JOINT STATEMENT OF
THE CO-AUTHORS OF *THE INDEPENDENT BUDGET*:
DISABLED AMERICAN VETERANS
PARALYZED VETERANS OF AMERICA
VETERANS OF FOREIGN WARS
BEFORE

COMMITTEE ON VETERANS' AFFAIRS
UNITED STATES SENATE
WITH RESPECT TO

"U.S. Department of Veterans Affairs Budget Request for Fiscal Year 2021, Advance Appropriations for Fiscal Year 2022 and the Fiscal Year 2022 Supplemental Funding Under P.L. 116-136, the CARES Act"

JUNE 3, 2020

Chairman Moran, Ranking Member Tester, and members of the committee, the co-authors of *The Independent Budget* (*IB*)—DAV (Disabled American Veterans), Paralyzed Veterans of America (PVA), and Veterans of Foreign Wars (VFW) — are pleased to present our views regarding the President's fiscal year (FY) 2021 funding request for the Department of Veterans Affairs (VA), including advance appropriations for FY 2022 as well as the supplemental funds under the CARES Act.

Earlier this year, and prior to the Administration's budget request, the *IB* released its comprehensive VA budget recommendations for all discretionary programs for FY 2021, as well as advance appropriations recommendations for medical care accounts for FY 2022.[1] The

[1] The full *IB* budget report addressing all aspects of discretionary funding for VA can be downloaded at www.independentbudget.org.

recommendations include funding to implement the VA MISSION Act of 2018, Public Law (P.L.) 115-182, and other reform efforts.

Since the publication of the IB's Budget Report, the coronavirus pandemic has fundamentally changed our lives and the institutions we rely upon. We have learned during this crisis that the private health care system does not have excess nor surge capacity sufficient to meet the continuing medical needs of veterans, further emphasizing the importance of maintaining a robust VA health care system as the primary provider of care for enrolled veterans. As a major national health care provider with a contingency mission to assist federal agencies in times of national emergencies, ensuring adequate funding for VA is even more paramount.

We are pleased that the CARES Act (P.L. 116-136) provided almost $20 billion for VA to meet the significant needs of veterans emerging due to COVID-19. We hope that it is clearly understood, however, that this supplemental funding is to address new and unanticipated COVID-related needs VA has and will have over the coming year for additional staff, equipment and supplies, above and beyond the levels already projected. It will also be used to ensure certain groups of veterans will not be financially devastated obtaining preventive or emergency services during the COVID-19 emergency, as well as the needs of homeless veterans who may be at higher risk of contracting the virus. There may also be additional funding necessary to address infrastructure needs allowing VA to improve infection control by increasing the number of private rooms available, improve air flow and ventilation, and take other measures to ensure veterans and staff do not become infected.

In addition, there are a number of other critical VA priorities that require significant funding increases for FY 2021 to ensure veterans have timely access to high quality health care. Congress must continue to support VA's efforts to develop a single electronic health record (EHR) and modernize its health data sharing capability to securely exchange records with community health care partners. New investment in VA's research programs are essential for delivering safe and effective health care in the future, a vital role highlighted by the coronavirus pandemic facing veterans and the nation. VA also requires significantly increased appropriations to repair, replace, realign and expand its infrastructure in some areas, which unfortunately has been neglected for years. In fact, VA recently testified it will need at least $60 billion over the next five years to address its infrastructure backlog and to provide space for the tens of thousands of new health care professionals VA requires, including those who were newly hired in response to the pandemic.

It is our understanding that the overall increase in non-defense discretionary spending allowed under existing budget caps for FY 2021 is only about $5 billion dollars; however, the enacted FY 2021 advance appropriation increase for VA is already more than $8 billion, which is not even enough to cover all of the new requirements created by the VA MISSION Act. This landmark legislation, which was signed into law after the current budget caps were adopted, creates a new VA community care program, expands VA's internal capacity to provide health care, enhances VA's ability to recruit, hire and retain medical personnel; will review, realign and modernize VA's health care infrastructure; and will extend eligibility to VA's comprehensive caregiver assistance

program to family caregivers of all severely disabled veterans. While VA has implemented many sections of the law, the true and full cost of all these reforms is just starting to phase in now, with large increases coming in FY 2021.

Unfortunately, the existing budget caps for FY 2021 did not contemplate all of the new and increased costs associated with the VA MISSION Act, and we are concerned that unless an agreement is reached to alleviate the budget cap pressure on VA's FY 2021 appropriations, veterans programs and services could be negatively impacted. Congress must take action to ensure VA is fully funded through the appropriations process, including consideration of designating some of the funding increases as emergency spending, and must not allow any VA funding to be subject to sequestration or other budget enforcement mechanisms.

As noted above, the IB's FY 2021 Budget Report (attached) contains our full budget recommendations, which are summarized below.

Independent Budget Recommendation for FY 2021 and FY 2022—The *IB* recommends $114.8 billion in total discretionary budget authority for the VA. This recommendation is $4.4 billion more than the Administration's request and an 18% increase over FY 2020. After reviewing the Administration's budget request for VA, which provides a 13% increase, we believe the request falls short of meeting the needs of America's veterans in light of the requirements of the VA MISSON Act, increasing need for medical care, claims and appeals processing, information technology (IT) modernization and construction needs.

The Administration's FY 2021 request for all VA medical care of approximately $95.6 billion is $2.8 billion less than the *IB* estimates is necessary to fully meet the demand by veterans for health care during the fiscal year. For FY 2021, the *IB* recommends approximately $98.4 billion in total medical care funding and approximately $100.6 billion for FY 2022. This recommendation reflects the necessary adjustments to the baseline for all Medical Care program funding of the preceding fiscal year, increases based on new and existing workload, and the 3.1% federal pay adjustment, among other things. Our recommendation did not assume any funds remaining in the Veterans Choice Fund established by section 802 of P.L. 113-146, the Veterans Access, Choice, and Accountability Act of 2014 (VACAA) based on P.L. 116-94, the Further Consolidated Appropriations Act, 2020, and subsequent appropriations for the section 802 account.

Medical Services—For FY 2021, the *IB* recommends $64.4 billion for VA Medical Services. This recommendation reflects multiple components including the current services estimate, the increase in patient workload, and additional medical care program costs:

- The current services estimate reflects the impact of projected uncontrollable inflation on the cost to provide services to veterans currently using the system. This estimate also assumes a 3.1% increase for pay and benefits across the board for all VA employees in FY 2021.

- Our estimate of growth in patient workload is based on a projected increase of approximately 65,000 new unique patients. These patients include priority group 1–8

veterans and covered non-veterans. We estimate the cost of these new unique patients to be approximately $991 million.

- The *IB* believes that there are additional projected medical program funding needs for VA totaling over $2.1 billion. Specifically, an additional $328 million to provide for more centralized prosthetics funding (based on actual expenditures and projections from the VA's Prosthetics and Sensory Aids Service). $200 million to expand and improve services for women veterans. $20 million to support VA's authority for reproductive services including in vitro fertilization (IVF). $779 million to implement eligibility expansion of VA's comprehensive caregiver support program. $776 million to close the reported vacancies for both outpatient mental health and Patient Aligned Care Team (PACT) by 10%.

The Administration's FY 2021 budget request for VA Medical Services, including collections of $60.4 billion, is approximately $4.0 billion below the *IB* recommendation. Although the Administration's request reflects an apparent increase of 10% over FY 2020 funding levels, the *IB* believes that when taking into account the increased cost to maintain current services and anticipated increases in workload, as well as increased costs inside VA due to the VA MISSION Act, that increase becomes a shortfall. Of great concern to our members is the timeline Congress set out in the VA MISSION Act for expanding its comprehensive caregiver support program has clearly not been met. The delay in certifying the IT solution to support expansion of the caregiver program and VA's failure to timely publish a Notice of Proposed Rulemaking raises troubling concerns about VA's ability to fully implement the caregiver expansion. Severely injured World War II, Korean War and Vietnam War veterans and their family caregivers have waited nearly a decade for equal treatment, and it is simply unacceptable to ask them to wait longer.

In terms of funding, the Administration's FY 2021 request included approximately $1.2 billion for VA's comprehensive caregiver support program. Because this request represents an overall increase of $485 million over FY 2020, it is noteworthy that $650 million is to implement the eligibility expansion required under the VA MISSION Act; thus, we are concerned this request assumes a reduction in the number of existing program participants—approximately 20,000 approved family caregivers. The *IB* recommends an additional $779 million for FY 2021 due in large part to the phase-one expansion scheduled towards the end of FY 2020 with only a small portion of the expansion cost absorbed in FY 2020. The *IB's* recommendation is based on the Congressional Budget Office estimate for preparing the program, including increased staffing and IT needs, and the beginning of the first phase of expansion. To continue the expansion, the *IB* recommends $1.4 billion for FY 2022.

Medical Community Care—The *IB* recommends $18.2 billion for this account for FY 2021, which includes the growth in current services. We note the volatility in obligations within this account particularly for contractual services, for which most obligated funds are spent. In addition, our recommendation does not assume any funds remaining in the Veterans Choice Fund established by section 802 of P.L. 113-146, the Veterans Access, Choice, and Accountability Act of 2014 (VACAA) based on P.L. 116-94, the Further Consolidated

Appropriations Act, 2020. For FY 2022, the *IB* recommends $18.7 billion for Medical Community Care.

The Administration's FY 2021 budget authority request for Medical Community Care of $20.4 billion is comprised of a $3.2 billion increase over FY 2020 funding, an estimated increase of $247 million in medical community care collections from $537 million to $784 million, and $1.1 billion remaining in the Veterans Choice Fund account. We have serious doubts whether projected actual spending will converge given the volatility in obligations within this account, the transfer of administrative responsibilities for certain regional networks and provider coverage, and new responsibilities VA is assuming under the new Veterans Community Care Program. Most concerning to the *IB* is VA's proposal to increase non-VA care by nearly 25% next fiscal year compared to just over a 10% funding increase for care provided directly by VA.

Medical and Prosthetic Research—The Administration's request of $787 million is nearly $73 million below the *IB* recommendation of $860 million. The request represents a 2% cut, at a time when medical research inflation is increasing by more than 2%. The VA Medical and Prosthetic Research program is widely acknowledged as a success, with direct and significant contributions to improved care for veterans and an elevated standard of care for all Americans. This research program is also an important tool in VA's recruitment and retention of health care professionals and clinician-scientists to serve our nation's veterans. This reduction would diminish VA's ability to provide the most advanced treatments available to injured and ill veterans in the future, one of VA's core missions.

The COVID-19 pandemic has had a significant impact on the research community. The FY 2020 appropriations bill included $50 million in rescissions from the Medical and Prosthetic Research Program. This rescission not only impedes VA research in all priority areas, including veteran suicide prevention, chronic pain, and post-traumatic stress disorder (PTSD), but is also especially detrimental coming just months before the nation began its fight against the relentless coronavirus pandemic. To address immediate and unexpected COVID-19-related impacts, we recommend at least an additional $50 million for the VA research program through future COVID-19 supplemental funding bills to support new VA research projects and clinical trials designed specifically to address the effects of COVID-19 on the veteran population. With the number of documented COVID-19 cases to date, it is critical that the VA research program is equipped to support front line research efforts to protect a veteran population that is disproportionately older and suffers from preexisting conditions. Thus, we urge appropriators to provide at least an additional $50 million in supplemental funding to directly support VA's COVID-19 response efforts and maintain a robust budget trajectory for VA research in FY 2021 to support continued momentum of all research efforts.

Pandemic-Related Funding—The Coronavirus Aid, Relief, and Economic Security Act (CARES Act), P.L. 116-136) provided VA $19.6 billion in emergency supplemental funding to combat the spread and treat the victims of the COVID-19 virus. Most of the money went directly to the Veterans Health Administration as follows:

General Operating Expenses - $13M
Medical Services - $14.4B

Medical Community Care - $2.1B
Medical Support and Compliance - $100M
Medical Facilities - $606M
General Administration - $6M
IT Systems - $2.2B
Grants for Construction of State Extended Care Facilities - $150M

This supplemental funding was intended to provide essential medical services, including vital medical and protective equipment, testing kits, personal protective equipment (PPE), and medical supplies to support the growing demand for health care services at VA facilities and through telehealth services. Other provisions in the bill required VA to provide PPE to all home health care workers serving veterans at home and in the community and to cover additional pay for VA staff working overtime during the COVID-19 pandemic.

In a House Appropriations Subcommittee hearing on May 28, VA reported that it had only obligated $2.3 billion of the money it received to fight the coronavirus outbreak. It is unclear what these funds were used for since information regarding these expenditures has not been made publicly available. In his testimony before the Subcommittee, VA Secretary Robert Wilkie expressed confidence that the full amount that Congress appropriated would be used to cover COVID-19 related expenses to include combating a potential "second wave" of the virus in the fall. The *IB* expects the entire allocation of emergency funding will be subjected to the normal budgetary oversight processes to ensure it is spent as Congress intended. At the same time, the *IB* cautions against incorporating any part of emergency funding into the department's annual (regular) allocation of funds. The pandemic placed additional burdens on the department that must be fully funded above and beyond the normal budgetary needs.

Vocational Rehabilitation and Employment (VR&E).—This program was authorized to hire an additional 174 FTEs in FY 2019 and implemented workforce increases and tech modernization. In order to ensure the 1 to 125 ratio is maintained nationally and even within each VA regional office or region, for FY 2021, the *IB* recommends $17.2 million for 156 FTE for VR&E, 87% of which are Vocational Rehabilitation Counselors (VRCs). As recently reported, VRCs can spend 60% of their time with administrative functions, thus necessitating the addition of administrative staff.

However, in the recent Administration's budget request, it was indicated that with guidance in the FY 2020 Appropriations Act, VBA will also reallocate 166 FTE to VR&E, a result of decreased resources required to process legacy appeals, to support anticipated program growth and maintain the 1:125 counselor-to-veteran ratio at the station level. To be clear, the 1:125 ratio is based on VRCs and not administrative staff. The Administration's proposal would not increase the number of VRCs, only administrative staff. While we agree that an increase in administrative staff is warranted, the number of FTE for VRCs needs to addressed as well.

Board of Veterans' Appeals (BVA).—For FY 2021, the *IB* recommends approximately $218 million for the BVA, an increase of approximately $36 million over the estimated FY 2020 appropriations level, which reflects funding for current services with increases for inflation and federal pay raises and an additional 100 FTE.

In February 2019, the Veterans Appeals Improvement and Modernization Act (AMA), P.L. 115–55, took full effect, making significant changes in how veterans appeal VBA claims decisions, both within VBA and at the Board of Veterans' Appeals (BVA). There are currently 17,000 pending AMA hearings with the Board and 59,000 pending legacy hearings, for a total of 66,000 pending hearings. In FY 2019, BVA conducted a record number of 22,743 hearings, a 38% increase over the prior year. Even at that rate, it will take three years to hold all hearings for legacy appeals and yet not address the current 17,000 pending AMA appeals with requested hearings, not to mention the additional AMA appeals received during those three years.

The Administration's budget request would not increase staffing at the Board. It indicates VA expects to lose 29 FTE, based on attrition, in FY 2021. However, as the number of backlog hearings has not drastically been reduced and many of the legacy hearings have been pending for years, we are recommending an increase of 100 FTE for the Board to address the 66,000 pending hearings.

Information Technology (IT). — VA relies extensively on information technology to meet day-to-day operational needs. At Congress' direction, over a decade ago, VA centralized all IT budget authority, management, and development under a chief information officer (CIO). It is now one of the few agencies of its size with a CIO that has complete IT authority affecting the entire organization. Centralization mandated fiscal discipline, security, standardization, and interoperability. Yet little oversight, if any, has been conducted of this organization since centralization and its performance in supporting VA's statutory missions, including benefits and health care delivery, research, and education and training of health professions. For FY 2021, the IBVSOs recommend approximately $4.3 billion for the administration of the VA's IT program to meet the need to sustain VistA for an estimated 7–10 years after initial operating capabilities are attained at initial sites for replacing VistA.

For several years, the VA has indicated the development of IT applications remains under VA's three separate administrations — VBA, VHA, and the National Cemetery Administration (NCA); however, the development funding has been in decline over the last five years. In nominal dollars since 2014, total development funding has been reduced by over 40% while the overall funding has increased by 6%. We are pleased VA is requesting an increase of $68 million in development activities. The *IB* similarly recommends $150 million, of which $65 million would be provided to VA's Education Services and the remaining $85 million to OIT, to develop an IT system capable of handling today's difficult tasks, and tomorrow's upcoming changes. In addition, we recommend IT development funding of $15 million for FY 2021 for the BVA's Case Flow, which currently does not have all the functionalities needed to replace the legacy Veterans Appeals Control and Locator System (VACOLS).

To support the electronic health record modernization efforts in FY 2021, the *IB* recommends $2.48 billion, which includes $180 million to support accelerated deployment of Cerner Millennium Scheduling System. These amounts are also based on VA's deployment schedule estimating FY 2021 resource needs to complete initial operating capability sites and deployment throughout the remainder of VISN 20 and 22, and initiating deployment in VISN 21.

Capital Infrastructure.—*The Independent Budget* has advocated for a larger Capital Infrastructure budget for the past few years and the COVID-19 crisis has highlighted the need for further resources dedicated to this account. Many of the necessary changes needed due to this health crisis would fall under Minor Construction and Non-Recurring Maintenance (NRM); however, aging major medical facilities needing replacement and upgrades must be taken into consideration as well.

Some of the potential changes needed during and after the COVID-19 crisis include the need for additional treatment space. Facilities are having to reconfigure patient rooms for single occupancy, and expand waiting rooms to be able to separate patients due to social distancing guidelines. Modifications such as these would require an increase in the Minor Construction budget, so as to not use up existing funds for emergency circumstances.

Other issues such as ventilation would require modifications or upgrades to existing systems which could cost VA facilities precious NRM dollars originally allocated to other vital projects. Modifications to HVAC systems to ensure proper circulation and negative air pressure rooms for patients are just some of the changes needed for each facility to safely treat COVID-19 related patients.

During extreme circumstances such as a global pandemic, VA resources are spread thin and multiple deficiencies are spotlighted due to multiple stressors. The need for modern facilities and evolving treatment infrastructure are present now more than ever. The IB is recommending an increase in VA's Capitol Infrastructure budget, in order to maintain what VA has, and expand to meet the ever changing healthcare situation during this crisis.

Construction Programs.—The Administration's FY 2021 request for VA's construction programs of $1.9 billion dollars is a deeply disappointing retreat in funding to maintain VA's aging infrastructure. At the Senate Committee on Veterans' Affairs hearing on March 26, 2019, in response to Senator Manchin's question about VA's "decrease in funding levels for construction programs," Secretary Wilkie stated that he estimates VA will need, "$60 billion over the next five years to come up to speed." This backlog is confirmed by VA's FY 2021 budget submission, which states that VA's, "Long-Range SCIP plan includes 3,595 capital projects that would be necessary to close all currently-identified gaps with an estimated magnitude cost of between $49-$59 billion not including activation costs." However, VA's FY 2021 budget request for major and minor construction combined is just over $1.9 billion, significantly below the true need stated by the Secretary and identified by SCIP. At a time when VA is seeking to expand its capacity by hiring additional doctors, nurses, clinicians and supporting staff, it is absolutely critical that VA continue to invest in the infrastructure necessary for them to care for veterans.

Some major construction projects have been on hold or in the design and development phase for years. Additionally, there are outstanding seismic corrections that must be addressed. Thus, the *IB* recommends $2.7 billion for VA's FY 2021 major construction, over $1.4 billion more than VA's request.

To ensure VA funding keeps pace with all current and future minor construction needs, the *IB* recommends Congress appropriate an additional $760 million in FY 2021 for minor construction projects. It is important to invest heavily in minor construction because these are the types of projects that can be completed faster and have a more immediate impact on services for veterans. VA's FY 2021 request of $400 million is significantly less it has requested in previous years, and will only allow the critical infrastructure backlog to continue to grow.

Non-Recurring Maintenance (NRM) had seemed to slip through the cracks within the construction space in previous years. VA's FY 2021 request of $1.8 billion in budget authority for NRM, however, is a significant increase from previous years. NRM projects are often necessary maintenance that is preventative in nature and saves equipment and facilities from reaching failure points. Heavy investment in NRM is a wise expenditure because spending money to maintain equipment and buildings ensure longevity and costs a fraction of having to replace buildings with new construction. The *IB* is pleased VA has requested to invest in this critical concern.

A congressionally mandated research infrastructure report shows a total cost of $99.5 million in Priority 1 deficiencies having an immediate need for correction within one year, such as correcting life-safety hazards, returning components to normal service or operation, stopping accelerated deterioration, and replacing items that are at or beyond their life cycle. The total cost to correct Priority 1-5 deficiencies is estimated at $207.1 million. Accordingly, the *IB* recommends a minimum of $99.5 million for FY 2021 to correct all Priority 1 deficiencies.

Grants for state extended care facilities, commonly known as state home construction grants, are a critical element of federal support for state veterans' homes. For FY 2021, the *IB* recommends $250 million for grants for state extended care facilities to fund approximately half of the federal share of projects on the FY 2020 VA State Home Construction Grants Priority List for Group 1, those that have already secured their required state matching funds.

National Cemetery Administration.—The *IB* commends the Administration for requesting a $31-million-dollar increase in appropriations for NCA to account for its obligation to manage 156 national cemeteries and to meet a continued increase in demand for burial space which is not expected to peak until 2022. NCA continues to expand and improve the national cemetery system, to include a plan to open additional burial sites in 2021. NCA has also inherited 11 Army post cemeteries which it must perpetually maintain. VA's request of $360 million for NCA operations and maintenance is $24 million more than the *IB* recommendation of $336 million.

Additionally, NCA has undertaken the task of creating a digital memorial page for each veteran interred in a VA national cemetery as part of the Veterans Legacy Memorial. This much needed expansion of the national cemetery system will help to facilitate the projected increase in annual veteran interments and will simultaneously increase the overall number of graves being maintained by NCA to more than 4 million by 2021. The *IB* strongly believe that VA national cemeteries must honor the service of veterans and fully support NCA's National Shrine initiative, which ensures our nation's veterans have a final resting place deserving of their sacrifice to our nation. The *IB* also support NCA's Veterans Legacy Program (VLP), which helps educate America's youth about the history of national cemeteries and the veterans they honor. Recently enacted P.L. 116-107,

which authorizes NCA to provide grants as part of VLP, may enable VA to significantly expand VLP and ensure more veterans can have their stories preserved in perpetuity.

Administration Legislative Proposals.—The IBVSOs strongly oppose four benefit- related legislative proposals included in the budget that would reduce benefits to disabled veterans that were earned through their service:

1. **Effective Date Simplification for Claims for Increased Evaluation:**

VA seeks to amend title 38, United States Code, § 5110(b)(3) to make the date of receipt of a claim the effective date for an increased rating. While VA states this is a simplification of claims for increase, this proposed amendment would take away billions of dollars from veterans by disallowing entitlement to an increased evaluation prior to the date of claim.

Title 38. United States Code, § 5110(b)(3) states, "the effective date of an award for increased compensation shall be the earliest date as of which it is ascertainable that an increase in disability has occurred, if application is received within one year from such date."

For example, if medical evidence establishes entitlement to an increase rating eight months prior to the date the claim for VA benefits was submitted, the effective date for benefits granted will be that date eight months prior. By eliminating this statutory provision, VA would virtually discredit any medical evidence prior to the date of claim on claims for increase and negatively impact effective dates for individual unemployability. Not only would this bear directly on retroactive compensation, this proposal would also confound certain protections and other ancillary benefits based on effective dates.

The Administration's proposal would reduce anticipated disability compensation to veterans by $678 million in 2021, $3.5 billion over five years, and $7.5 billion over 10 years. We strongly oppose this attempt to "simplify" effective dates for claims for increase particularly when the result will be billions of dollars in lost disability compensation for those who were injured or made ill in service.

2. **Limit Disability Evaluations to Criteria within the VA Schedule for Disabilities (VASRD):**

VA seeks to amend title 38, United States Code, § 1155 so that disability evaluations can only be established based on criteria within the VASRD and effectively eliminate extra-schedular consideration.

Extra-schedular cases are not defined by statute but in 38, Code of Federal Regulations, § 3.321(b)(1). It notes that to accord justice to the exceptional case where the schedular evaluation is inadequate to rate a single service-connected disability, an extra-schedular evaluation commensurate with the average impairment of earning capacity due exclusively to the disability is to be considered. The governing norm in these exceptional cases is a finding that application of the regular schedular standards is impractical because the disability is so exceptional or unusual due to such related factors as marked interference with employment or frequent periods of hospitalization.

The United States Court of Appeals for Veterans Claims (Court) has set out a three-part test, based on 38, Code of Federal Regulations, 3.321(b)(1) for determining whether a claimant is entitled to an extra-schedular rating: (1) the established schedular criteria must be inadequate to describe the severity and symptoms of the claimant's disability; (2) the case must present other indicia of an exceptional or unusual disability picture, such as marked interference with employment or frequent periods of hospitalization; and (3) the award of an extra-schedular disability rating must be in the interest of justice. Thun v. Peake, 22 Vet. App. 111 (2008), affd, Thun v. Shinseki, 572 F.3d 1366 (Fed. Cir. 2009).

The VASRD does not contemplate every disease or disability, nor does it provide an evaluation for every set of symptoms and complications caused by each disability. This proposal would eliminate any veteran attempting to be afforded justice for the severity and symptoms of an unusual disability picture that provides marked interference with employment or frequent hospitalizations. This is an attempt to avoid the precedence as established by the Court.

The Administration's proposal would reduce anticipated disability compensation to veterans by $74.7 million in 2021, $1.1 billion over five years, and $4.2 billion over 10 years. We strongly oppose this attempt to "simplify" effective dates for claims for increase particularly when the result will be billions of dollars in lost disability compensation for those who were injured or made ill in service.

We oppose any proposal that would eliminate extra-schedular consideration as it will not consider veterans' with unusual disability pictures based on marked interference with employment or frequent hospitalizations and effectively tip the scales of justice against them.

3. Round-Down of the Computation of the Cost-of-Living Adjustment (COLA) for Service-Connected Compensation and Dependency and Indemnity Compensation (DIC) for Five Years:

In 1990, Congress, in an omnibus reconciliation act, mandated veterans' and survivors' benefit payments be rounded down to the next lower whole dollar. While this policy was initially limited to a few years, Congress continued it until 2014. While not significant at the onset, the overwhelming effect of 24 years of round-down resulted in veterans and their beneficiaries losing billions of dollars.

In the Administration's proposed budget for FY 2020, the Administration sought legislation to round-down the computation of COLA for five years. This would have cost beneficiaries $34 million in 2020, $637 million for five years, and $2 billion over 10 years.

The Administration's proposed budget for FY 2021 is seeking to round-down COLA computations from 2021 to 2026. The cumulative effect of this proposal levies a tax on disabled veterans and their survivors, costing them money each year. When multiplied by the number of disabled veterans and DIC recipients, millions of dollars are siphoned from these deserving individuals annually. All told, the government estimates that it would cost beneficiaries $39 million in 2020 and $677 million for five years and $2.2 billion over 10 years.

Veterans and their survivors rely on their compensation for essential purchases such as food, transportation, rent, and utilities. Any COLA round-down will negatively impact the quality of life for our nation's disabled veterans and their families, and we oppose this and any similar effort. The federal budget should not seek financial savings at the expense of benefits earned by disabled veterans and their families.

4. Elimination of Payment of Benefits to the Estates of Deceased Nehmer Class Members and to the Survivors of Certain Class Members:

VA seeks to amend title 38, United States Code, § 1116 to eliminate payment of benefits to survivors and estates of deceased Nehmer class members. If a Nehmer class member, per 38 Code of Federal Regulations, § 3.816, entitled to retroactive benefits dies prior to receiving such payment, VA is required to pay any unpaid retroactive benefits to the surviving spouse or subsequent family members. This proposed legislation would deny veterans' survivors and families' benefits that would have otherwise been due to their deceased veteran family member as a result of exposure to these toxic chemicals while in service. It is outrageous that the Administration would deny compensation payments due to a surviving spouse. We adamantly oppose this or any similar proposal that may be offered.

The *IB* supports one of VA's legislative proposals regarding VA approved Medical Foster Homes (MFH). This proposal would require the VA to pay for service-connected veterans to reside in VA approved MFHs.

MFHs provide an alternative to long-stay nursing home (NH) care at a much lower cost. The program has already proven to be safe, preferable to veterans, highly veteran-centric, and half the cost to VA compared to NH care. Aligning patient choice with optimal locus of care results in more veterans receiving long-term care in a preferred setting, with substantial reductions in costs to VA. This proposal would require VA to include MFH in the program of extended care services for the provision of care in MFHs for veterans who would otherwise encumber VA with the higher cost of care in NHs.

Many more service-connected veterans referred to or residing in NHs would choose MFH if VA paid the costs for MFH. Instead, they presently defer to NH care due to VA having payment authority to cover NH, while not having payment authority for MFH. As a result of this gap in authority, VA pays more than twice as much for the long-term NH care for many veterans than it would if VA was granted the proposed authority to pay for MFH. This proposal would give veterans in need of NH level care greater choice and ability to reside in a more home-like, safe environment, continue to have VA oversight and monitoring of their care, and preferably age in place in a VA-approved MFH rather than a NH. The proposal does not create authority to cover veterans who reside in assisted living facilities.

MFH promotes veteran-centered care for those service-connected veterans who would otherwise be in a nursing home at VA expense, by honoring their choice of setting without financial penalty for choosing MFH.

Thank you for the opportunity to submit our views on the Administration's budget request for VA. We firmly believe that unless Congress acts to increase VA's funding for FY 2021 and 2022, veterans will be forced to wait longer for benefits and services leaving unfulfilled the promises made to those who have served and sacrificed defending our country.