you commit to cooperating with the committee as we give these activities extra scrutiny?

Mr. RYCHALSKI. Absolutely, yes.

Ms. RADEWAGEN. Thank you, Mr. Chairman. I yield back the balance of my time.

The CHAIRMAN. Thank you.

Representative Pappas, please.

Mr. PAPPAS. Thank you very much, Mr. Chairman.

Maybe, Mr. Rychalski, if we could build on that a little bit, these claims, when the bill was being considered and being implemented that there is some sort of a slush fund here with the TEF.

You spoke a little bit about the internal controls that exist to comply with the statute. Can you give us a little bit more detail about how VA, or even Ms. Graham how VBA determines what is TEF-eligible and what is not and how it reports those expenditures?

Mr. RYCHALSKI. Yes, and I will let Lasheeco speak as well, but what I would say is that we work very closely with each account

each account. I mean, each account is different and we looked at the costs.

I will give you an example. When VBA looked at the TEF we thought, you know, if a claim comes in and it has one condition that is toxic exposed we are going to count that as a TEF claim and we are going to pay for it with toxic exposure dollars. When we consulted with our lawyers they said you cannot do that, that you can only charge the part of the claim that is related to toxic exposure.

They had to go through an exercise figuring out the cost of a claim, how much of it would be toxic exposure. That is the kind of detail that we are going in.

The other thing I would say is we are reviewing every receipt. Before we charge the toxic exposure fund we are reviewing every receipt before we charge the fund.

Lasheeco, you may have some more detail.

Ms. GRAHAM. Absolutely. As we finalized our operating plan and business that was associated with the PACT Act claims, we wanted to ensure that we were being consistent with the TEF as it stands in the appropriations. We consulted with the Office of Field Operations. We consulted with OMB, as well as Performance Analysis Integration team to make sure that the individuals that were hired for PACT Act purposes would be coded properly in our HR system, as well as in our finance systems.

Therefore as we go through, as Mr. Rychalski said, and we are looking at the various costs associated with processing a claim, we are able to determine the employees that actually worked that particular claim and then do a reconciliation at the end of each month to ensure that the funds are in the appropriate account, whether it is the TEF account or our general operating expense funds.

We also require that before individuals hired or any funding that is spent on TEF related to contracts, salaries or travel, or anything of the sort, that there is a clear and direct nexus to the TEF itself. It is not—we are very clear in working with OGC that TEF and PACT Act are not synonymous. We make sure that it is definitely tied to the toxic exposure fund.

Mr. PAPPAS. Okay. Thank you for helping us understand those internal controls.

Mr. Rychalski, you talked a little bit about how there were predictions, both from members of this committee as well as from VA about a ballooning of the disability claims backlog with the passage of PACT Act, and we have not seen those numbers because of a couple of things. One, dedicated VA employees that are doing this work day in and day out and are working incredibly hard to meet the moment for our veterans, and number two, the authorities within the PACT Act.

Because VA has been able to hire and train significant numbers of claims processing staff, they have used money from the toxic exposure fund to do that and recognizing that veteran service representatives currently do not just work on PACT Act claims.

One of my concerns is that for the purposes of the fund if they are restricted only to those expenses necessary to carry out the PACT Act you will end up with two classes of employees, TEF-funded and non-TEF-funded employees. That would potentially,

you know, risk some of the progress you have made with the backlog.

Could you talk a little bit about the implications for the way VBA does business with this legislation?

Mr. RYCHALSKI. Well, what I can say is if it becomes so complicated that we cannot operationalize it and make sure that we are using the money appropriately, for example, for toxic exposure, then we do not use it and we have to use base funding. If we do that too much then we end up having to pull it from other programs.

It is important that the fund that we use is clear and concise and executable enough that we are able to support and do the things that we have done. That is where I would say, you know, Congress should definitely take a victory lap with PACT Act and the toxic exposure fund. I am not saying that is the only way to fund this. All I am saying is with adequate funding we can do a lot, which we have seen, and that is why we are, sort of, jealously protecting that aspect of it.

Mr. PAPPAS. Well, thank you for those comments. I do believe and I think we all agree that PACT Act was a landmark law. It is delivering important help and benefits to millions of American veterans who deserve it, some who have waited a real long time to get this assistance. I think we should be working together to deal with some of the challenges that we face with respect to the scoring of legislation, but we should not be jeopardizing the future of this law and the help that it is going to provide and make a difference for so many veterans that we care deeply about on this committee. Thanks for those comments.

I yield back.

The CHAIRMAN. Representative Rosendale.

Mr. ROSENDALE. Thank you very much, Mr. Chairman.

Thank you, Ranking Member Takano for quoting me there today. I stand by those comments still, by that quote, and I know also that Chairman Bost does.

Like Chairman Bost, we want to make sure that all of the dollars that are appropriated to the VA reach their intended destination. That is really what this is all about.

Thank you, Chairman Bost, for holding this hearing. I was proud to vote for the PACT Act last Congress. The legislation expands VA healthcare and benefits for veterans exposed to burn pits, Agent Orange, and other toxic substances.

The legislation created the toxic exposure fund as a reliable funding mechanism to remove the cost of the PACT Act's healthcare expansion and administrative cost of its benefit expansion from the VA's discretionary budget.

The VA has used the toxic exposure fund as a flex fund to cover expenses that are not directly related to the PACT Act. The chairman's legislation attempts to clarify that the toxic exposure fund should be used to fund healthcare and benefits related to administrative and IT expenses and medical research under the PACT Act and not siphoned off for other purposes. That is all that legislation is for.

Just as I said in my quote, we are always willing to spend an enormous amount of money to send our warriors into war, but we

do not make the investment when they come home. Let us make sure that the investment is going where Congress directs it, where Congress directs it. That is our job.

Mr. Rychalski, the toxic exposure fund seems to be moving money around rather than actually increasing the resources to take care of the veterans. Looking at your 2025 request for your base budget and the TEF together, medical services is up by about \$4 billion. Community care is taking roughly a \$7 billion cut. Can you explain that to me, please?

Mr. RYCHALSKI. I want to let Laura, but I am going to speak to it. If you look at the request, it is misleading because that does not include the total funds we have available. We do have the TEF fund available. We do have carryover available. When you look at those total sources of funds in 2025 it actually does increase.

I do not know, Laura, if you want to add some color commentary to that?

Ms. DUKE. Yes. If you look at the total obligation, anticipated growth in 2025, we do expect to obligate almost \$41 billion for medical community care, which will be a 12 percent increase over 2024. It is the largest increase across our four appropriations, and that includes the resources that will be available under the TEF for the purpose of community care, as well as anticipated carryover expenses where we still have extra funds to the extent because of the timing of when the budget was requested and when the PACT Act was implemented creating the TEF.

Mr. ROSENDALE. Mr. Rychalski, I think you are using the TEF the way a lot of states have been using their lotteries, quite frankly. They promise to boost education funding, almost every state. That is what they sold the lottery systems on. In reality they diverted part of the regular budget to pet projects and schools did not wind up with any money at all.

The VA promised veterans dedicated funding for their toxic exposure-related healthcare, but in reality you are using toxic exposure fund to dump costs out of your regular budget so that other agencies can spend more money. How does that benefit the veterans?

Mr. RYCHALSKI. I mean, well, I would dispute the premise.

Mr. ROSENDALE. We are going to have to dig through the accounting, and I am not a forensic accountant, but we certainly have people on staff that will show that those moneys are being directed to other parts. We want to be able to quantify how it is delivering healthcare. If there are deficiencies for funding in other areas within your control, should not those requests be made through the Appropriations Committee to Congress?

Mr. RYCHALSKI. I am not exactly sure what you are referring to. I mean, we have requested through our budget what we need.

Mr. ROSENDALE. If you have deficiencies, again, we have toxic exposure fund and that has been defined of what is to be used for. Unfortunately, it has not had enough, as they always say in this place, sideboards placed upon it to make sure that they can be specifically used for delivering that healthcare for people that have been exposed.

If there are deficiencies in other areas should those requests not come through Congress and through the appropriations process?

Mr. RYCHALSKI. Well, Congressman Rosendale, you know, the IG looked at our healthcare approach for using the TEF and——

Mr. ROSENDALE. If you have——

Mr. RYCHALSKI [continuing]. and endorsed it.

Mr. ROSENDALE. Mr. Rychalski, this is not a really complex question. If you have deficiencies in other areas, rather than utilizing those funds should not you be going to Congress and requesting through the appropriations process support in those areas?

Mr. RYCHALSKI. That is such a highly speculative question. I would have to see this specific incident.

Mr. ROSENDALE. I yield back, Mr. Chair. Thank you very much.

The CHAIRMAN. Thank you.

Representative Sheila Cherfilus-McCormick.

Ms. CHERFILUS-McCORMICK. Thank you, Mr. Chairman.

VA has used funding from cost of war toxic exposure funds to great effect to manage their growing workload brought about because of the PACT Act. In particular, the Office of Information Technology (OIT) has used TEF funding for several significant projects, including automated benefits delivery, va.gov updates, modernization of VA Benefits News (VBN), and software at the Board of Veterans Appeals. I think we would all agree that those are vital uses.

However, as we have so many other lines of business at the VA, those IT systems are not used solely for the purpose of the PACT Act. I am concerned that any attempt to limit tech funding to only IT updates related to the PACT Act would in effect shut it off as sources of funding for modernization.

My question to you is how has OIT already included TEF funding into future years' budget requests?

Mr. RYCHALSKI [continuing]. specifics to our budget materials that we consider. Okay. We have, you know, we consider TEF, the TEF requirements in our IT budget VBA, healthcare, obviously, and that is included, for example, in our 2025 budget, the amounts that we are going to use. We actually go down to the specific program and project and system and what they are going to do for those systems that is TEF-related.

We can provide additional detail to you if you are interested in that, but it is, sort of, all built into our total budget request.

Ms. CHERFILUS-McCORMICK. Can you talk about what limiting the TEF funding might mean for OIT's ability to modernize and maintain VA's many IT systems?

Mr. RYCHALSKI. I mean, it has definitely been a force multiplier for us, and we have been able to accelerate modernization of some of these systems. You know, we talked about the backlog that we had anticipated in the 600,000 to 700,000 range that is only 350,000, the production of 11,000 claims a day where it used to be 6,000 to 7,000. IT systems figure prominently in that.

The additional TEF funding has enabled them to speed up the modernization to support those new TEF claims so it has been, you know, absolutely invaluable.

Ms. CHERFILUS-McCORMICK. Would you agree that limiting it would actually stifle modernization?

Mr. RYCHALSKI. Oh, absolutely yes.

Ms. CHERFILUS-McCORMICK. Thank you.

I yield back.

The CHAIRMAN. Representative Self, you are recognized for 5 minutes.

Mr. SELF. Thank you, Mr. Chairman. I want to talk about—I am a freshman. I was not here when the PACT Act was passed, and I have no quotes to be given in this forum, but I do have some questions because I was not here. I want to explore the authorities and I want to quote one of my colleagues that has been here longer than I have been. “Occasionally rule agencies and departments write rules that are diametrically opposed to the will and the intent of Congress.”

The authorities that you are talking about, and I will pick up on Mr. Rosendale’s comments, have you written the rules to activate, to execute the PACT Act? Do you believe that your rules follow the intent and will of Congress?

Mr. RYCHALSKI. Well, we have written the policy for each of the organizations receiving the toxic exposure fund money, and I do believe those follow the intent of the law.

Mr. SELF. Then specifically in your testimony you said that you expanded Section 103, I believe?

Mr. RYCHALSKI. Yes.

Mr. SELF. I want to know specifically by what authority did you expand Section 103? I have no idea what Section 103 is. By what authority did you expand?

Mr. RYCHALSKI. You know, you are getting a little out of my area of expertise. Maybe I could take that for the record? I think that seems like a lawyer question to me.

Mr. SELF. Yes, but I want to know is it from the bill? When you expand it indicates to me that you may be expanding your authority under your department as opposed to under the law, because as my colleague says, “diametrically opposed to the will and the intent of Congress.” I would like an answer to that question.

I want to go back to—and part of this is a larger issue in this Congress because we have got to start to claw back Article 1 authority from the departments and the agencies, and I think we may have a good case here. We must start to understand that we are \$34 trillion in debt. When you say that other VA programs, you do not want to affect other VA programs across the Government, we are going to have to start making choices if we are ever going to address our \$34 trillion in debt. Not the VA, not only the VA, not any of the departments. We are going to have to start doing it because to quote Ronald Reagan, “The closest thing to eternal life on earth is a Government program.”

Why is that? Every program has a constituency and every constituency wants to make sure that their program is not cut. We are going to have to start balancing that if we are ever going to get a handle on our \$34 trillion in debt.

Mandatory cannot mean unlimited, and regardless of how we get at this problem that you have agreed with the chairman exists, we have got to get at this problem. I think that we are going to need your help to get to the solution to the problem.

When you say it is Congress’ problem do not disabuse yourself of your help to the chairman in this committee as we move forward.

With that, Mr. Chairman, I yield back.

Mr. RYCHALSKI. Let me just for a moment, actually let me respond to your question. It actually is in the law, 117168 at the end of Section 103, Paragraph BI states, "The secretary may modify a date specified in subparagraph A," which is Section 103, "to an earlier date as the secretary determines appropriate based on the number of veterans receiving hospital care, medical services, nursing home care in the subparagraph's reference and the resources available to the Secretary."

The CHAIRMAN. Thank you.

Representative Deluzio.

Mr. DELUZIO. Thank you, Mr. Chairman, and good morning folks. You know, I want to start with something I think we all agree with that there is a sacred obligation in this country to care for those we send to fight, those who signed up to serve.

I think then Chairman Takano's PACT Act is a substantial recognition of that obligation of this Congress meeting it, to take care of not just veterans but my fellow toxic exposed veterans who were sent to places where they dealt with some pretty horrible stuff in the air and otherwise.

There has been a lot of discussion of the toxic exposure fund, but that is not quite the right name. Mr. Rychalski, what is the actual name under the law of that fund?

Mr. RYCHALSKI. Uh—

Mr. DELUZIO. The cost of war—

Mr. RYCHALSKI. The cost of war, I am sorry, yes, the cost of war toxic exposure fund.

Mr. DELUZIO. The cost of war toxic exposure fund.

Mr. RYCHALSKI. Yes. Yep.

Mr. DELUZIO. I think when the American people send our fellow Americans to fight they expect us to meet those costs. That could be bullets and guns. That can be armor. That can be tanks. That is medical beds, doctors.

Some of those wounds show up years later, and I think that is the cost of war that we are dealing with in this piece of legislation and the proposal here today. I cannot understand why Section 2 of the majority's bill cuts cost of war from the name of the fund. I hope it is an oversight. It seems to me a way to avoid the politics of not—thank you, sir, very good, Mr. Chairman. I think it is important because it is part of what we are doing in this Congress to care for my fellow veterans.

Now, at its core I understand there are some debates and discussions around what fiscal obligations we have. The American people, I think, expect us to care for veterans. The folks we have sent off to fight and serve they will bear that cost.

If we have problems in our budget or otherwise, well, maybe we ought to tax the rich. Maybe the very people who for every generation we sent folks off to fight had their taxes increased ought to pay a little more to care for the folks sent off to fight. I do not think this is a fiscal problem that should be solved on the backs of veterans. I think it is a revenue issue that we have to address.

I am also concerned. I do not see Veterans Service Organizations (VSO) in this hearing. I do not see them on this panel. I think they have something to say about their care and about the impact of

this legislation on toxic exposed veterans. I hope we will see good engagement from the VSOs as we go forward.

Mr. Rychalski, I want to ask you a question, and I am going to go to your testimony. You wrote, "Amending the PACT Act as suggested by the bill would severely constrained VA's ability to provide timely, high quality healthcare and benefits to all veterans, including those with toxic exposure."

You also wrote, "The impact of the majority's bill would be, quote, 'That VA's ability to provide benefits and services for toxic exposed veterans would be significantly jeopardized.'" Why?

Mr. RYCHALSKI. Well, just let me give you an example. You can just do a simple math exercise. If you added up the total amounts provided in the Toxic Exposure Fund Improvement Act, add up those total amounts of funding that they would deposit in the account and you compare that in the OMB budget tables for the Fiscal Year 2025 budget we just released, we would receive \$17 billion less in funding. That would be difficult to make up.

I mean, we would have to make that up somewhere else. That is why it is—

Mr. DELUZIO. What would those "somewhere else" be within VA for instance?

Mr. RYCHALSKI. I mean, we would take it from other programs. It could be infrastructure. It could be equipment. I mean, it could be rural health. It could be wherever we needed to.

Obviously, we are going to provide the care to veterans so other things are going to—and that is our concern with, you know, pulling back on funding too soon or sunseting the fund too soon. We are really early into this.

The other thing I would say, and this is an important aspect here, you know, we are just, kind of, coming out of years of denial of, you know, the effects of toxic exposure to the age of enlightenment. We have now the statutory authority in the PACT Act or the statutory process to look at presumptives, you know, and we have to have the resources to do that.

The current toxic exposure fund provides those resources. The Toxic Exposure Improvement Act does not. It narrowly scopes that.

For presumptives coming down the line it would not be covered under this fund and so that is a problem. I mean, we are just really getting our hands around this.

Mr. DELUZIO. In the 30 seconds I have left I will be brief. To confirm, the president's budget request did not request any changes that would cap appropriations for the cost of war toxic exposure fund?

Mr. RYCHALSKI. That is correct. In fact, the OMB tables provide \$17 billion more between 2026 and 2033 than this legislation does.

Mr. DELUZIO. Nor did the president's request have anything about making this funding—shifting this funding into discretionary?

Mr. RYCHALSKI. Correct.

Mr. DELUZIO. Very good.

Mr. Chairman, I yield back.

The CHAIRMAN. Thank you. For the record I would like to say that the VSOs were and have been meeting on this issue on a regular basis. They chose not to testify here today.

With that, Dr. Miller-Meeks.

Ms. MILLER-MEEKS. Thank you very much, Mr. Chair, and thank you for this important hearing.

The questions I ask are coming both from the fact that I am a 24-year Army veteran, as is my husband, and I am also a physician and former director of the Iowa Department of Public Health. We looked into toxic exposure, especially where we have the Iowa Army ammunition facility, which is within my district.

I voted for the PACT Act, the improved PACT Act when it came back from the Senate, voted for it but still had some reservations about this bill, not our obligation to take care of veterans who may be injured at the time or in the future from their service, especially in combat, but in other parts of the bill which I will address.

Mr. Rychalski, the toxic exposure fund statute is somewhat ambiguous, and the VA has written policies to govern how the money can be spent. What is not allowed?

Mr. RYCHALSKI. Well, let me back up and give you an example—the best example I can give of that is we have a PACT, a program management office. We have a director of that program office.

When the PACT Act was passed and the toxic exposure fund was created we thought, well, certainly the director of the PACT Act project management office his salary would be funded, but when we worked through that with our general counsel they said absolutely not. The toxic exposure fund is only for costs related to toxic exposures. That individual does not spend all of his time or even most of his time specifically on toxic exposure so you really cannot charge, well, certainly not all of this salary and probably not most, maybe not even any of his salary.

That is an example of the type of thing we have to go through to make sure that it is related to toxic exposure only, not just costs with the PACT Act.

Ms. MILLER-MEEKS. Can you get us the other things that are not allowed or covered? You can submit that in writing.

Mr. RYCHALSKI. Okay.

Ms. MILLER-MEEKS. Most people thought that toxic exposure fund, which was part of the PACT Act, was intended to pay for implementing the PACT Act, but the VA has also been using it to pay for toxic exposure-related programs that already existed. Can you identify those programs?

Mr. RYCHALSKI. Well, we only use it in most cases to the extent, well, really all cases to the extent that it exceeds, for example, healthcare of the 2021 baseline or that it is related to toxic exposure itself. We are not shifting baseline costs to TEF. I know people say that, but that is just simply not the case.

Ms. MILLER-MEEKS. I am sorry. You just said that you are using it for healthcare costs that exceed the 2021 amounts that were already allocated and appropriated for toxic exposure and programs that existed prior to the PACT Act or the toxic exposure fund. Why would that be permissible?

Mr. RYCHALSKI. Well, let me—Laura Duke wanted to make a comment on this.

Ms. DUKE. If I may, the way in which we execute healthcare in our system does not lend itself to the strict fencing that we have done because we did not want a situation where we hired a pro-

vider and that provider was only approved to deliver medical care to PACT-eligible veterans. We wanted to ensure that we were maximizing the use of our providers' time and that we were helping as many veterans as possible to receive the care timely.

What we are looking at is we are taking the PACT and the TEF and baseline funding as the total that is available for us to run our system. Then after the care is administered we then are accounting for the total cost of the care the visits where toxic exposed veterans are receiving the care. Those are the costs that we are——

Ms. MILLER-MEEKS. I am going to reclaim my time——

Ms. DUKE. Yes.

Ms. MILLER-MEEKS [continuing]. but I am going to say that it is a nebulous, ambiguous cost shifting as a physician who takes care of patients.

My next question is the concerns I had about the PACT Act and presumption and presumption of toxic exposure leading to a disease either now or in the future. Part of the PACT Act has research. Why do we want to continue research and development and to find out if there really is—and if an exposure is, in fact, related to a disease status, if we are going to presume that every disease is related to some toxic exposure whether it is or not?

Then number two, the follow up to that is in the PACT Act we also continue all of the healthcare, all of the benefits, even if it is proven through scientific measures that there is not a causality. Is this a portion of the PACT Act and funding that we do not need because in the PACT Act the presumption is that any toxic exposure has created disease now or in the future? You are talking about future presumptive exposure.

Ms. DUKE. I think our research program first improves the quality of the health care that we deliver by learning better ways to treat the conditions in question. To the extent that the future disability qualifications is making sure that not only are we providing the healthcare but that veterans whose quality of life has been compromised as a result of their exposures are adequately compensated.

Ms. MILLER-MEEKS. So care, the treatment care, treatment modalities is different than research into presumption, which a lot of that, I think, if we have a proper implementation of the electronic health record and coordination with the Department of Defense (DOD) would help that.

I yield back my time.

The CHAIRMAN. Representative Budzinski.

Ms. BUDZINSKI. Thank you. Thank you, Mr. Chairman. Thank you Mr. Ranking Member. Good morning to everyone.

I just wanted to say thank you to the witnesses for being here for this important discussion around the PACT Act and the cost of war toxic exposure fund.

I would like to take a moment to just share two stories of my constituents and how the PACT Act and the cost of war toxic exposure fund has directly benefited actually both of them.

Willie Williams and his wife April Williams of Belleville, Illinois, have both seen the real benefits again of the PACT Act and the cost of war toxic exposure fund. Willie served in the US Navy and

the Air National Guard for 20 years. He was a part of Operation Desert Storm and Operation Desert Shield.

While in service Willie was exposed to toxic burn pits that led him to have a disability. This significantly impacted his quality of life for both him and his family. Before the PACT Act he could not understand what was going on with him. He was not able to get the right care because they could not understand the type of care that he needed and almost all of his claims were denied at that point by the VA.

This was the case for many of his veteran friends that he shared with me back home who were also exposed to burn pits. They just could not get the answers to the questions that they had or the care that they really needed.

Thanks to the PACT Act and the cost of war toxic exposure fund he submitted the claims with information on his service locations and was approved for a higher percentage in his disability rating. Because of this, his physicians were able to explain to him the exact kind of care that he needed for his unique condition.

His wife April, who I was really privileged to have come with me as my guest at the State of the Union address, is a certified wound care nurse at the St. Louis VA Hospital. She did her best to care for Willie during and before the PACT Act, but also faces many hurdles in getting him the unique care he needed due to his exposure to the burn pits.

Willie and April have seen significant improvements in their quality of life. They are able to move forward with their future, and Willie is getting the unique care that he needs.

I bring this story with their permission today because I am concerned about the majority's bill, that it will impact future veterans with similar situations and conditions like Willie. Veterans put their lives and health on the line to protect us, as has been stated in this committee. We know many of them who were exposed to extremely toxic chemicals that have been linked to a number of serious diseases.

It is our duty now to provide them with the care that they have earned and deserve. The VA has had the ability to provide this critical care to toxically exposed veterans thanks again to the cost of war toxic exposure fund.

Additionally, certain positions at the VA medical facilities may be at least partially funded by the cost of war toxic exposure fund, and I am extremely worried that this could hurt crucial positions, such as April Williams, a certified, again, wound care nurse. If the cost of war toxic exposure fund was restricted in the way proposed by the majority's legislation, the VA may have to find other discretionary dollars to pay for the salaries and benefits of these important positions.

Really quickly with the time remaining, I just wanted to ask again to anyone on the panel, do you believe that the caps proposed in the majority's legislation to the cost of war toxic exposure fund could hinder the VA's ability to provide this important care to veterans?

Mr. RYCHALSKI. We do think—yes, we do believe that.

Ms. BUDZINSKI. An additional question I would have, too, is could this, you know, and could be enforced to pay more for care from the discretionary spending pit veterans groups against each other?

Mr. RYCHALSKI. I mean, to the extent that—we are going to deliver the care. To the extent that we have to take from other programs we will do so, but eventually it will affect veterans. It could be in different groups or, you know, it could be all groups, to be honest, but we are going to make sure that we deliver the care that we need to.

Ms. BUDZINSKI. Okay. Again for anyone on the panel, if the majority bill is passed there is no guarantee that Congress would actually appropriate up to the proposed caps. Has the VA contemplated what would happen if Congress failed to appropriate that funding and what kind of services would be impacted?

Mr. RYCHALSKI. As I described, we would look for other sources for that funding. It could be from infrastructure. You know, our average age of our infrastructure is 60 years. I mean, we cannot take money from that but we would. We would take it from new equipment purchases. You know, it could be from, you know, rural health programs. It could be from many programs so other programs will suffer.

Ms. BUDZINSKI. Okay. Would anyone like to add anything additional? Okay, great. Thank you very much.

I yield back.

The CHAIRMAN. Dr. Murphy, you are now recognized.

Mr. MURPHY. Thank you, Mr. Chairman, and thank you to the witnesses coming in today. I come from a very large veteran-laden district, 1 in 10 essentially of my constituents are veterans so this is a big deal for me.

Also helped to champion the Camp Lejeune Justice Act. That is a huge deal because I serve Camp Lejeune.

Mr. Rychalski, going back, I just want to continue actually that line of questioning. The statute is a little bit ambiguous and VA has some written policies on how to govern this. What is not allowed to be spent for the toxic fund?

Mr. RYCHALSKI. Really anything that is not directly related to a toxic exposure. That is maybe too—I mean, I can give you specific examples. You know, we have to work through each case basically to find out what is the link to the toxic exposure before we can use the funding.

To give you some example of how restrictive we are, of the \$26 billion, or \$25 billion or \$26 billion in TEF that we have available so far we have only charged that account with about \$3 billion because we are going receipt by receipt. It is not that the costs are not there. It is that we are making sure that when we charge that account we can clearly link it back with documentation to a toxic exposure cost.

Mr. MURPHY. Okay. Last year during our budget hearing Chairman Bost asked the secretary why the VA was planning on using the toxic exposure fund to furnish newly constructed VA buildings. The secretary's response was that because the PACT Act allows him to do it. That is a little concerning. Are you guys still spending the TEF money for this purpose?

Mr. RYCHALSKI. I am not familiar with that reference other than there were lease authorizations and funding in the PACT Act for leases, which I am assuming——

Mr. MURPHY. Well, no. This was furnishing newly constructed buildings.

Mr. RYCHALSKI. I am not familiar. I would have to see that for the record.

Mr. MURPHY. All right. I need you to look back and I need a response.

Mr. RYCHALSKI. We will.

Mr. MURPHY. Actually, the chairman should demand a response. Hopefully, we get one as to why this is, because the VA has been given a large amount of money and our job is to make sure it is used efficiently. The VA spends 5-to-1 what the British healthcare system spends on each patient, and we want to make sure that it is spent wisely, not just in the budget of a slush fund, as it will.

I need you to get back to us, please, with a definitive answer. If so, how can anybody justify doing that because if this is supposed to be for patients not furnishing buildings with nice new chairs and computers, this, that and the other stuff, the VA has those things, and has access to funds for those things it should not be coming from the fund. I am working on actually trying to get something rectified with the Camp Lejeune Justice Act. There are some technical corrections that we are needing to do to make sure that actually our veterans actually have access to money like that and to limit attorney fees. They understand this is coming, but to make sure that they have their day in court.

Are there any exposures, anything that are going on with our veterans that the toxic fund does not fund? Are we delinquent in making sure that we are covering things that should be covered?

Mr. RYCHALSKI. I mean, Congress really has done an exceptional job with this. We have everything, absolutely everything we need.

Mr. MURPHY. Wow. I have not heard that before from a Government agency. You are good. We do not need to give you any more money, is that what you are saying?

Mr. RYCHALSKI. I mean, we are——

Mr. MURPHY. No, I——

Mr. RYCHALSKI [continuing]. have requesting what we need, but this has been a real success. I mean, in the years I have worked for Government this is probably the most successful I have seen.

Mr. MURPHY. I think it is successful and I think the intent is very, very pure. We just also cannot relinquish our duty to make sure that funds are used efficiently. That is a big deal, you know, for me, especially with all that goes on in healthcare with our VA. It has to be first and foremost number one is care for our veterans, and two, are we being good stewards of the taxpayer dollar with all this?

Mr. RYCHALSKI. I 100 percent—I share that sentiment and we are working hard in that regard.

Mr. MURPHY. All right. Well, thank you for that.

Mr. Chairman, again, I will yield back. Thank you.

The CHAIRMAN. Thank you.

Representative Brownley.

Ms. BROWNLEY. Thank you, Mr. Chairman. I appreciate it. I appreciate the panel being here. Mr. Chairman, I cannot help myself, but you in your opening remarks you mentioned the Elizabeth Dole bill and your sentiment that it really cannot be funded due to the current TEF funding.

I just have to say that I disagree with that wholeheartedly because we could pass the Elizabeth Dole bill today if we utilize the four corners agreed-upon language which makes the CBO scoring on the Elizabeth Dole bill absolutely *de minimis*. I think the strategy of your leadership, not you necessarily, Mr. Chair, but your leadership, has been to handicap the Elizabeth Dole bill so you could put some—so you could put the very popular Elizabeth Dole bill into a package to also get some of the other, sort of, Republican priorities.

Rather than putting the Elizabeth Dole bill on the floor that both Republicans and Democrats could proudly pass, the leadership has chosen to delay it. It is not being delayed because of cost. CBO has scored the bill very minimally, the cost is. I do not think the cost of the Elizabeth Dole has any impact on what we are talking about today on the TEF funding, so I just want to make that point abundantly clear.

I also—so I got that off my chest. Thank you very much.

The CHAIRMAN. (Inaudible 0:31:50.5)

Ms. BROWNLEY. Yep, yep, yep, yep. I also today—yesterday I met, this is to the panel, yesterday I met with some women veterans who shared some anecdotal data that women who are enrolling for healthcare benefits, whether it is Military Sexual Trauma (MST) claims or Post-traumatic Stress Disorder (PTSD) claims, sometimes a litany of very complicated claims, that those claims are not being addressed as quickly as male claims are generally of similar dimensions because of the PACT Act.

I am not talking about the PACT Act right now. I am talking about because of the focus on the PACT Act which, you know, we must do and I understand that, but because of that some of these other claims that are, kind of, in backlog, if you will, women veterans are telling me again anecdotal data but telling me that those claims are falling behind male claims of similar dimensions, as I said.

I do not know whether you can speak to that today or not, but I would certainly like someone to go back and look at that data. I would like the data beyond anecdotal data. If it is true we need to do something about it.

Mr. RYCHALSKI. Yes, and we will look into that. That is not something I have heard of. That is interesting and something that we absolutely need to look into. If we could take that for the record and get back to you we will do so.

Ms. BROWNLEY. Very good.

Mr. RYCHALSKI. Thank you.

Ms. BROWNLEY. The last thing I wanted to mention or to talk about, too, is the research that is built into the PACT Act. I think the Republican legislation would severely curtail the research unless it is related to the covered, you know, related to what is already being covered by the bill. Sorry. I am having trouble getting that out.

I really want to know, you know, what the intention is with regards to research, particularly how it relates to women veterans, whether it be, you know, breast cancer, cervical cancer, but primarily infertility. You know, most physicians will say infertility is very hard to diagnose in terms of what the cause may be. I have heard statistics anywhere up to 80 percent of the time they cannot diagnose the reason for infertility.

I happen to have an in vitro fertilization (IVF) bill that says, you know, we should treat infertility as healthcare and it should not be related to a specific cause. I am just curious to know if any of this research is related to women veterans? I see I do not have very much time left.

Mr. RYCHALSKI. We do not have very much of an answer. Can we take that for the record, too? You ask tough questions for financial people, so could we take that for the record and——

Ms. BROWNLEY. Absolutely.

Mr. RYCHALSKI [continuing]. and get back to you? Yes, thank you.

Ms. BROWNLEY. Absolutely.

Mr. RYCHALSKI. All right.

Ms. BROWNLEY. Thank you.

Mr. Chair, I yield back.

The CHAIRMAN. Representative Crane.

Mr. CRANE. Thank you, Mr. Chairman.

Thank you to the panel for coming here today to talk about this very important issue. I deployed to Iraq in 2006, 2008, and 2010. On every major base that we were on we had burn pits. I remember a couple afternoons I actually spent several hours in burn pits searching for mistakenly discarded serialized equipment.

It was not something that, you know, we thought about necessarily at the time. We did not know how harmful burn pits were. I was just worried that we were going to get in trouble because we could not find the serialized equipment. I do have a little bit of experience with, you know, this hazard that many of our veterans are coming back and getting very sick from.

One of the things that I hope comes out of this hearing and others like it, I hope that we start to count the cost of these wars that we continue to have an infatuation with engaging in all over the world. I do agree with Mr. Rosendale's sentiments and statements that Mr. Takano posted right back here on the board. I think, you know, here we go again. It looks like there are multiple wars on the horizon, and I do not think we are doing a good job counting the cost, not only what it could mean for our active duty individuals and sending our blood and treasure over to these spots in the world, but how were even going to afford it when they come back because clearly we cannot afford even to take care of the veterans we have right now.

I mean, nobody can make the logical argument that when, like Mr. Self said, when we are \$34 trillion in debt we cannot even afford the ones that we have now. I hope that we start really thinking about counting the cost. What does this cost?

You know, if we truly cared about our veterans we would not just be worried about—because we love to sit on these panels and say cheer our veterans, oh, we love veterans, but do we? Do we really?

If we really did we would not just be worried about this piece of legislation or the one coming down the pipe right after it. We would be worried about making sure that we could provide health care for our veterans 5, 10, 15, 20, 25 years down the road.

Looking at the trajectory that we are on now, that is what keeps me up at night. I do not think we are going to be able to do it.

Now, on to my question, Mr. Rychalski. Can you give us a better idea of where the moneys designated for these toxic exposure funds, where they are going to be spent in the Department of Labor, Health and Human Services and Housing and Urban Development?

Mr. RYCHALSKI. There are no toxic exposure funds. Our funds are not going to those programs, so—

Mr. CRANE. Okay. The shuffling of these moneys that we have been talking about, kind of, moving them around because this bill seemed to be written with flexibility in the language, these moneys are not being sent to other places?

Mr. RYCHALSKI. Nowhere else. Nowhere.

Mr. CRANE. Okay. Thank you very much.

I yield back.

The CHAIRMAN. Mr. Landsman.

Mr. LANDSMAN. Oh, so I am sorry. Thank you, Mr. Chair.

Thank you for being here and for everything that you do on behalf of our veterans and our communities and for working with the committee. I think there are really good questions that have been raised today from colleagues on both sides here and would just encourage you, as I know you will based on your answers today, to be engaged with the committee, each member, answering these questions.

Maybe even going beyond what would be typically expected because, you know, part of, you know, this hearing has to do with concerns, legitimate concerns about making sure dollars are going to where they need to go. I think those concerns have been addressed in some ways today, at least that is my sense.

In the follow up to questions I think can also help to alleviate some of the concerns. You know, potentially there are certain things you want to do and, you know, moving forward that does not require congressional action but does ensure that there is the kind of transparency and certitude about where these dollars are going that people are looking for.

You know, there is consensus that this investment is a smart one, that the cost of war toxic exposure fund is successful. It does make a big difference. We have to continue to make those investments.

There also is a very legitimate concern that I share about the debt that this country is dealing with. I mean, \$34 trillion is a huge problem for us long term. Part of what we have to do is deal with wasteful spending. I do not—there is no one up here that thinks that this fund is wasteful spending, though I think there are questions that can be easily answered to ensure that there are no dollars being spent on anything other than helping our veterans.

I think the area of common ground, hopefully, is understanding that tackling this deficit and debt can be done on the spending side

or on the fixing of the tax code side. One of my colleagues brought this up.

I believe, in addition to dealing with wasteful spending, that the tax code has to be fixed. The question should not be, okay, well, what should we limit in terms of veterans or seniors or others and avoid trying to say, hey, we can only give you this much, but to say to billionaires and to big corporations you have got to pay all your taxes like the rest of us. That will help to alleviate some of the pressure on these investments.

You know, a lot of people make a lot of money, and I really appreciate what Mr. Crane said about his experience but also the cost of war. A lot of people do make a lot of money on these wars. This has been brought up before so this is not a new idea, but the, you know, putting a fee on these defense contractors and others who make billions and billions of dollars on these wars that will pay for all of these programs to support our veterans so that they do not have to worry that anything is going to be taken from them.

You know, the chair mentioned common ground and bipartisan path forward, a partisan path forward. I hope that that is part of the discussion.

I do not mean this in an argumentative way. I do think this is part of what we have to talk about. That was really for my colleagues.

Then for you all my hope is that, and then I will yield back, the questions that I suspect you will follow up with the information but to also appreciate that there may be some things that you all could do to alleviate some of the concerns that would mean we do not have to pursue caps. Thank you.

I yield back.

Mr. RYCHALSKI. Can we just make one comment? We absolutely will do so. We are mindful when this fund was first established we know that Congress looked at this and thought this is going to be something the VA takes. They are going to use it as a slush fund. They are going to abuse it and not without precedent, right?

We have taken it very seriously, and I am going to stand by our work. We are going to prove to you that we are using this responsibly and you are going to see that. We have been very transparent, and we are riding herd on this like no other.

The CHAIRMAN. Mr. Ciscomani.

Mr. CISCOMANI. Thank you, Mr. Chairman.

Thank you to the witnesses for coming to testify today. The passage of the PACT Act was a landmark achievement in signifying Congress' support for our veterans in receiving the care they were promised and as they sacrificed so much obviously for our country. Many of my colleagues on this on this panel, this committee, have done that.

We have a solemn duty to care for them when they returned home, and I have about 70,000, over 70,000 veterans in my district so I appreciate your testimony being here today.

Now, my question is for you, Mr. Rychalski. The toxic exposure fund, I mean that is what we are here to talk about and you have answered a lot of questions around this, but if you could just entertain a couple more here for me? It is pretty complicated and it got

more complicated as the PACT Act moved through the House and the Senate.

What challenges specifically have you faced in using the fund to carry out the PACT Act?

Mr. RYCHALSKI. Well, believe it or not, and not that it is, you know, overly restrictive, but initially when we received the PACT Act and the toxic exposure fund it looked to us like we could use the toxic exposure fund for a lot of things like I described, right? It turned out we cannot use it for a lot of things that are in the PACT Act that are not toxic exposure-related.

You know, give you an example. It took us 7 months to come up with the policies for how we could use toxic exposure funding for VBA and that was going line by line with our general counsel, fiscal lawyers, OMB, asking the IG for reviews to make sure. A lot of it is just making sure that we are adhering to the intent of the law.

Seven months is a long time to come up with a methodology and a policy, but that is the care that we are taking. Some of it is just that. It is just making sure that we are following your intent.

Mr. CISCOMANI. All right. You know, we have talked about this as well, but you oppose the chairman's legislation because you say it would constrain the VA's ability to update care as the toxic exposure science evolves. Without a doubt it took decades of legislation and science for VA to admit service connection for Agent Orange and other exposures.

More often than not, I believe this committee is a force for change within the VA. Would not removing this committee's ability to pass new legislation also hold the VA back?

Mr. RYCHALSKI. It will and that is a problem that has got to be solved. Agreed, yes.

Mr. CISCOMANI. Thank you.

Ms. Duke, if I can transfer over to you real quick, as an appropriator, I sit in the Appropriations Committee, I hear constantly from my constituents about the need to rein in Federal spending. We talked about the trillions of dollars in debt that we have, which are very troubling for us. The value Congress of appropriating on an annual basis is that we can continuously look at the program's effectiveness and evaluate spending levels.

If the VA, for whatever reason, spent all the toxic exposure fund money before the end of the Fiscal Year how would you fund healthcare under the PACT Act?

Ms. DUKE. To the extent that our request includes both discretionary and TEF funds balanced across the 2 fiscal years, we believe that we are adequately funded through the two sources of money through 2024 and into 2025 to meet veterans' needs. I think even whether it is TEF or base we will use those funds to continue to provide care through 2025.

Mr. CISCOMANI. You are basically saying there is practically zero chance that the money runs out? The money is, you know, well, for whatever reason spent quicker than it should be and the fund goes away what would happen? I want to make sure that—the purpose of my question here is if this money runs out or if it is, for whatever reason, spent sooner than it is intended for, as you laid out it is planned to, but things happen.

I am trying to make a point here of the value of Congress' involvement here, and I am speaking both as a member of this committee but also an appropriator. As we look at the funding mechanism of this we have to make sure that our veterans are going to be taken care of and that Congress has an ability to have a say in this on an annual basis.

Ms. DUKE. Which is why we include the TEF resources as part of our annual request to the Congress, both in terms of 2025 and in 2026. If you look in our budget, we have an annual TEF request to accompany our advance appropriation request for 2026. We are communicating the need across both of the appropriations, and we would ask that you as an appropriator and the rest of Congress provide those resources in order for us to deliver the care as projected in the budget.

Mr. CISCOMANI. Well, my time is almost up. As an appropriator I will always support our veterans, and I want to make sure that they have all the resources that they need. I also wholeheartedly believe in the involvement of Congress through this process and the oversight of these funds to make sure that they are properly used and responsibly managed for our veterans so that they are there when they need them.

That is my job both as a member of this committee and the Appropriations Committee as well. Expect me to be asking more questions on this. Thank you both.

The CHAIRMAN. Representative McGarvey.

Mr. MCGARVEY. Thank you, Mr. Chairman.

Thank you all for your testimony here today. When I get into my questions I do want to talk about these caps and what they ultimately mean for the care of our veterans.

Let me start by saying, though, one of the reasons I like this committee, I think you have seen it today, is that there is a real passion to come together in a bipartisan way and make sure that our veterans have the care not just that they need but that they deserve and that they have earned,

When we are talking about this I think it is important, as Representative Deluzio pointed out, that we are talking about the cost of war toxic exposure fund, cost of war. From Agent Orange to toxic burn pits, these are wounds of war. They are just like a bullet wound or something else, but just because they do not show up immediately does not mean they are any less serious or any less deadly.

Just yesterday I spoke to a veteran who she said she has been exposed to toxic burn pits and has developed asthma because of the scarring in her lungs. We hope that is it. There are many more who have worse.

When we are here today and we are talking about funding and affordability, I also want to make sure we spend money efficiently and effectively. I want to make sure—I came from state government where we had to balance a budget. We know that the PACT Act is working. It is benefiting millions of veterans across this country and back in my district in Louisville, Kentucky.

I am a little taken aback by the efforts to curtail a program that is working for our veterans for wounds they sustained during the course of war. We are talking about affordability. The question is

not whether we can afford to take care of our veterans. The question is can we afford not to?

If we are going to talk about affordability, I think we have some answers. In other rooms in this building they are talking about cutting taxes for the billionaires and wealthiest corporations in America. Why is it in this room the veterans are on the chopping block? I think we can do more.

These are the same veterans who have to pay Federal income tax on their military retirement while, according to a March 2024 report from Americans for Tax Fairness, 35 major U.S. corporations between 2018 and 2022 paid less in Federal income taxes than they paid to their top five executives.

We have the money to take care of our veterans. It is a question of priority. It is the question of can we afford not to take care of the men and women who put on a uniform and were willing to sacrifice everything to keep this the greatest country in the world?

I want to specifically ask about Title II of the PACT Act which created a new expedited process for developing new presumptive illnesses and service locations. The PACT Act was not intended to be a definitive or a one-and-done. Obviously, the research the VA is conducting on toxic exposure can currently be funded by the cost of war toxic exposure fund as is some portion of the salary of those who are evaluating that evidence.

However, it seems as though the legislation we have before us today is ambiguous as to whether that research can even be conducted using this funding. In the time I have remaining, Mr. Rychalski, what would the caps on the cost of war toxic exposure fund mean for future presumptives if, for example, the VA wanted to add coverage and benefits for Fort McClellan or Karshi-Khanabad Air Base (K2) or Per- and Polyfluoralkyl Substances (PFAS)?

Mr. RYCHALSKI. That is one of our concerns, the narrowing of the scope. Our understanding or our read of the law would be that we would not be able to use the fund under the improvement act for the costs associated with that so we would have to use base funding or find other funding for that.

The same is true for some veterans that were already awarded a disability for environmental conditions before the PACT Act if they—they would not be eligible under some scenarios for care funded by the toxic exposure fund.

Both before and after the PACT Act because it is more narrowly scoped we would have to fund that out of existing resources, which could be problematic for us, especially going forward because we do not know where this is going to lead.

Mr. MCGARVEY. Thank you for that. What is the VA's sense on how the majority's proposed legislation may affect the ability to execute the new presumptive decision process as delineated by Title II of PACT?

Mr. RYCHALSKI. I refer that to Lasheeco.

Mr. MCGARVEY. Perfect.

Ms. GRAHAM. Thank you. The process that VA historically has used to determine the presumptive conditions often took decades to work through in order to complete that particular process. It was often very frustrating, obviously, for veterans, for their families

and caregivers, as well as their clinical teams and led to delays in veterans receiving the healthcare and benefits they earned and needed.

The new provisions under the Title II establish a process by which VA may streamline presumptions of service connection based on toxic exposure in a clear and transparent manner.

Mr. MCGARVEY. Thank you.

I see my time has expired. Mr. Chairman, I yield back.

The CHAIRMAN. Thank you.

Representative Takano, do you have closing remarks?

Mr. TAKANO. I do, sir.

The CHAIRMAN. Thank you.

Mr. TAKANO. Well, thank you, Mr. Chairman, for recognizing me. We have discussed the effects of the cost of war toxic exposure fund on the Congressional Budget Office scoring in the past, and we will discuss it again in the future.

As I have said in the past, I recognize that under normal circumstances CBO scoring related to the cost of war toxic exposure fund could prove an impediment to moving new and expanded legislation on behalf of veterans.

However, this Congress under this majority has been about the furthest thing from normal circumstances as we can get. In fact, the toxic exposure fund has not proven to be an impediment to passing legislation at all and there are two main reasons why that is.

One, the House majority leadership has deviated from past precedent and required offsets to both discretionary and mandatory spending. In the face of that CBO scoring related to the cost of war toxic exposure fund is largely irrelevant because if the entire cost of a bill must be offset then it does not matter which side of the ledger the cost is on.

Second, the House majority is woefully inept and they cannot even muster sufficient votes among their members for their own priorities. We have seen paralysis as a result, leading to one of the least productive Congresses in history. In fact, the majority has only seen fit to dedicate less than 6 hours of actual floor time to veterans legislation. Surely veterans are worth more than 6 hours of this Congress' time.

Proceeding with this legislation now is both unnecessary and unproductive. Instead, as I have said all along, we need to have a more fulsome conversation with all of the interested parties and get buy-in from the appropriators and the budget committee, the appropriations and budget committees in both the House and the Senate.

We need also the VA, the VSOs, and other stakeholders to be a part of these discussions before proceeding down a path of changing the cost of war toxic exposure fund because there is very little upside to this bill and an enormous risk of downside.

I would ask the members present here today, do you think everyday Americans care about how CBO evaluates the cost of care we provide to our veterans? Do you think veterans exposed to toxic substances as they walk into the VA wonder whether the cost of their healthcare will be labeled mandatory or discretionary? Of

course they do not. They care about whether or not this country will uphold the promise it made to care for them after their service.

Do you think that a military spouse or a child whose veteran is dying of cancer cares about budget deficits? No. They want care for their sick family member.

This fund is absolutely crucial to ensuring VA has the resources necessary to fully support our veterans and to deliver the new benefits available to them without having to sacrifice existing programs. The mandatory nature of this fund is our guarantee that those resources will be available for generations to come.

Not protecting funding for PACT is essentially defunding other VA programs or pitting PACT beneficiaries against other domestic programs. Scaling back the fund, as Republicans have suggested, would force unconscionable choices. Which life-threatening conditions does the minority propose not to cover? Which veteran do they suggest we ask to live with their diseases untreated?

Eliminating the healthcare and benefits our veterans are entitled to because we are concerned about scores is lunacy. The intent of Congress in the PACT Act was to stop pitting funding for veterans against other domestic priorities such as funding for cancer research or vaccine development, aid to school districts for educating students with disabilities, or funding for housing assistance for the elderly and special needs populations. We achieve that.

Would the majority rather fund long-term care for elderly veterans or healthcare for toxic exposed veterans? Should we fund programs to continue to reduce the rate of homelessness among veterans or prioritize funding for veterans who now have Parkinson's disease because of their toxic exposure?

We passed the PACT Act because toxic exposure is a cost of war and our country needs to pay for the healthcare and benefits these veterans have earned.

I am sure folks are tired of hearing me say that, but it seems that some in this House and on this committee need reminding. I share no sympathy for those who voted for this bill but suddenly have buyer's remorse now that the PACT is law.

We ask men and women to sacrifice their lives to protect our freedom. The least we can do is to take care of them when they return home.

I hope my colleagues here today keep this in mind so that we do not have to make the mistake of previous Congresses by ignoring the needs of veterans. We did the right thing when we passed my PACT Act. We listened to veterans and then followed through on our promise. We must now commit ourselves to keeping that promise. Thank you and I yield back.

The CHAIRMAN. I thank the ranking member.

I would like to make a couple notes into the record here. First off, according to CBO, the mandatory cost of the Elizabeth Dole veterans package was \$2.86 billion over 10 years before we started revising the bill.

Now, a significant portion of that is due to the fact that the toxic exposure fund double counted existing problems. We are continuing to work on the bill to get the cost down to watch and do our offset.

I would also remind the ranking member and my Democrat colleagues that if they are so fortunate to persuade the American peo-

ple to put them back in the majority, this problem is still and will not go away. We have got to fix it or we will be frozen without the ability to continue to offer significant things to improve the lives of our veterans and deal with existing problems.

I do not think the rhetoric that has existed, now, let me tell you that I think this hearing was good in the fact that we were getting it out there. I do not care about the words. If you if you want to change a first line or whatever but quit being offended by the words and let us deal with the actual issue.

How do we do that? We realize that we cannot double count the costs. We need to make sure that we implement the PACT Act like it was meant to be and provide those services. No one on our side of the aisle said that we do not want to provide those services.

We are saying that we need to be wise in providing those services so that the people anywhere on our VA list that need the help are not shortchanged.

I appreciate the witnesses being here today to discuss the important issue, and I appreciate the give and take. I think it has been good give and take. I want to repeat it, if anyone has a proposal besides this one fix the problem I am here. We do not want to say, oh, we own it as Republicans. We do not want to say, oh, we do not want the Democrat—this is a bipartisan problem that we have got to get fixed.

We have handcuffed ourselves on this committee. To try to figure out and be responsible now we have got to unhandcuff ourselves so that all veterans and family members and survivors can receive the benefits they deserve. We can accomplish that a lot—we have accomplished a lot over the last few years, but this is no time to quit. Veterans deserve a VA that is involved to meet their needs, not one that is stuck in the past.

With that, I ask unanimous consent that all members shall have 5 legislative days in which to revise and extend their remarks and include any extraneous materials. Hearing no objection, so ordered. This hearing is now adjourned.

[Whereupon, at 12:19 p.m., the committee was adjourned.]

A P P E N D I X

PREPARED STATEMENT OF WITNESSES

Prepared Statement of Jon Rychalski

Good morning, Chairman Bost, Ranking Member Takano, and other Members of the Committee. Thank you for inviting us here today to present our views on the draft Toxic Exposure Fund Improvement Act (dated February 21, 2024), which would affect Department of Veterans Affairs (VA) programs and services. Joining me today are Laura Duke, Chief Financial Officer, Veterans Health Administration (VHA), and Lasheeco Graham, Chief Financial Officer, Office of Financial Management, Veterans Benefits Administration (VBA).

While our testimony will address the elements of the hearing invitation, I want to first take this opportunity to thank the Committee and the Congress for the tremendous work done by you and your professional staff members in working with VA to deliver world-class health care and benefits to millions of Veterans, their families, and caregivers. In recent years, Veterans have been empowered with more health care options through laws such as the VA MISSION Act of 2018 (P.L. 115–182). Women Veterans now have greater access to critical care and services following the enactment of the Deborah Sampson Act of 2020 (title V of P.L. 116–315). In August 2023, we celebrated the 1-year anniversary of the Honoring our PACT Act of 2022 (the PACT Act) – one of the largest expansions of VA health care and benefits our country has ever seen. The impact these laws have on the health and well-being of the brave men and women who have served our country fulfills a promise we have made to care for them and ensure they receive the benefits they have dutifully earned.

I am excited to share that VA recently announced that **all** Veterans who meet basic service and discharge requirements and were exposed to toxins and other hazards while serving in the military—at home or abroad—are eligible to enroll directly in VA health care as of March 5, 2024. This means that all Veterans who served in the Vietnam War, Gulf War, Iraq, Afghanistan, the Global War on Terror, or any other combat zone after 9/11 are eligible to enroll directly in VA health care without first applying for VA benefits. Additionally, Veterans who never deployed but were exposed to toxins or hazards while training or on active duty in the United States are also eligible to enroll.

A. PACT Act Implementation and the Cost of War Toxic Exposures Fund

As of February 25, 2024, VA has completed more than 5.25 million toxic exposure screenings, and there are more than 4 million current enrollees in the PACT Act planning population.¹ VA has approved 720,945 claims related to the PACT Act for Veterans or Survivors, and approximately 911,777 total Veterans and Survivors have completed PACT Act related claims.² These numbers, however, do not convey the true impact. Let me share with you one Veteran's journey with the PACT Act.

Randall Doerr, a retired Marine Corps gunnery sergeant (GYSGT), served with distinction through combat tours in Afghanistan and Iraq. During these deployments, GYSGT Doerr was exposed to burn pits and fine particulate matter. On February 6, 2019, he submitted a claim for his newly diagnosed Non-Hodgkin's lymphoma (NHL), attributing the condition to environmental hazard exposure in the Southwest Asia theater. Although his claim was initially denied, the enactment of the PACT Act on August 10, 2022, proved significant for GYSGT Doerr. VA received his supplemental claim for NHL on February 23, 2023, with a VA examiner opining that the diagnosed NHL is at least as likely as not due to Southwest Asia exposures. A subsequent rating decision assigned a 100 percent evaluation and generated a retroactive award of \$11,409.³

The PACT Act is having an impact, but our work is far from over. We are applying lessons learned and best practices as we implement potentially the largest

¹ VA-PACT-Act-Dashboard-Issue-28-030124_FINAL_508.pdf

² VA-PACT-Act-Dashboard-Issue-28-030124_FINAL_508.pdf

³ VA-PACT-Act-Dashboard-Issue-28-030124_FINAL_508.pdf

health care and benefits expansion in VA history. We are improving the way we reach Veterans and strive to continuously improve delivery of care and services. We acknowledge we have a commitment to the American public to ensure proper oversight and transparency of the funds and resources we have been entrusted to manage. This testimony will describe VA's views on the draft bill, our ongoing efforts on TEF oversight and methodology, and lessons learned that we are applying as we strive for excellence.

B. VA's Position on the Toxic Exposure Fund Improvement Act

Given the complexities and dynamics of our experience with PACT Act implementation, VA is confident that its current authorities are sufficient to continue implementing the PACT Act's expansion of health care and benefits to Veterans with environmental exposures in the manner intended by Congress. While VA appreciates the opportunity to work with the Committee to offer technical assistance on prior drafts of the bill, amending the PACT Act as suggested by the bill would severely constrain VA's ability to provide timely, high-quality health care and benefits to all Veterans, including those with toxic exposure. While the draft bill reflects some input from VA on critical implementation issues, there remain significant and substantial technical and programmatic issues that would frustrate operationalizing the bill if enacted.

VA opposes this draft bill.

C. Analysis of the Toxic Exposure Fund Improvement Act

Section 2(a) of the bill would replace the current 38 U.S.C. § 324 with a new statute. The proposed section 324(a) would direct VA to use any funds appropriated pursuant to the authorization of appropriations in proposed section 324(b)(3) to carry out the purposes of the Toxic Exposure Fund described in proposed section 324(b)(4).

Proposed section 324(b)(1) would establish in the Treasury an account, known as the Toxic Exposure Fund (the Fund), to carry out the purposes described in proposed section 324(b)(4). Proposed section 324(b)(2)(A) would require transfer from the savings described in section 324(e)(1) to the Toxic Exposure Fund the following amounts: \$26.411 billion for Fiscal Year (FY) 2026, \$28.524 billion for Fiscal Year 2027, \$30.806 billion for Fiscal Year 2028, \$33.271 billion for Fiscal Year 2029, \$35.932 billion for Fiscal Year 2030, \$38.807 billion for Fiscal Year 2031, \$41.912 billion for Fiscal Year 2032, and \$45.264 billion for FY 2033. Proposed section 324(b)(2)(B) would provide that any amounts transferred under subparagraph (A) would remain unavailable for obligation or expenditure until such amounts are appropriated. Proposed section 324(b)(2)(C) would provide that any of these amounts not appropriated for an fiscal year would be available for appropriation, under certain terms and conditions, during the subsequent FY.

Under proposed section 324(b)(2)(C)(ii), the Office of Management and Budget (OMB) would have to calculate, and the budget would have to include, adjustments reflecting such carried over amounts. Proposed section 324(b)(3)(A) would authorize to be appropriated for each of FYs 2026–2033 an amount not to exceed the total amount transferred to the Fund under paragraph (2); these amounts, if appropriated, would remain available until expended. Proposed section 324(b)(3)(B) would provide that, for any of FYs 2026–2033 for any discretionary appropriation under the heading "Toxic Exposure Fund" provided to VA, the total amount of such appropriations for the applicable fiscal year (not to exceed the total amount remaining in the Fund) would be subtracted from the estimate of discretionary budget authority and the resulting outlays for any estimate under the Congressional Budget and Impoundment Control Act of 1974 or the Balanced Budget and Emergency Deficit Control Act of 1985, and the amount transferred to the Fund would be reduced by the same amount. Proposed section 324(b)(4) would state that amounts appropriated from the Fund would be available for: (1) the delivery of Veterans' health care under the PACT Act, subject to the eligibility criteria in 38 U.S.C. § 1710(e), as added by the PACT Act; (2) any expenses, including administrative and information technology (IT) expenses, incident to the delivery of such Veterans' health care or the delivery of benefits under the PACT Act, including to carry out section 701 of the PACT Act; and (3) medical research under the PACT Act. Amounts appropriated from the Fund would not be available for leases as authorized or approved under 38 U.S.C. § 8104.

Proposed section 324(c) would set forth requirements relating to accountability and oversight. Proposed paragraph (1) would require VA, not later than 180 days after the date of enactment of this Act, to submit a work plan to Congress that includes the proposed allocation of funds authorized to be appropriated pursuant to section 324(b)(3) for each of Fiscal Year 2025–2033. The workplan would have to include the amount of money to be obligated or expended in each year from the Fund

and a description of how each such account supports the strategic goal of serving Veterans exposed to toxic materials. VA would have to submit a report to Congress annually (not later than January 1 of each of Fiscal Year 2027–2033 that includes the amount of money obligated or expended in the prior fiscal year from the Fund, a description of any such project using funds, and whether such projects are serving Veterans exposed to toxic materials. VA would have to provide an update in the form of testimony and any additional reports to Congress upon request.

Proposed section 324(d) would state that no amounts could be transferred into the Fund from amounts that were designated by Congress as an emergency requirement pursuant to a concurrent resolution on the budget or the Balanced Budget and Emergency Deficit Control Act of 1985.

Proposed section 324(e) would provide that the amounts made available under section 324(b)(2) would be derived from savings generated through the modification of the Fund by enactment of this Act to cover the cost of the Fund; any funds in excess of the total amounts so made available would be returned to the Treasury's general fund. VA would have to include in the documents supporting the President's budget request detailed estimates of the sums described in section 324(b) for the applicable FY. VA could establish policies and procedures for developing the annual detailed estimates, after consultation with Congress.

Proposed section 324(f) would state that the budgetary effects of this section would not be entered on either PAYGO scorecard maintained pursuant to section 4(d) of the Statutory Pay-As-You-Go Act of 2010 (2 U.S.C. § 933(d)). Similarly, the budgetary effects of this section would not be entered on any PAYGO scorecard maintained for purposes of section 4106 of H. Con. Res. 71 from the 115th Congress. No amounts in the Fund could be made available except to the extent provided in advance in appropriations acts; any act that rescinded or reduced amounts in such accounts would not be estimated as a reduction in direct spending under the Congressional Budget and Impoundment Control Act of 1974 or the Balanced Budget and Emergency Deficit Control Act of 1985.

Section 2(c) of the bill would specify that amounts made available by the Fiscal Responsibility Act of 2023 (FRA, P.L. 118–5) would be carried out consistent with requirements of 38 U.S.C. § 324, as amended. Section 2(c) would also deem the amounts appropriated by the FRA for Fiscal Year 2024 and Fiscal Year 2025 to the TEF as amounts transferred to the Fund, and such funds would be treated in the same manner as amounts so transferred for each of Fiscal Year 2026–2033. Nothing in section 2(c) could be construed to require such amounts for Fiscal Year 2024 and 2025 to be reappropriated by Congress, and such funds would be available for obligation and expenditure without being subject to future appropriation.

Section 3(a) of the bill would require VA to submit an annual assessment on the funding provided to carry out the Fund, beginning not later than November 1, 2024. Section 3(b) would require VA to submit to Congress by October 1, 2033, a report containing proposed funding levels for the Fund for each of Fiscal Year 2034–2045. Section 3(c) would provide that, unless a joint resolution of disapproval is enacted into law, on October 1, 2034, and on October 1 of each of Fiscal Year 2035–2045, there would be appropriated to the Fund the amount submitted by VA under section 3(b)(1), which would then be subject to appropriation for the purposes of the Fund. Section 3(d) would establish a process for a joint resolution, as referenced in section 3(c).

We understand that the draft bill was written with the intent to change the budgetary treatment of the TEF from scoring as direct spending to discretionary spending for purposes of how the Congressional Budget Office (CBO) and OMB estimate the effects of future authorizing legislation on spending from the TEF. As previously noted by CBO and OMB, some of the costs of such legislation that would otherwise have been paid from discretionary appropriations for VA will now be paid in part from the TEF. As a result, cost estimates for future legislation that would affect activities potentially covered by the TEF now show effects on both discretionary authorization levels and direct spending (most commonly called mandatory spending). In general, legislation that would result in an increase in mandatory spending is required to be offset with a reduction in mandatory spending or increase in revenues under the Statutory Pay-As-You-Go Act of 2010 (PAYGO). As a result, certain VA authorization bills under consideration in Congress have been newly subject to this PAYGO requirement, and we appreciate the Committee's desire to solve this issue. However, this bill leads to undesirable effects on TEF execution and budgeting. There are six primary issues that would adversely affect VA, as outlined below.

Initially, there is no existing mechanism that would allow VA to execute the transfer of savings under the proposed section 324(e). It appears that the intent is to transfer savings from the reduction in direct spending that CBO would score to

this bill. The savings transferred into the Fund would then be subject to future appropriation but exempt from being counted for purposes of discretionary budgetary enforcement. However, the savings referred to is based on scoring and does not correlate to actual dollars that can be transferred. Due to a real difference in the timing between when amounts are scored by CBO and when amounts are appropriated into an account, the savings identified are not able to be transferred into an account for future spending. In other words, the reduction in direct spending that is anticipated to be scored by CBO does not generate actual cash in a Treasury account that can be transferred for future use. Because there is no funding in a Treasury account, it is unclear how the funding would be transferred to the Fund.

The impact of this is that VA's ability to provide benefits and services for toxic-exposed Veterans would be significantly jeopardized. The draft bill authorizes appropriations from the Fund, but without balances in the Fund, no appropriation could be provided from existing funds. As a result, additional appropriations from other sources would be needed to replace the funding that was intended to be appropriated from the Fund, and these additional appropriations would score as a cost for budget enforcement.

Second, the draft bill would both sunset the authority and impose a fixed limit on the amount that could be appropriated to the new Fund without being scored for budget enforcement. The current authority in 38 U.S.C. § 324 is permanent (i.e., without a sunset date) and limits the appropriation to the amount necessary to increase funding over the Fiscal Year 2021 baseline for Veterans' health care and benefits associated with exposure to environmental hazards and medical and other research relating to exposure to environmental hazards.

Unless funds are appropriated that exceed the fixed amount authorized and exempt from budget enforcement, it could significantly constrain VA's ability to respond to needs in future years as VA continues to evaluate, research, and determine costs related to toxic exposures, including for conditions that may be established in the future to be related to toxic exposure. The sunset date creates uncertainty about the source of funding for allowable activities under the Fund when that date is reached.

Third, the bill would change the allowable purposes of the Fund. Under its current authorization, the TEF is available to fund Veterans' health care and benefits associated with exposure to environmental hazards, as well as research associated with exposure to environmental hazards, and to carry out the continuation of modernization, development, and expansion of capabilities and capacity of information technology systems and infrastructure of VBA, including for claims automation, under section 701 of the PACT Act. Under the draft bill, the new purposes would authorize the Fund to fund the delivery of Veterans' health care under the PACT Act, any expenses incident to the delivery of Veteran's health care or benefits under the PACT Act, and medical research under the PACT Act, and would maintain the same purpose related to section 701.

This would narrow the purpose of the new Fund and complicate implementation, particularly as it pertains to Veterans who, prior to PACT Act implementation, were already eligible for health care or benefits as a result of exposure to environmental hazards. Moreover, the draft bill would complicate implementation in Fiscal Year 2024, as section 2(c) would specify that the Fiscal Year 2024 appropriation provided by the FRA would also be required to conform to the new purpose. Because Fiscal Year 2024 is already underway, the bill would introduce significant uncertainty as to whether current execution of the TEF funding would align with the new purpose. Additionally, because the bill would narrow the purpose of the new Fund, VA would face further pressure to fund Veterans' health care, benefits delivery, and research with limited discretionary resources, potentially constraining VA's ability to provide timely, high-quality care and benefits to all Veterans, including those with toxic exposures. In addition, to the extent VA would require additional discretionary funding to replace resources previously provided in the TEF, Veterans services provided by other executive branch agencies, such as the Departments of Labor, Health and Human Services, and Housing and Urban Development, could be impacted, thereby reducing critical resources to Veterans who need them most.

Fourth, Title II of the PACT Act provides VA a statutory process to establish presumptions of service connection in relation to toxic exposures. However, it is unclear whether, under the draft bill, the Fund would be available for benefits created pursuant to Title II that were not specifically included in the PACT Act.

If the draft bill does have the impact of limiting the availability of the Fund to support future presumptive conditions, the draft bill would significantly and adversely affect Veterans and their dependents. For example, by limiting the Fund to only administrative expenses incident to the delivery of benefits under the PACT Act, the draft bill may not allow the Fund to support outreach related to the estab-

lishment and implementation of presumptions created in the future regarding toxic exposure but not expressly included in the PACT Act. VA is continuing to evaluate the health consequences of Veterans' toxic exposures, but the costs of these efforts would potentially be excluded from the Fund's coverage. VA recently announced expanded outreach beyond our efforts in 2023 to ensure we reach more Veterans, with greater emphasis on Veterans in under-represented communities. As written, this bill could potentially prohibit spending for enhanced outreach and would exclude pre-PACT Act herbicide issues from the Fund. Other affected populations could include radiation-exposed Veterans, combat Veterans, and Camp Lejeune Veterans and family members, among others.

Fifth, the proposed § 324(b) identifies the first applicable fiscal year as 2026. However, under the proposed § 324(c)(1), VA would be required to submit a workplan associated with Fiscal Year 2025 as well. Additionally, the current language for the TEF in § 324(c) refers to the authorization of investment in three identified categories, but under the proposed bill this "investment" term would no longer appear. This would create ambiguity that would result in operational challenges. It is unclear if the language in the proposed § 324(c) is meant for flexibility or exclusion. Section 2(c) of the bill would allow for the use of funds already appropriated for Fiscal Year 2024 and Fiscal Year 2025, but it is unclear if it would be appropriate to submit a workplan for Fiscal Year 2025 as well.

The bill would also introduce further confusion given technical issues with the language. For example, the bill uses the term "toxic materials" in proposed § 324(c)(1)(B)(ii) and (2)(A)(iii), but this term is not used in any other statute. These references are in the context of the required workplan and reporting requirements, but it is unclear if this is intended to refer to some other concept than "environmental hazards" as currently used in § 324(c), or more generally "toxic exposure" or "toxic-exposed veterans", as those terms were defined in the PACT Act. Additionally, the bill's inclusion of limits on the use of the Fund to the costs of health care "under the PACT Act" misses that Veterans may be eligible under multiple authorities, some of which were added by the PACT Act and some of which predated the PACT Act. For example, combat Veterans are eligible for a 10-year window following their discharge or release under 38 U.S.C. 1710(e)(1)(D), but many of these Veterans are also "covered veterans" under 38 USC 1710(e)(1)(H), as added by the PACT Act. The bill is ambiguous as to whether VA could use resources in the Fund for health care for these Veterans, whose enrollment may have predated the PACT Act but who are nevertheless eligible "under the PACT Act" as well.

In summary, the bill could significantly complicate VA's ability to implement the PACT Act and furnish health care and benefits for Veterans and family members with toxic exposures. The complexity and construct of the draft bill, even given changes made based on VA's discussions with the Committee, remain. The draft bill could limit funding for health care delivery, information technology and Veteran outreach efforts, benefits administration, and critical research in toxic exposure. In doing so, this draft bill would short-change Veterans and make it more difficult for them to receive the timely and high-quality care and services they have earned.

D. TEF Methodology and Oversight

The TEF is not available to implement and operationalize the entire PACT Act. As enacted at 38 U.S.C. § 324(c), the TEF is available to increase funding for investment in: (1) the delivery of Veterans' health care associated with exposure to environmental hazards in the active military, naval, air, or space service; (2) expenses incident to the delivery of Veterans' health care and benefits associated with exposure to environmental hazards in the active military, naval, air, or space service, including administrative expenses, such as information technology and claims processing and appeals, and excluding leases as authorized or approved under 38 U.S.C. § 8104; (3) medical and other research relating to exposure to environmental hazards (38 U.S.C. § 324(c)(3)), and (4) continuation of the modernization, development, and expansion of capabilities and capacity of IT systems and VBA infrastructure, including for claims automation, to support expected increased claims processing for newly eligible Veterans pursuant to the PACT Act.

VA's Financial Policy Documents are publicly available on our website at <https://department.va.gov/financial-policy-documents>; VA has provided a specific methodology to estimate the health care expenditures and expenses incident to the delivery of Veterans' health care and benefits associated with exposure to environmental hazards as well as medical and other research relating to exposure to environmental

hazards.⁴ VA exercises oversight of TEF funding through VA's governance process consistent with the TEF spend plan approved by Congress in 2022. Spending oversight and funding execution will be routinely reviewed by the VA Investment Review Council and during monthly budget reviews hosted by VA's Office of Management. VA provides regular briefings to the Eight Corners on TEF spending and methodology and section 254 of the Military Construction, Veterans Affairs, and Related Agencies Appropriations Act, 2024 (Div. A of P.L. 118–40), requires quarterly TEF reporting, and VA will continue to provide transparency and oversight as good stewards of the Nation's resources.

E. TEF Lessons Learned and Way Ahead

VA has acknowledged and sought to improve our internal controls around the TEF by implementing lessons learned from previous supplemental funding. To help ensure Administrations and Staff Offices are using TEF appropriately, we have been diligently reviewing our legal requirements to develop individual methodologies and codify those within our VA Financial Policy. The key tenet of each methodology is the ability to estimate, track, and reconcile costs and expenses incident to the delivery of Veterans' health care and benefits as well as medical research associated with environmental exposures.

Conclusion

VA appreciates the opportunity to present VA's position on this bill. The issues and impact addressed today are both technical and programmatic. We emphasize, though, the true impact this bill would have, if enacted, on Veterans. Congress enacted the PACT Act to honor our pledge to the men and women who served and sacrificed and came home needing care. Our Veterans are not technical or programmatic issues – they are people—people like Randall Doerr, who look to VA to honor our promise and deliver world-class care they can count on, now and in the future. I am proud to be part of this noble mission to care for the Nation's Veterans.

This concludes my testimony. My colleagues and I are prepared to respond to any questions you may have.



⁴ Chapter 12—Toxic Exposures Fund—Financial Policy Documents (va.gov)