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HEARING ON PENDING BENEFITS LEGISLATION

HEARING

BEFORE THE

COMMITTEE ON VETERANS' AFFAIRS
UNITED STATES SENATE

ONE HUNDRED THIRTEENTH CONGRESS

FIRST SESSION

JUNE 12, 2013

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HEARING ON PENDING BENEFITS LEGISLATION

WEDNESDAY, JUNE 12, 2013

U.S. SENATE,
COMMITTEE ON VETERANS' AFFAIRS,
Washington, DC.

The Committee met, pursuant to notice, at 10:02 a.m., in room 418, Russell Senate Office Building, Hon. Bernard Sanders, Chairman of the Committee, presiding.

Present: Senators Sanders, Tester, Begich, Blumenthal, Boozman and Heller.

OPENING STATEMENT OF HON. BERNARD SANDERS, CHAIRMAN, U.S. SENATOR FROM VERMONT

Chairman SANDERS. Good morning. We are going to begin this important hearing dealing with legislation for benefits for our veterans. We are going to be hearing, I suspect, from a number of Members of the Committee this morning, and we are very pleased to have a number of Senators who are not on this Committee who understand the importance of the issues that we are dealing with and have brought forth their own legislation. We are very delighted that they are here as well.

So, without further ado, we want to welcome Senator Schatz, Senator Murkowski, Senator Franken, and Senator Wyden. Senator Schatz, can we begin with you?

STATEMENT OF HON. BRIAN SCHATZ, U.S. SENATOR FROM HAWAII

Senator SCHATZ. Thank you, Mr. Chairman and Senator Tester, for this opportunity to speak in support of S. 690, the Filipino Veterans Fairness Act of 2013, which I introduced on the anniversary of the Bataan Death March. I want to thank Senators Murkowski, Begich, and Hirono for cosponsoring this critical legislation.

I want to especially acknowledge the Justice for Filipino American Veterans, the Japanese American Citizens League, the American Coalition for Filipino Veterans, and the Lao Veterans of America for their support of this vital legislation.

It's important because it would provide the Filipino soldiers who fought with the American Army during World War II with the full veterans benefits that they rightfully deserve and it will send a clear message to all veterans that Americans will not forget their service once they return from combat.

More than 200,000 soldiers fought in the Pacific Theater, of Filipino descent, and more than half of them were killed while they served under the command of the U.S. Armed Forces.

The Philippines was a United States territory before and during World War II, and President Roosevelt issued an executive order to call into service Filipino soldiers to defend American territory and military bases.

These soldiers served our Nation so we owe them nothing less than honoring their service with the full benefits that they were promised and deserved.

This Act would do four things. First, under current law, there are four different categories of Filipino soldiers who fought with the U.S. Army. This bill will eliminate these categories and treat everyone equally.

After the war, Congress passed a series of laws that became known as the Recession Acts of 1946 and they stripped many of these Filipino soldiers of the benefits that they had earned. Instead, these Filipino soldiers were split into four different administrative categories, each group being awarded different benefits.

While all four groups served in the same war and under the same American flag, one of the groups gets full veterans' status and benefits while the other three groups were denied some of these same benefits.

Second, it extends veteran benefits eligibility to Filipino veterans who received payment from the Filipino Veterans Equity Compensation Fund, which was created in the 2009 American Recovery and Reinvestment Act.

Third, the bill directs the Veterans' Administration to allow the use of alternative documentation when determining eligibility to ensure that all Filipino veterans are recognized for their service.

Under the current law, in order for Filipino veterans to be eligible for benefits, they must be on the Approved, Revised, Reconstructed Guerrilla Roster of 1948 known as the Missouri List. This list is critical for determining benefits eligibility; but even if there are other forms of documentation, Filipino veterans not on this list will not be recognized for their service.

But, this list does not include every Filipino veterans because it was damaged in a fire in 1973 and the reconstructed list is being currently used to determine benefits eligibility.

In addition, because the Filipino Veterans Equity Compensation Fund used the Missouri List as the sole basis for eligibility determination, 24,000 Filipino veterans were denied compensation.

Finally, this bill would allow widows and dependents to be eligible for dependency and indemnity compensation and would eliminate the differences in payment given to veterans based on whether a Filipino veteran lived in the United States or in the Philippines.

It has been more than 50 years and yet many Filipino veterans have not been recognized as veterans and have been denied their basic rights. Unfortunately, many Filipino veterans are in their 90s and are passing away rapidly, and so, we must act now.

Thank you, Chairman Sanders, for taking up this legislation. I look forward to working with everyone on the Committee to give

the Filipino veterans their full recognition for their service and their sacrifice.

Chairman SANDERS. Senator Schatz, thank you very much.

Senator Murkowski.

STATEMENT OF HON. LISA MURKOWSKI, U.S. SENATOR FROM ALASKA

Senator MURKOWSKI. Mr. Chairman, thank you. Thank you for your leadership on veterans issues, particularly for ensuring that our veterans receive the benefits that they so clearly deserve. We honor them by keeping our commitments. So, your hearing today is very important.

To you and the Members of the Committee, thank you for the opportunity to present my bill this morning which would authorize the interment of Hmong veterans in national cemeteries.

Across our Nation thousands and thousands of U.S. citizens that fought for our country during Vietnam are not officially recognized for their service. Members of the Hmong community that fought under the CIA during Vietnam currently enjoy no rights as veterans. They are simply requesting to be buried and recognized in the national cemeteries. This bill would authorize those heroes to rest alongside their brothers in arms on our Nation's most hallowed grounds.

A little bit of background here. Responding to a secretive call to arms during the Vietnam war, Hmong soldiers aided U.S. Special Forces and CIA operatives. They guarded bases that no one was supposed to know was there. They rescued downed U.S. airman who also were not supposed to be there.

Americans who served and fought and put their lives on the line receive a resting place in our national cemeteries and the men who saved American lives deserve the same honor.

The Hmong people were a social minority being persecuted by communists within Laos. President Kennedy first initiated the U.S. alliance with Laos and the Hmong people in defense of the Kingdom of Laos and the U.S. national security interests in Vietnam and Southeast Asia.

During the Vietnam War, Hmong soldiers served in what was called the U.S. Secret Army. The Hmong fighters were led by General Vang Pao during The Secret War which interrupted operations on the Ho Chi Minh Trail and conducted downed aircraft recovery operations of American airman within Laos.

Over the course of the war, the CIA employed tens of thousands of these volunteers. In all, over 100,000 Hmong lost their lives by the end of the U.S. involvement in Vietnam.

According to a recently declassified CIA report, the Hmong became the core of an irregular force that fought the North Vietnamese Army. Hmong soldiers saved thousands of American soldiers from being attacked and killed in South Vietnam by engaging numerous North Vietnamese army units in combat.

Two years after the withdrawal of American forces, the Kingdom of Laos was overthrown by communist troops supported by North Vietnamese. Hmong were forced into re-education camps. Many fled into hiding in the mountains or to refugee camps in Thailand. Several thousand sought asylum internationally with thousands

making their way here to the United States. Senator Franken and I were just discussing that in Minnesota there is a large Hmong population, in Alaska as well.

Many soldiers who fought for the CIA and their families were among the refugees that became U.S. citizens. There are currently over 260,000 Hmong people in America. In Anchorage, AK, we have about 5,000 Hmong refugees there. Senator Begich clearly knows the importance of them as an addition to our community. Of the Hmong who became U.S. citizens, there are approximately 6,900 veterans that are still with us today. The number, of course, is dwindling by the day. The Hmong fighters' sacrifice on behalf of America calls for reciprocal honor paid during the latter years of these veterans lives. Hmong veterans fought for America and deserve the choice to be buried in national cemeteries.

Mr. Chairman, this concept is not unprecedented. Just as the Hmong responded to the call to arms and paid the ultimate sacrifice, so did the Filipino soldiers as my friend Senator Schatz said. Our country has long been grateful for their service, their sacrifice, and we passed legislation to honor those veterans providing burial rites and compensation.

The Hmong Veterans Naturalization Act of 2000 provided naturalization benefits for Hmong veterans. It was designed to ease the path to naturalization in various ways for the Hmong. Ultimately, Immigration and Naturalization provided multiple avenues through which Hmong veterans could prove their service. We have got about 6,000 Hmong that self-identified as veterans by providing original documents, an affidavit of the serving person's superior officer or two affidavits from other individuals who were also serving with a special guerrilla unit.

For years Congress has publicly recognized the thousands of Hmong that fought and died for our country. I believe that providing burial rights to the small number of Hmong veterans remaining that fought for America is the least that we can do to honor their service.

I thank you, Mr. Chairman.

[The prepared statement of Senator Murkowski follows:]

PREPARED STATEMENT OF HON. LISA MURKOWSKI, U.S. SENATOR FROM ALASKA

S. 200—A BILL TO AUTHORIZE THE INTERMENT IN NATIONAL CEMETERIES UNDER THE CONTROL OF THE NATIONAL CEMETERY ADMINISTRATION OF INDIVIDUALS WHO SERVED IN COMBAT SUPPORT OF THE ARMED FORCES IN THE KINGDOM OF LAOS

Chairman Sanders, Ranking Member Burr, Distinguished Members of the Senate Veterans' Affairs Committee: Thank you for the opportunity to present my bill, to authorize the interment of Hmong veterans in national cemeteries, before the Committee. Across our Nation, thousands of US citizens that fought for our country during Vietnam are not officially recognized for their service. Members of the Hmong community that fought under the CIA during Vietnam currently enjoy no rights as veterans. They are requesting to be buried in national cemeteries. This bill would authorize those heroes to rest alongside their brothers-in-arms on our Nation's most hallowed grounds.

A few weeks ago at Arlington National Cemetery, a group of "old Hmong veterans stood at ragged attention" on burial grounds that are closed to them, despite their military service to our Nation. Responding to a secretive call to arms during the Vietnam War, "Hmong soldiers aided U.S. special forces and CIA operatives. They guarded bases that no one was supposed to know about, and rescued downed U.S. airmen who weren't supposed to be there." Americans who served and fought and

put their lives on the line receive a resting place in our national cemeteries; the men who saved American lives deserve the same honor.

During the Vietnam War, Laotian and Hmong soldiers served in the "U.S. Secret Army." Over the course of the war, the CIA employed tens of thousands of these volunteers. The Hmong people were a social minority in the country that was being persecuted by the Pathet Lao within Laos (the Laotian equivalent to the Vietnamese Communists). President John F. Kennedy first initiated the U.S. alliance with the Lao and Hmong people in defense of the Kingdom of Laos and U.S. national security interests in Vietnam and Southeast Asia. These Lao-Hmong soldiers were clandestinely organized and supported by the U.S. Central Intelligence Agency (CIA) and the Pentagon to combat the invasion of the Kingdom of Laos by the North Vietnam's Army (NVA) and an insurgency of communist Pathet Lao guerrillas.

The Hmong fighters were led by General Vang Pao during the "Secret War" which interrupted operations on the Ho Chi Minh trail and assisted in downed aircraft recovery operations of American airmen within Laos.

According to a recently declassified CIA report, the Hmong became the core of an irregular force that fought the North Vietnamese Army until February 1973, when a Laotian cease-fire followed the agreement with Hanoi on terms to end the war in South Vietnam. Under their charismatic, mercurial leader Vang Pao, the Meo—more properly known as the Hmong—evolved from a hit-and-run guerilla outfit into light infantry operating in regimental strength. Expanded Hmong forces * * * diverted substantial North Vietnamese forces in South Vietnam. The Hmong showed "courage, [a] capacity [to] take losses," the ability to "survive despite hardships and meager rations," and a "considerable instinct and enthusiasm for ambushing and harassing." [1]

In order to highlight the unique manner in which America called upon the Hmong, it is important to understand that the CIA's clandestine airline, Air America, flew cash-payroll flights to support, pay and expand the elite Lao and Hmong secret army based at Long Chieng. From there, the Lao Hmong covert army engaged in strategic battles against main-force [North Vietnamese Army] divisions and communist insurgents. Lao and Hmong Special Forces saved thousands of American soldiers from being attacked and killed in South Vietnam by engaging numerous [North Vietnamese Army] units in combat and playing a key role with the U.S. bombing campaign of enemy supply routes and targets on the Ho Chi Minh Trail, Plaine des Jarres and elsewhere.[2]

Two years after the withdrawal of American forces, the Kingdom of Laos was overthrown by communist troops supported by the North Vietnamese Army. The Pathet Lao then continued their persecution of the Hmong by placing them into reeducation camps where political prisoners served terms of 3–5 years. Many fled into hiding in the mountains or to refugee camps in Thailand. Several thousand sought asylum internationally with many making their way to the United States.

Some of the soldiers who fought for the CIA and their families were among the refugees. Some settled within the borders of other nations; some became US citizens. There are currently over 260,000 Hmong people in America; according to the 2010 Census, the heaviest concentrations are in California, Minnesota, Wisconsin, North Carolina, Michigan, Colorado, Georgia, Alaska, Oklahoma and Oregon. Within Anchorage alone are approximately 5,000 Hmong refugees. Of the Hmong who became US Citizens, there are approximately 6,900 veterans still with us today. Of note, nearly half of those veterans live in Minnesota.

Today, the number of Hmong veterans in America is dwindling by the day. As described by the Washington, DC. Director and Liaison for the Lao Veterans of America, Inc., Philip Smith: "Many Lao and Hmong-American veterans, who served in America's covert theatre of operations during the Vietnam War, are dying in Rhode Island and across the United States, without the benefit of being recognized or honored for their extraordinary military service. Having saved the lives of many U.S. soldiers and aircrews, these forgotten veterans deserve to be buried with dignity at U.S. national veterans' cemeteries, with military honors, for their unique service as part of the 'U.S. Secret Army' defending U.S. national security interests and the Kingdom of Laos during the Vietnam conflict." In all, over 30,000 Hmong lost their lives by the end of US involvement in Vietnam. The Hmong fighters' sacrifice on behalf of America calls for reciprocal honor paid during the latter years of these veterans' lives.

Hmong veterans fought for America and deserve the choice to be buried in national cemeteries. This concept is not unprecedented. Just as the Hmong responded

[1] "Undercover Armies: CIA and Surrogate Warfare in Laos"

[2] Philip Smith, Director of Center for Public Policy Analysis, the Lao Veterans of America, Inc., Lao Veterans of America Institute.

to the call to arms and many paid the ultimate sacrifice, so did Filipino soldiers. Our country has long been grateful for their service and passed legislation to honor those veterans. The Veterans Benefits and Health Care Improvement Act of 2000 permits Philippine veterans who were citizens of the United States or aliens lawfully admitted for permanent residence who served during World War II to be buried in national cemeteries. Another 2000 law provided full-dollar rate compensation payments to veterans of the Commonwealth Army or recognized guerrilla forces residing in the U.S. if they are either U.S. citizens or lawfully admitted permanent resident aliens.

The American Recovery and Reinvestment Act of 2009, which the President signed into law, contained a provision creating the Filipino Veterans Equity Compensation Fund. Eligible veterans who are U.S. citizens receive a one-time payment of $15,000. The law also provides for eligible veterans who are not U.S. citizens to receive a one-time payment of $9,000. The Department of Veterans Affairs established a process, in collaboration with the Department of Defense, to determine eligibility to receive payments from the Fund. As of last month, the Administration had approved over 18,000 claims.

Additionally, there has been legislation passed that provided naturalization benefits for Hmong veterans. The Hmong Veterans' Naturalization Act of 2000 provided an exemption from the English language requirement and special consideration for civics testing for certain refugees from Laos applying for naturalization. The legislation was "designed to ease the path to naturalization in various ways for Hmong individuals who had fought in the CIA-organized guerrilla units in Laos." The law applies to refugees from Laos who served with a special guerrilla unit, or irregular forces, operating from a base in Laos in support of the United States military at any time during February 28, 1961 through September 18, 1978 and who entered the United States as refugees from Laos.

Leading up to the passage of the law, there were Congressional concerns "related to difficulties in identifying which Hmong refugees actually fought on behalf of the United States as few records were kept of these covert operations."[3] Following the Committee hearings of H.R. 371 in June 1997, the Immigration and Naturalization Service (INS) provided technical assistance in redrafting the bill to: (1) tighten the documentation requirements; (2) require the Department of Defense to review the documentation; and (3) require the Department of Defense to advise the INS with respect to the credibility of claims of service with special guerrilla units or irregular forces. As a consequence, the Department did not object to this bill which, as revised, minimized the risk of fraud while maximizing the intended benefit [to] certain Hmong individuals and their spouses.[4]

Within the Committee reports, there was further refining of how to determine an alien's eligibility for benefits under the bill: "the Attorney General (1) shall review refugee processing documents to verify that an alien was admitted to the United States as a refugee from Laos, (2) shall consider the documentation submitted by the alien, (3) shall request an advisory opinion from the Secretary of Defense, and (4) may consider any certification prepared by the Lao Veterans of America, Inc. or similar organizations."[5]

The Lao Veterans of America includes tens of thousands of Hmong and Lao veterans and their families who played roles in the U.S. covert war in Laos and Vietnam. It has stringent requirements for membership: first, filling out an application and submitting to an initial interview, second determining that the prospective member served a minimum of 1 year as a veteran and third, be certified by a former commander or his representative, or the leader of the U.S. Secret Army in Laos, Major General Vang Pao. Finally, the applicant must be verified by a three member military review board appointed by the Lao Veterans of America's Board of Directors and Advisory Board.[6]

Ultimately, the Immigration and Naturalization Service provided multiple avenues through which Hmong veterans could prove their service. First, if an applicant testified to this military service at the time of refugee processing, the required documentation should already be in the applicants immigration file. If not, applicants could provide original documents; an affidavit of the serving person's superior officer; two affidavits from other individuals who also were serving with such a special guerrilla unit, or irregular forces, and who personally know of the person's service; or other appropriate proof.

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[3] House Report 106–563—Hmong Veteran's Naturalization Act of 2000.
[4] Ibid.
[5] Ibid.
[6] Ibid.

Congress has publically recognized the Hmong veterans' service to our Nation, but paradoxically has not allowed for burial rights in national cemeteries. In 2009, the House recognized "National Lao-Hmong Recognition Day," calling to attention to the Hmong's service in the Vietnam War. The Resolution recognized that "the United States recruited thousands of the Lao-Hmong to fight against the Communist Pathet Lao and North Vietnamese Army regulars in Laos" and we "relied heavily on the Lao-Hmong Special Guerrilla Units to engage in direct combat with North Vietnamese troops." Providing burial rights to the small number of Hmong veterans remaining that fought for America is the least we can do to honor their service. This legislation is a modest next step to honor the Hmong veterans who now live in the US as a result of our call for their service.

Chairman SANDERS. Thank you very much Senator Murkowski. Senator Franken.

STATEMENT OF HON. AL FRANKEN, U.S. SENATOR FROM MINNESOTA

Senator FRANKEN. Mr. Chairman and Members of the Committee, I would like today to talk briefly about my new legislation. First, I would like to say something about the Hmong who fought with us in Laos.

I went to Laos in July 2010. It was on a trip that the Chairman and I took with Senator Harkin to Vietnam. I took a little side trip to Laos because some Hmong refugees had been illegally repatriated to Laos from Thailand.

You may know that Sheldon Whitehouse, the Senator from Rhode Island, often says—and his father was Ambassador to Laos—that there is a few thousand fewer American names on that wall at the Vietnam War Memorial, because of the Hmong.

But I am here to talk about my new legislation, the Quicker Benefits Delivery Act. This piece of legislation has one simple purpose, to enable VA to get benefits to veterans more quickly.

We are all concerned about the claims backlog, and VA is working hard to address it. The fundamental issue is that we need to make sure veterans are getting the benefits to which they are entitled as quickly as possible. This is especially important when it comes to our newest veterans who are still in the process of transitioning back to civilian life. That is what my legislation will do.

It is a pragmatic effort to make sure that VA has the tools to get benefits into the hands of veterans as quickly as possible and uses those tools most effectively.

I am very pleased that Congressman Tim Walz, who is also from Minnesota and is a member of the House Veterans' Affairs Committee, has introduced companion legislation on the House side. He and I have heard from veterans in Minnesota about these issues and we owe several of the proposed solutions to suggestions from VSOs, Veterans Service Organizations, including testimony before your Committee.

My bill would get benefits into the hands of veterans more quickly in three ways. First, my bill would expand VA's use of non-VA medical evidence, medical examinations, and medical opinions in the claims process. That private medical evidence could only be used where it is competent, credible, and probative, in other words, fully adequate for helping to decide a veteran's claim.

VA is already making use of non-VA medical evidence, but my legislation would shift the burden a little bit more to VA so that

VA has to make the case for why it would not use a non-VA medical examination to assess a veteran's claim.

Not only would veterans who submit such evidence receive their benefits more quickly under my bill, it would also free up VA resources so that more veterans who do need VA medical examinations would also get their claims decided more quickly.

Second, my bill would expand VA's authorities to rapidly provide a veteran with provisional benefits when there is enough evidence to warrant it even if VA has not yet made the final determination about the veterans disability and compensation. This would be done through what are called pre-stabilization ratings which are for our newest veterans who may not yet have fully recovered from their injuries.

My bill would also expand VA's ability and its responsibility to give out a temporary minimum disability rating to a veteran where that is appropriate but where VA has not yet been able to make a final determination about all of the veterans claims. In fact, the VA recently announced that it was going to do just that with respect to the oldest claims in the backlog.

The purpose here is to make sure that veterans and their families can start getting benefits as soon as it is clear they are entitled to. Those veterans are then effectively not part of the backlog since they are getting benefits, and my legislation would clarify that.

Finally, my legislation addresses an issue we hear a lot about from veterans who have become students and are making use of the GI Bill benefits. Those student veterans have to wait until the first of a given month to receive their housing benefits for the previous month. That does not make a whole lot of sense to me, but my understanding is that VA needs the explicit authority to provide such benefits before the first day of the month, and my legislation makes that clarification.

Of course, my legislation by itself will not solve the claims backlog issue; but in significant ways, it will provide the VA with some tools to help it address this fundamental issue of making sure our veterans get the benefits that they have earned as quickly as possible.

As this legislation moves forward, I continue to welcome any and all suggestions for how it might be refined and improved to accomplish this important purpose.

Thank you for your consideration.

I am sorry but now I have to excuse myself because I need to go to the Health Committee where we are doing the markup of the ESCA bill, and I see Senator Murkowski has preceded me in leaving for that room.

So, I appreciate your attention and hope you have a good hearing. Thank you.

Chairman SANDERS. Thank you very much Senator Franken.

Senator Wyden.

STATEMENT OF HON. RON WYDEN,
U.S. SENATOR FROM OREGON

Senator WYDEN. Thank you very much, Chairman Sanders and Senator Heller, for having me today. I can see you have lots of colleagues.

The bill that I am going to discuss today is S. 748 and it is the product of a long-standing and bipartisan partnership that this Committee has had with the Special Committee on Aging, particularly on issues relating to the rights of older veterans.

The legislation that I offer today with Senator Burr—we have worked on this for many, many months—revolves around the fact that last June the Senate Special Committee on Aging held an investigative hearing on scams that target older veterans using a specific VA pension, in effect, to lure in the veteran.

What the Aging Committee found—we actually had an undercover investigation that was again at the request of a bipartisan group of Senators—what we found is that there are a number of financial planners, lawyers, and others who use the VA's enhanced pension—and this is the pension for the most vulnerable of our older veterans, the most vulnerable of the low-income veterans.

It is called the enhanced pension with aide and attendance, and they essentially use [knowledge of] this pension to kind of lure the older veteran into a variety of arrangements with trusts and annuities; and the poacher gets these, you know, large fees and very often the older veterans end up with virtually nothing. They do not have their aide and attendance; they are just completely ripped off.

So, the General Accounting Office, after the undercover investigation, recommended to the Congress that there be a look-back period similar to Medicare and Medicaid so that we could achieve two objectives: one, take away the ability of these ripoff artists, the pension imposter, to target the low income, older veteran; and two, make sure that we preserve this critical benefit for the many veterans who need it.

So, Senator Burr and I have worked with the advocacy groups for veterans and with the VA itself; and the heart of the legislation is to offer this kind of look-back. I think with the bipartisan support we have—we worked with the VA to make sure this would not contribute to the backlog volume—we now have legislation that we believe is ready for the Committee's consideration.

I am also appreciative of the Assisted Living Federation of America writing to the Committee supporting the legislation and pledging that their industry wants to also figure out a way to drain the swamp.

Mr. Chairman, you and I talked about this back in the days when I had a full head of hair and rugged good looks. I was the co-director of the Gray Panthers.

Chairman SANDERS. I would not go that far.

Senator WYDEN. All right. Fair enough. [Laughter.]

I have seen a lot of scams and this Committee has as well. This is one of the most outrageous. Senator Burr and I hope that we can move forward expeditiously, and we very much appreciate your consideration.

I, too, am going to have to go but I am very grateful to be able to work with the Committee.

Chairman SANDERS. Senator Wyden, thanks very much.

Senator Merkley.

STATEMENT OF HON. JEFF MERKLEY,
U.S. SENATOR FROM OREGON

Senator MERKLEY. Thank you very much, Chairman Sanders and Members of the Committee. I appreciate the opportunity to introduce you to Senate Bill 1039, the Spouses of Heroes Education Act of 2013.

This bill is cosponsored by Senator Heller. Senator, thank you very much. It addresses the needs of spouses of our fallen heroes in the armed services. The Spouses of Heroes Education Act would grant post-9/11 era widows and widowers the same educational benefits that Congress has authorized for their children under the Gunnery Sergeant John D. Fry Scholarship Program through the post-9/11 GI Bill. At age 18, these children can attend any public college tuition free and receive a housing allowance and an annual book stipend.

Surviving spouses of the current conflicts, however, are left with far less generous benefits. They have access only to the limited Survivors' and Dependents' Educational Assistance, DEA benefits. DEA pays only $987 per month for full-time study with no support for housing or books; and it is very difficult for surviving spouses, especially those with children, to afford college or job training under the DEA program.

I want to thank veteran Robert Thornhill of Central Oregon, who came to one of my town halls and pointed this out. Quite frankly, I was surprised to find that we did not treat spouses in the same way as the children.

And a special thanks to Army Colonel retired Bob Norton of the Military Officers Association of America, who has helped to give feedback and thoughts and circulation to this legislation.

This bill would provide the new GI Bill benefits to the spouses of those servicemembers who made the ultimate sacrifice to their Nation. By opting to receive the Fry Scholarship, spouses would forgo other GI Bill benefits related to education, such as DEA. The scholarship benefits would expire after a period of 15 years.

We must remember that the spouses of our fallen heroes were often left to raise young children as a single parent. These children may not be eligible to use the Fry Scholarship to help with college expenses for many years, but in the meantime, the parents should have the opportunity to go back to school and prepare for a well-paying job that can support his or her family.

The bill is endorsed by the Military Officers Association of America, the Veterans of Foreign Wars, the National Guard Association of the United States, Vietnam Veterans of America, the American Legion, and Iraqi and Afghanistan Veterans of America. It is endorsed by the Air Force Sergeants Association, the Military Order of the Purple Heart, AMVETS, and Student Veterans of America.

In addition, the Veterans Legislative Committee of the Military Coalition, a group comprised of 33 organizations representing more than 5.5 million members of the uniform services and their families have endorsed this goal of providing surviving spouses with the same educational benefits to which the children are entitled.

Our Nation owes an enormous debt of gratitude to our fallen and their family members. Our servicemembers have made extraordinary sacrifices, and we must never forget that their families have

sacrificed alongside them. We can never repay the sacrificed to a fallen hero's spouse but we can honor them by ensuring they have the tools they need to go back to school and provide a foundation for their family.

Our veterans and our veterans' families have stood up for our Nation abroad and we need to stand up for them here at home.

I look forward to working with Senator Heller and the Committee to move this bill forward.

Thank you.

Chairman SANDERS. Senator Merkley, thank you very much.

Senator Shaheen.

STATEMENT OF HON. JEANNE SHAHEEN, U.S. SENATOR FROM NEW HAMPSHIRE

Senator SHAHEEN. Thank you very much, Mr. Chairman, Senator Heller, Senators Tester and Begich. I very much appreciate the opportunity to appear before you to talk about two pieces of legislation that I have introduced.

The first is the Charlie Morgan Military Spouses Equal Treatment Act, which I introduced along with Senator Gillibrand back in February. This bill would address ongoing discrimination against gay and lesbian members of the military and their families.

In particular, it would make a number of critical benefits including TRICARE Access, VA survivor benefits, and travel and transportation allowances available to all military spouses regardless of sexual orientation. That is not the case now despite the repeal of "Don't Ask Don't Tell."

Even if the Defense of Marriage Act is overturned by the Supreme Court, legislation like the Charlie Morgan Military Spouses Act would likely still be necessary to help ensure equality in military and veterans' benefits for all of our Nation's military spouses.

Now, I am not going to go into the details of this legislation because I know you will do that in Committee but I did want to just say a few words about the woman who the bill is named after, Charlie Morgan.

She was a New Hampshire National Guard chief warrant officer who very sadly passed away earlier this year after a courageous battle with breast cancer.

Charlie enlisted in the Army in 1982 in Kentucky. She served in the regular army. After getting out, rejoined the New Hampshire National Guard after September 11 because she was so moved by the need to again serve this country after those terrorist attacks.

She served a year in deployment in Kuwait and served very honorably despite having to keep her personal life secret from all of her fellow soldiers.

Charlie and her wife Karen were not able to take advantage of many of the support programs that were so essential and are so essential to the health and well-being of our military families.

After she was diagnosed with breast cancer, the issue of benefits for her family became very personal, and unfortunately she is not going to be able to see their final day in court despite having joined the challenge to the Defense of Marriage Act, but I introduced this bill to honor her memory and because every individual, regardless of their sexual orientation, who provides for our defense deserves

the peace of mind that comes with knowing that their family is going to be taken care of when something happens to them.

Now, the second piece of legislation is the Veteran Legal Services Act, which I introduced with Senators Klobuchar and Murphy. I know that you all have been working very hard to address the backlog in our VA benefits, that goes without saying. It is a national disgrace that we have so many veterans waiting so long to get the benefits that are due them.

This bill, I think, addresses one of the programs that, as we have looked at it, seems to be the most effective in helping to deal with the backlog as well as veteran homelessness: the work of our Nation's law schools and their student volunteers. By counseling veterans with their disabilities claims, law students are turning incredibly complex stories and injuries into organized benefit applications that are exponentially reducing the VA's processing time for the most complicated cases in the backlog.

There are a number of States that have legal clinics that are working with veterans—North Carolina, West Virginia, Connecticut, Georgia, and Ohio, to name a few. What this bill would do is authorize the VA to coordinate more closely with these programs to ensure that they are as productive as possible.

Again, I think it is one way to address the backlog that does not involve a lot of Federal dollars but gets the work done for our veterans.

So again, thank you all very much for the work that you are doing and the opportunity to appear before you this morning.

[The prepared statement of Senator Shaheen follows:]

PREPARED STATEMENT OF HON. JEANNE SHAHEEN,
U.S. SENATOR FROM NEW HAMPSHIRE

Chairman Sanders, Ranking Member Burr, Members of the Committee, I want to thank you for the opportunity to speak briefly about two pieces of legislation that are before you today.

The first is the Charlie Morgan Military Spouses Equal Treatment Act, which I introduced along with Senator Gillibrand in February. The bill would address ongoing discrimination against gay and lesbian members of the military and their families. In particular, it would make a number of critical benefits, including TRICARE access, VA survivor benefits and travel and transportation allowances available to all military spouses, regardless of sexual orientation.

A number of important family benefits and support programs remain unavailable to same-sex spouses under current law. Even if the Defense of Marriage Act is overturned by the Supreme Court, this bill would likely still be necessary to help ensure equality in military and veterans' benefits for all of our Nation's military spouses.

I am certain the Committee will get into all of the various details on each of the benefits affected by this legislation, but today, I want to share with you the story of a true hero who inspired this act. The bill before you is named after Charlie Morgan, a New Hampshire National Guard Chief Warrant Officer, who sadly passed away earlier this year after a courageous battle with breast cancer.

Charlie enlisted in the United States Army in 1982. After a brief period away, Charlie returned to service as a member of the Kentucky National Guard in 1992. Following the terrorist attacks of September 11, 2001, Charlie returned for a third time, joining the 197th Fires Brigade of the New Hampshire National Guard, a tour that included a year-long deployment in Kuwait.

Throughout her long career of service, she shouldered the incredible burden of keeping her life secret from her fellow soldiers. Charlie was unable to live openly under the "Don't Ask, Don't Tell" policy. In addition, despite enduring the same hardships as any other military family, Charlie and her wife, Karen, were not able to take advantage of many of the same support programs that are so essential to the health and well-being of military families.

Soon after "Don't Ask, Don't Tell" was repealed, Charlie came out publicly and began the fight for equal benefits for same-sex spouses, benefits she and her family had earned as much as any other military member.

But, this was not just an abstract issue for Charlie. She was diagnosed with breast cancer in 2011, and knew that her time was limited. Concerned for the future well-being of her family, Charlie took aim at the Defense of Marriage Act (DOMA) by joining the challenge to its constitutionality in Federal court.

Unfortunately, Charlie will not be able to see her final day in court. She passed away earlier this year. Charlie Morgan epitomized courage—in her military service, her fight for LGBT equality and in her battle with cancer.

I introduced this bill to honor Charlie's memory. Every individual who provides for our defense deserves the peace of mind that comes with knowing one's family will be taken care of should the worst happen.

LGBT servicemembers now serve openly in our military and we depend on them to keep us safe. Denying their legally recognized spouses equal benefits under the law is unjustified. No one should ever again go through what Charlie and her family had to go through. I hope my colleagues on this Committee will act quickly to address this issue by passing the Charlie Morgan Act and sending it to the floor for consideration.

The second piece of legislation I'd like to discuss is the Veterans Legal Services Act, which I recently introduced along with Senators Klobuchar and Murphy.

No one knows better than the Members of this Committee the frustration that we all share regarding the VA's disability claims backlog. It is a national disgrace and one that we are all working to address. I know the Chairman has sponsored legislation on this issue and I am grateful to him for that leadership.

Our bill would support one of the most productive efforts I have seen in recent years to address both the backlog as well as veterans homelessness: the work of our Nation's law schools and their student volunteers.

Since 2008, more than 30 law schools in 18 states have developed clinical programs specifically to assist veterans. By counseling veterans with their disability claims, law students are turning incredibly complex stories and injuries into organized benefits applications that are exponentially reducing VA's processing time for the most complicated cases in the backlog.

A perfect example of these programs is the Lewis B. Puller Jr. Veterans Benefits Clinic at William and Mary Law School. On average, students in the program provide over 70 hours of assistance per veteran, and over 330 hours of assistance per veterans for cases involving Post Traumatic Stress Disorder (PTSD) or Traumatic Brain Injury (TBI). The results of their work have been outstanding. In one case, students helped a veteran recoup over $40,000 dollars in back payments.

Many other states are developing equally successful programs including North Carolina, West Virginia, Connecticut, Georgia, and Ohio.

Our legislation is simple. It authorizes VA to coordinate more closely with these programs to ensure they are as productive as possible. We are hopeful that with VA's support and guidance these programs will continue to thrive and make it easier for additional schools to follow their lead. Our goal is to eventually have a veteran's legal clinic in every state.

Again, I want to thank the Committee again for the opportunity to appear here today, for consideration of these two pieces of legislation, and for your continued service on behalf of our Nation and its veterans.

Chairman SANDERS. Senator Shaheen, thank you very much.

As I understand it, Senator Tester, you are going to have to make a quick exit, is that correct?

Senator TESTER. That is correct.

Chairman SANDERS. And you would like to say a few words on a piece of legislation.

STATEMENT OF HON. JON TESTER,
U.S. SENATOR FROM MONTANA

Senator TESTER. If I might, Mr. Chairman. First of all, I thank the Chairman and, Senator Heller—you look good in that position—for having this hearing.

I want to thank the VSOs participation in the Ruth Moore Act. The Ruth Moore Act deals with military sexual trauma and how the VA deals with it. In that regard, Mr. McCoy, I appreciate the

VA's recent efforts to better adjudicate claims based on military sexual trauma and your willingness to work with me and the Committee on this very important issue.

As we address sexual assault in the military, we must do everything we can to support the survivors of service-related trauma. A recent Pentagon data estimate reported the number of sexual assaults in the military has increased by 35 percent over the last 2 years.

Tragically, these assaults have lasting consequences for the survivors, including PTSD, anxiety, depression, and various physical disabilities. Moreover, the female servicemembers who are sexually assaulted are more likely to develop PTSD than their male counterparts who have experienced combat.

Establishing proof of military sexual assault, however, is very difficult in the current system and the vast majority of these assaults go unreported—as high as 85 percent according to some reports.

Subsequently, the veterans have a hard time meeting the burden of proof when applying for VA benefits for disabilities linked to military sexual trauma. The Ruth Moore Act of 2013 would bring fairness to the VA claims process for victims of the service-related trauma by relaxing the evidentiary area standards for MST survivors.

Now, while I acknowledge the VA's recent efforts to improve adjudication of claims related to military sexual trauma, I think further action is necessary. The current standards are difficult, if not impossible, to meet; and they do an injustice to veterans who have honorably served their Nation yet suffer terrific trauma.

Now, combating sexual assaults in the military will require a multipronged approach. No single law or policy will do this. A culture change is needed.

But as long as we work together to prevent these atrocities from happening, we cannot forget the thousands of survivors who have summoned up the courage and turned to the government for help. So, we need to act on their behalf.

I just want to once again thank the Chairman for the courtesy and look forward to further debating this bill.

Chairman SANDERS. Senator Tester, thanks very much.

CONTINUING STATEMENT OF HON. BERNARD SANDERS, CHAIRMAN, U.S. SENATOR FROM VERMONT

Chairman SANDERS. I recognize that today is a really busy day. There are Committee hearings all over the place so people are going to be coming and going.

What I would like to do now is get back to regular order. I want to say a few words. I will give the mic over to Senator Heller and then we will hear from Senator Begich and then we will bring in our next panel.

As I think everybody will recall, earlier in the session we had the opportunity, along with the House Veterans' Committee, to hear from all of the service organizations. I found those hearings extraordinarily helpful because we heard from veterans from all walks of life, from different wars; and we had a very broad understanding of the needs of our veterans.

What I pledged to do with my staff was to listen very carefully to what the veterans organizations had to say and to do our best to respond to all of the legitimate concerns that they raised. That is what we are in the process of doing.

As Members will recall from a month or so ago, we had what I thought was an excellent hearing focusing on health care issues. The bottom line is that I believe we have a strong health care system within the VA.

With 152 medical centers and 900 CBOCs and Vet Centers all over this country, there is no question that we can make improvements. We intend to focus on VA health care very carefully and make those improvements.

Today, what we are focusing on are benefits issues and I thought we heard some excellent testimony from our colleagues who are not on this Committee. We will hear testimony and comments from Members of this Committee who have introduced important legislation.

Let me just take a moment to give a brief overview of some of the legislation that I have introduced. One of the issues that the veterans community and the American people are clearly concerned about is making sure that when young men and women return from Iraq and Afghanistan and from the Armed Forces in general, they are able to return to civilian life and get decent jobs.

We are recovering from a serious recession. The economy is better than it was but unemployment remains much, much too high. So, I have introduced legislation called the Veterans Equipped for Success Act of 2013, which I think will go a significant way forward in providing good jobs for those men and women who have returned from Iraq and Afghanistan, who have been discharged from the Armed Forces.

We have heard today, and we have heard for many, many months, probably the major issue that veterans organizations and I think the American people are concerned about, as Senator Shaheen just mentioned. is to make absolutely sure that when a veteran files a claim for benefits that that claim is processed in a reasonable period of time.

We are all appalled that in some cases it is taking years for these claims to be adjudicated. Secretary Shinseki has brought forth a goal to make sure that every claim is processed within 125 days and I believe he intends to do that by the end of 2015.

As we all know, 5 years ago there was limited discussion about the need to do what every major corporation in America and other government agencies have done, and that is go from a paper to a digital system. The VA is now in the process of making that huge transformation. We think they are making some progress but obviously they have a long way to go.

We have legislation to make sure that the very ambitious goal of making sure that every claim is processed with 125 days and to have that done by the end of 2015, in fact, takes place when it is supposed to. We are going to be watching that and we have legislation that will monitor that very, very closely.

There is another piece of legislation that we have introduced called the Survivor Benefits Improvement Act of 2013. As we all know, a decade of war has had a major impact on our military fam-

ilies. Over 6,600 servicemembers have died in operations Iraqi Freedom and Enduring Freedom, leaving behind spouses and children who relied on them.

Earlier this year, this Committee heard from the Gold Star Wives of America about the significant challenges that survivors continue to face such as the need for improved dependency and indemnity compensation benefits and qualification requirements.

The Survivor Benefits Improvement Act of 2013 would address many of these challenges, and I think we certainly owe that to the survivors.

One of the ongoing concerns that I have and one of the hearings that we had dealt with the fact that no matter how strong the benefits or health care that we provide veterans is, it does not do anybody any good unless veterans and their families understand the benefits to which they are entitled.

While the VA does a lot of things very, very well, one of the things that they have not done well is outreach. In the last couple of months, by the way, I think we have seen a turnaround on that. I think they are doing a better job.

It is not unimpressive that over 50 percent of the servicemembers who are leaving the Armed Forces now are, in fact, enrolled in the VA. That is an historically high level of outreach in bringing people into the system.

Our legislation is called the Veterans Outreach Act of 2013 and it deals with the fact that if veterans are unaware of their benefits, then nothing we discuss here today will help them when they need assistance.

So, we have the Veterans Outreach Act of 2013 which, in a number of ways, works with community organizations to make sure that every veteran in this country understands the benefits to which he or she is entitled.

So, those are some of the issues that I will be working on. Now, let me give the mic over to Senator Heller.

STATEMENT OF HON. DEAN HELLER,
U.S. SENATOR FROM NEVADA

Senator HELLER. Mr. Chairman, Thank you and thank you for your leadership on this issue and for holding today's hearing. I want to thank my colleagues who were here earlier. You can tell that when it comes to veterans issues it is very bipartisan; and it is good to have and to see that kind of support for our veterans here in this country.

I want to thank those that are here as witnesses that will testify, and I also want to thank those that are in the audience for taking time from your busy schedules to show support on these bills.

I have a number of bills that will be discussed today that I have written or cosponsored, and I would like to touch on a few of them, if I may, Mr. Chairman.

First, I would like to discuss the Accountability for Veterans Act. It is no secret this community has been holding vigorous oversight of the backlog at the VA for disabilities and benefits claims. To say that patience on this is thinning is probably an understatement.

In Las Vegas and in Reno, there are more than 10,000 pending claims. Las Vegas veterans have been hit particularly hard by the

economic downturn and these disability payments are critical to these veterans who are trying to make ends meet.

I know there is not one solution that will solve this issue but one problem seems to be coordination between VBA and other government agencies.

When the VA was here testifying on the backlog, we were told that the employees at the VA were required to fax requests for files to the Department of Defense, the Social Security Administration, the National Archives and then wait 60 days.

Then, when they did not get a response, they were to e-mail those agencies and wait another 30 days. This process is outdated. The fax machine is irrelevant. VA should modernize its procedure, and that is why I have introduced the Accountability for Veterans Act.

This bill requires DOD, the Social Security Administration, and the National Archives to respond to a VA requests for veterans files within 30 days with either the file or an explanation why the file was not available and when the VA can expect this file. This bill also calls for a biannual report to Congress on the time it takes for these agencies to respond to the VA requests.

The measure has the support of the American Legion, Disabled American Veterans, the Military Officers Association of America, and the Veterans of Foreign Wars because we must hold these agencies accountable if they are not providing information in a timely manner.

I have another measure that I would like to address and that is the Filipino Veterans Promise Act. Before I do that, I want to recognize someone in our audience, Mr. Almato, and I want to thank you for being here today and thank you for your service.

[Applause.]

The Filipino Veterans Promise Act is bipartisan and bicameral. It fulfills the obligation that the United States makes every effort to ensure that individuals who served our Nation are properly recognized for their contributions to our Nation.

There is no doubt that the Filipino soldiers served honorably in the Commonwealth Army of the Philippines, recognized guerrilla forces, and the new Philippine Scouts alongside U.S. troops during World War II.

Today, many Filipino veterans are not able to have their service of World War II verified by the Army's National Personnel Records Center. The NPRC uses only evidence that is approved by the U.S. Army and does not have access to a consolidated personal file for most of the individuals who served in the Philippine army or guerrilla unit.

The Filipino Veterans Promise Act would mandate that the Department of Defense in coordination with military historians establish a process to open the approved revised reconstructed guerrilla roster of 1948, also known as the Missouri List, to give Filipinos the opportunity to prove their service during World War II.

I was proud to introduce this bill in the U.S. Senate and work with Representative Hanabusa in the House of Representatives because Filipino veterans deserve a better process to adjudicate their claims than currently exists.

It is important to note that this bill works at length to ensure that we are arming those who served and not providing benefits for any person that did not. This is why this bill calls for the Army to verify service. It is an added protection to ensure that hard-earned benefits are going to those who earned them.

I think we can all agree that if any person served our country in battle and is not receiving benefits they earned, this should be an outrage. Las Vegas, in particular, has a large Filipino population and a number of Filipinos there are still seeking recognition as veterans. They are a respected part of the community and they deserve a fair and complete examination of their record.

I have also introduced two bills that will help military families who have lost a loved one in the line of duty: the Veteran Small Business Opportunity and Protection Act; as well as a bipartisan bill, the Spouses of Heroes Education Act, that Senator Merkley testified on earlier today.

Last, I introduced a bill with my fellow Committee Member, Senator Murray, the Care for Veterans' Dependents Act.

I appreciate the consideration given to all these measures and the time today to discuss them. As this Committee further discusses me and my colleagues' proposals to help America's veterans receive the benefits that they have earned, it is my hope that we will remember our commitments to caring for those brave heroes who sacrificed greatly to serve this country.

Thank you, Mr. Chairman.

Chairman SANDERS. Thank you very much, Senator Heller.

Senator Begich.

STATEMENT OF HON. MARK BEGICH,
U.S. SENATOR FROM ALASKA

Senator BEGICH. Thank you very much, Mr. Chairman. Thank you again for having this hearing today. I just want to speak about one bill, although I am on several others, which I appreciate my colleagues on both sides of the aisle.

There is no question that in Alaska we have the highest number per capita of veterans in the Nation; and everywhere and any time I am in Alaska, the issues of veterans come up on small-scale and large-scale. So again, thank you for having the list of legislation to go over today.

I want to just talk about one specific bill, which is S. 932, the Putting Veterans Funding First Act. This bill acts as a continuation. As you know, we have advanced appropriations on the health care side, and what I am trying to do here is include the second part which is VA discretionary accounts, including the National Cemetery Administration, the Veterans Benefits Administration, and the Native American Veterans Housing Loan Program.

It would also authorize advance appropriations for the following discretionary administration accounts: general operating expenses; information technology systems; Office of the Inspector General; construction for both major and minor projects; and grants for construction of State extended-care facilities.

Mr. Chairman, this has been something that I have believed in ever since I was back in local government and that is trying to get

more and more governments to 2-year cycles on funding because it gives more stability for the agencies.

We did this for part of the VA in regard to their health care section where they have advance funding. It makes a big difference for them to hire nurses, hire medical technicians, and others and it just seems that we should complete the circle and finish out the VA in giving them advance appropriation for all of their operations.

This would make a huge difference for management of the VA. As a former mayor—I know you are a former mayor, Mr. Chairman—every time we dealt with our budget folks, we spent months in preparation. Then we got the budget done. Then we had a few months to manage it. Then we were back into preparation mode again. It made no sense.

With the VA having so much need that is going to grow very significantly over the next several years, it just seems logical that we get them on a cycle of more certainty which ensures veterans that certain programs, as I just mentioned, would have the long-term certainty and funding mechanism they need to hire people, to get contracts, to move forward on construction, and other things that are necessary for our veterans.

So, it is a simple bill, a continuation of advance appropriations complementing what we have already done.

So, Mr. Chairman, I will leave it at that. There are other bills that I have cosponsored and I am very excited about several of them, but I know we want to get to the panel.

I have to step out for a few minutes but I will be back because, as you said, a lot of ideas we get from the veterans organizations are incredible for us and we should be listening carefully to hear those ideas.

Thank you, Mr. Chairman.

Chairman SANDERS. Senator Begich, thank you very much.

Senator Boozman.

STATEMENT OF HON. JOHN BOOZMAN,
U.S. SENATOR FROM ARKANSAS

Senator BOOZMAN. Thank you, Mr. Chair, and thank you so much for having this very, very important hearing to evaluate proposals to improve the quality of delivery of care for our Nation's veterans that have served our country, and really try to continue as a Committee and as Senators to uphold all of the promises that we made to their families.

I appreciate the Senator from Alaska's leadership on the bill that he just mentioned. We are the lead Republican cosponsor on that, and to me it is just good governance. It makes all the sense in the world, and I hope that we can get that done in the sense that I think it is so important that we move government, you know, into this century. I think that is one of the ways that we do it.

You know, this is something that would not cost us any money. It would save us a lot of money and create tremendous efficiencies. So, again, I thank you very much for your work on that.

I am also pleased that we have three other legislative proposals that we are working with and looking forward with my colleagues to try to get signed into law.

S. 257, the GI Bill Tuition Fairness Act would protect our veterans ability to use their GI benefit at the school of their choice without facing the liability of having to offset out-of-state tuition fees by paying out of their own pocket.

I know that there have been other proposals on how to accomplish the underlying principle of this legislation, which is to protect choice for our veterans when utilizing one of their most important economic opportunity benefits.

This legislation is supported by many VSOs including some here today. I believe that it would very much be a step in the right direction in expanding educational opportunities for veterans and would actually save the Federal Government money. I look forward to working with my colleagues to accomplish this worthy goal.

S. 695, the Veterans Paralympic Act of 2013 seeks to reauthorize the paralympic integrated adaptive sports program for disabled veterans. The modest investment that we make in this program improves the physical and mental health of so many of our disabled veterans.

This program has reached more than 5,000 participants in more than 150 communities in 46 States. It has successfully collaborated with 85 VA medical centers in 39 States to provide an adaptive sports program to veterans in their communities.

Extending this program I think is a common sense step to empower our disabled veterans through sport and benefits the physical and mental health of the disabled veteran community.

S. 889, the Service Members Choice in Transition Act, is another bill that we have been working on. The Department of Defense is redesigning and updating TAP to make it more interactive and this makes it such that it offers on a non-mandatory basis specialized tracks for servicemembers that fit their transition goals.

The legislation would mandate that servicemembers be given a choice to take one of the tracks as part of the mandatory portion of TAP and will assist them in meeting the specific transition goal.

This goal-oriented structure helps our transitioning veterans identify and pursue specific goals early, which means that they will be more likely to use their hard-earned benefits wisely.

Again, I think this is so important. If, through TAP and every other device that we have, we can make it such that we can get our veterans employed, get them where they are able to support their families, take care of themselves, then it is not only the right thing to do but it is something that saves tremendous amounts of money long term in trying to deal with the problems of not being able to do that.

All of these bills I have just mentioned are reasonable, bipartisan proposals to improve the lives and opportunities of our veterans and their families, and I appreciate their consideration here today.

With that, I would like to include the rest of my statement for the record and get on to our witnesses.

Chairman SANDERS. Without objection.

[The prepared statement of Senator Boozman follows:]

PREPARED STATEMENT OF HON. JOHN BOOZMAN,
U.S. SENATOR FROM ARKANSAS

Mr. Chairman, Thank you for holding this hearing so that we can continue to evaluate proposals to improve the quality and delivery of services to our Nation's

veterans, and fight to uphold all of the promises that we have made to them and their families.

I am particularly pleased that we have included three of my legislative proposals and look forward to working with my colleagues to get these bills signed into law.

S. 257, the GI Bill Tuition Fairness Act would protect our veterans' ability to use their GI Benefit at the school of their choice, without facing the liability of having to offset out-of-state tuition fees by paying out of their own pocket. I know that there have been other proposals on how to accomplish the underlying principal of this legislation—which is to protect choice for our veterans when utilizing one of their most important economic opportunity benefits—and I look forward to working with my colleagues to accomplish this worthy goal. This legislation is supported by many VSO's, including some here today, and would be a step in the right direction in expanding educational opportunities for veterans and would actually save the Federal Government money.

S. 695, the Veterans Paralympic Act of 2013 seeks to reauthorize the Paralympic Integrated Adaptive Sports Program for disabled veterans. The modest investment that we make in this program improves the physical and mental health of so many of our disabled veterans. This program has reached more than 5,000 participants in more than 150 communities in 46 states. It has successfully collaborated with 85 VA medical centers in 39 states to provide adaptive sports programs to veterans in their communities. Extending this program is a common sense step to empower our disabled veterans through sport, and benefits the physical and mental health of our disabled veteran community.

S. 889, the Servicemembers' Choice in Transition Act is another bill I have been working on. The Department of Defense (DOD) is re-designing and updating TAP to make it more interactive and it offers on a non-mandatory basis specialized tracks for servicemembers that fit their transition goals. This legislation would mandate that servicemembers be given the choice to take one of the tracks as part of the mandatory portion of TAP, and will assist them in meeting their specific transition goal. This goal oriented structure helps our transitioning veterans identify and pursue specific goals early, which means that they will be more likely to use their hard earned benefits wisely.

All of these bills I have just mentioned are reasonable, bipartisan proposals to improve the lives and opportunities of our veterans and their families, and I appreciate their consideration here today.

Other important bills before us today will:

- Protect the second amendment rights of our nations' veterans
- Recognize the honorable service of guardsmen and reservists that have served our Nation for 20 or more years
- Ensure the freedom of religious expression on national war memorials
- Ensure a cost of living adjustment for disabled veterans
- Try to fix our broken VA claims processing system; and
- Provide many other economic opportunities to those who have served and sacrificed on behalf of our grateful Nation.

These are all important goals and I appreciate everyone here for all of your hard work on behalf of our Nation's veterans and look forward to continuing our work together to address these issues facing the veteran community.

Chairman SANDERS. Very good. Senator Boozman, thanks very much. I want to thank each of the Senators who have spoken about their important legislation; we look forward to working with all of them.

Now, we are ready for our second panel. We welcome representatives of the VA.

Senator Boozman, did you want to come up here?

Senator BOOZMAN. I think Senator Heller is about to join us.

Chairman SANDERS. OK. We are pleased to have with us Curtis L. Coy, who is the Deputy Undersecretary for Economic Opportunity of the Veterans Benefits Administration, Department of Veterans' Affairs. He is accompanied by Thomas Murphy, Director of Compensation Service; Richard Hipolit, Assistant General Counsel; and John Brizzi, Deputy Assistant General Counsel.

Gentlemen, thanks very much for being with us. Mr. Coy, I think we begin with you.

STATEMENT OF CURTIS L. COY, DEPUTY UNDER SECRETARY FOR ECONOMIC OPPORTUNITY, VETERANS BENEFITS ADMINISTRATION, U.S. DEPARTMENT OF VETERANS AFFAIRS; ACCOMPANIED BY THOMAS MURPHY, DIRECTOR OF COMPENSATION SERVICE; RICHARD HIPOLIT, ASSISTANT GENERAL COUNSEL; AND JOHN BRIZZI, DEPUTY ASSISTANT GENERAL COUNSEL

Mr. COY. Thank you, Mr. Chairman, and good morning to you, Mr. Chairman and Members of the Committee. I am pleased to be here today to provide the views of the Department of Veterans Affairs on pending legislation affecting VA's programs.

We are encouraged seeing so many legislative proposals aimed at improving benefits and services for our Nation's veterans. We are particularly glad to see the inclusion of some of the concepts VA put forth in April in its 2014 budget as well as significant legislation aimed at addressing claims backlog.

As we have been reporting regularly to the Committee, VA has been able to do much in the areas of people, process, and technology under the authorities it has now but there are systemic changes that could be done only by legislation.

We are happy to discuss these bills that are aimed at giving veterans better tools to further their education and employment, extend certain work-study activities, and improve our programs that benefit veteran-owned small businesses.

Accompanying me this morning are my colleagues are Thomas Murphy, Director, Compensation Service at Veterans Benefits Administration; Richard Hipolit, Assistant General Counsel; and John Brizzi, Deputy Assistant General Counsel.

Given the number of bills under consideration today and in the interest of time, I will focus my statement this morning on legislation impacting several broad areas. There are also significant bills on the subject of outreach, benefits for survivors, and mental health programs. For several bills we provided our views and costs for the record. Similar to the Members of this Committee, VA is always seeking new ways to improve benefits for those who have served.

I am a 24-year veteran of the U.S. Navy and, like you and your staff, work hard to ensure that we honor those who have served and sacrificed for our country.

With respect to those bills that affect education and employment of veterans, the VA supports any effort that would end those opportunities. We support extending the veterans are retraining and assistance program but we suggest additional changes to the program to improve the administration of the program and give veterans more choices.

The VA also supports the veterans internship pilot but again recommends several ambiguities and resource issues be addressed before moving the bill for word.

While we are sympathetic to the issue of rising tuition costs, it is difficult to endorse any legislation that might impact or limit choices of veterans that they may have were a school not to offer in-state tuition for veterans.

Similarly, changing the way we currently calculate tuition and fees in the post-9/11 GI Bill would be a challenge to both imple-

ment and understand. We look forward to working with the Committee to address these challenges.

The VA strongly supports those bills that propose to extend existing programs such as portions of the vocational rehabilitation and employment, the paralympics, and VA's work-study program and we would suggest making some of those extensions permanent.

Finally, we appreciate the Committee's interest in legislation intended to reduce the disability claims backlog. We support many provisions of the claims process improvement act of 2013 which hold promise to take a significant bite out of the backlog without prejudicing veterans and we look forward to commenting shortly on other significant provisions of that bill. We want to work with you and other stakeholders here today to have a collaborative dialog about all of the proposals on the agenda today.

Mr. Chairman, this concludes my statement. Thank you for the opportunity to appear before you today. We would be pleased to respond to any questions you or other Members of the Committee may have about any of these bills or other legislation discussed in our written testimony.

Thank you, sir.

[The prepared statement of Mr. Coy follows:]

PREPARED STATEMENT OF CURTIS L. COY, DEPUTY UNDER SECRETARY FOR ECONOMIC OPPORTUNITY, VETERANS BENEFITS ADMINISTRATION, U.S. DEPARTMENT OF VETERANS AFFAIRS

Good morning, Mr. Chairman and Members of the Committee. I am pleased to be here today to provide the views of the Department of Veterans Affairs (VA) on pending legislation affecting VA's programs, including the following: Sections 101, 102 and 103 of S. 6, S. 200, S. 257, S. 262, S. 294, S. 373, S. 430, sections 5, 6, 7, and 8 of S. 495, S. 514, S. 515, S. 572, S. 629, S. 674, S. 690, S. 695, S. 705, S. 748, S. 893, S. 894, S. 922, sections 103, 104, 201, 202, 301, 302, 303, 304, and 305 of S. 928, and S. 939. VA has not had time to develop cost estimates for S. 514 and S. 894 and but will work to provide them. VA has not had time to develop views and costs on the other sections of S. 928. I cannot address today views and costs on S. 735, S. 778, S. 819, S. 863, S. 868, S. 889, S. 927, certain sections of S. 928, S. 930, S. 932, S. 935, S. 938, S. 944, S. 1039, S. 1042, and S. 1058, but, with your permission, we will work to provide that information. Other legislative proposals under discussion today would affect programs or laws administered by the Department of Labor (DOL), Department of Homeland Security (DHS), Department of Defense (DOD), the Office of Personnel Management (OPM), and the General Services Administration (GSA). Respectfully, we defer to those Departments' views on those legislative proposals. Accompanying me this morning are Thomas Murphy, Director, Compensation Service, Veterans Benefits Administration; Richard Hipolit, Assistant General Counsel; and John Brizzi, Deputy Assistant General Counsel.

S. 6

Section 101 of S. 6, the "Putting Our Veterans Back to Work Act of 2013," would extend by two years the expiration of the Veterans Retraining Assistance Program (VRAP) under section 211 of the VOW to Hire Heroes Act of 2011, from March 31, 2014, to March 31, 2016. This section also would increase the maximum enrollment in VRAP from 99,000 to 199,000 Veterans. It would add 50,000 participants during the period April 1, 2014 through March 31, 2015, and another 50,000 between April 1, 2015 and March 31, 2016. Finally, section 101 would amend subsection (b) of section 211 by striking "up to 12 months of retraining" and replacing it with "an aggregate of not more than 12 months of retraining."

VA generally supports the legislation that would extend the expiration of VRAP, to allow maximum enrollment of the currently allotted 99,000 participants. VA supports legislative initiatives that are designed to help Veterans seek and gain meaningful employment, and this legislation provides more time to select and complete their degree or certificate program, particularly those Veterans between the ages of

35 and 60. VA suggests, however, that changes be made to the existing program prior to expansion, including adding new participants.

As of April 25, 2013, VA approved 98,296 applicants for VRAP benefits, but only 43,803 Veterans were either enrolled in school or had used their benefits. VA reached out to individuals eligible for VRAP on several occasions to encourage them to enroll in training. VA recommends that the following changes be made to VRAP before expanding the program to more participants:

- Allow participants to receive the full 12-month benefit as long as the participant starts a training program within the period between receiving their certificate of eligibility and the program's sunset date.
- Expand the program to include 4-year institutions that offer associate's degrees.
- Amend the sunset date of the program from March 31 to May 31 so that it does not end in the middle of a standard academic semester.

Finally, VA recommends removing the partition of participants by fiscal year. Many unemployed Veterans cannot enroll in training before they receive their certificate of eligibility for VRAP. Therefore, Veterans may not enroll in school during the same fiscal year that they are determined eligible. Additionally, it is unclear if any unused slots from the original 99,000 participants will be lost in the next fiscal year or will remain available for use in the next fiscal year. To reduce confusion for Veterans using the program, VA recommends that any increase in beneficiaries be effective for the remainder of the program.

VA estimates the benefit costs for section 101 of S. 6 would be $152.8 million during fiscal year (FY) 2014 and $1.3 billion for the period beginning on April 1, 2014 through March 31, 2016.

Section 102 of S. 6 would extend the provisions of Section 231 of Public Law 112–56 through December 31, 2016, VA's authority to provide vocational rehabilitation benefits to members of the Armed Forces with severe injuries or illnesses who have not yet been rated for purposes of service-connected disability compensation. The current authority to provide such benefits to these Servicemembers expires on December 31, 2014. Section 102 also would require VA to submit a report to Congress on the benefits provided to these members of the Armed Forces within 180 days after the enactment of section 102.

VA supports this provision and believes that extending automatic eligibility for vocational rehabilitation to Servicemembers for two additional years is warranted due to the expected acceleration in Servicemembers separating from the Armed Forces. This provision would allow individuals who are still on active duty to qualify for and receive vocational rehabilitation and employment services without waiting for a VA disability rating, and would facilitate their transition from military to civilian life.

We do not anticipate additional costs to VA resulting from enactment of this provision because individuals who would receive vocational rehabilitation services under this provision would be expected to receive VA disability ratings as Veterans that would qualify them for vocational rehabilitation services.

Section 103 of the bill would provide a two-year extension of the provisions of section 233 of Public Law 112–56, which entitles a Veteran who has completed a vocational rehabilitation program under chapter 31 of title 38, United States Code, and has exhausted state unemployment benefits, to an additional twelve-month period of vocational rehabilitation services without regard to the 12-year eligibility period or 48-month limitation on entitlements. Under current law, VA must receive the application for chapter 31 services before March 31, 2014, and within 6 months of exhausting regular unemployment compensation benefits. If section 103 were enacted, the deadline for receipt of an application would be extended until March 31, 2016.

VA supports this provision. Extending this benefit for Veterans who are beyond the 12-year delimiting date would provide them the opportunity to prepare for and obtain suitable employment.

VA estimates that benefit costs associated with enactment of section 103 would be approximately $260,000 from FY 2016 through FY 2018. There are no additional full-time equivalent (FTE) or general operating expenses (GOE) cost requirements.

Sections 104, 201, 301, and 302 affect programs or laws administered by DOL. Section 202 affects programs or laws administered by DHS. Section 203 affects programs or laws administered by GSA. Respectfully we defer to those Departments' views on those sections of S. 6.

S. 200

S. 200 would establish eligibility for interment in a national cemetery for any individual who: (1) the Secretary of Veterans Affairs determines served in combat support of the Armed Forces in Laos during the period beginning on February 28, 1961,

and ending on May 15, 1975; and (2) at the time of death was a U.S. citizen or lawfully admitted alien.

Section 401 of Public Law 95–202 authorizes the Secretary of Defense to determine whether the service of members of civilian or contractual groups shall be considered active duty for the purposes of all laws administered by VA. The DOD Civilian/Military Service Review Board advises the Secretary of Defense in determining if civilian service in support of the U.S. Armed Forces during a period of armed conflict is equivalent to active military service for VA benefits. VA provides burial and memorial benefits to individuals deemed eligible by reason of active military service established by the Secretary of Defense.

VA does not support this bill because it would bypass the statutorily mandated process established under section 401 of Public Law 95–202 that promotes consistency in evaluation of various types of service. The established process under Public Law 95†202 ensures that determinations regarding individuals or groups who did not serve in the Armed Forces are based on adequate information regarding the nature of the operations of the U.S. Armed Forces at the relevant times and locations and the nature of the support provided by the individuals or groups in question.

Further, VA relies on DOD to determine the circumstances of an individual's service and when such service was rendered, and, for purposes of this bill, VA would have to rely on DOD to make determinations such as whether such service was "in combat support of the Armed Forces." VA is not equipped to make those determinations on a case-by-case basis. Yet the bill makes no provision for DOD involvement in the process. In addition, it is unclear how "combat support" would be defined and documented for purposes of implementing this bill.

If the assumption is made that the impacted population would be small, no significant cemetery construction or interment costs would be associated with this legislation.

S. 257

S. 257, the "GI Bill Tuition Fairness Act of 2013," would amend section 3679 of title 38, United States Code, to direct VA, for purposes of the educational assistance programs administered by the Secretary, to disapprove courses of education provided by public institutions of higher education that do not charge tuition and fees for Veterans at the same rate that is charged for in-state residents, regardless of the Veteran's State of residence. The bill does not address whether tuition and fee rates for Servicemembers or other eligible beneficiaries of the GI Bill affect the approval status of a program of education. S. 257 would apply to educational assistance provided after August 1, 2014. In the case of a course of education in which a Veteran or eligible person (such as a spouse or dependent who is eligible for education benefits) is enrolled prior to August 1, 2014, that is subsequently disapproved by VA, the Department would treat that course as approved until the Veteran or eligible person completes the course in which the individual is enrolled. After August 1, 2018, any disapproved course would be treated as such, unless the Veteran or eligible person receives a waiver from VA. While VA is sympathetic to the issue of rising tuition costs, it is difficult to endorse the proposed legislation until we know more about the impact.

VA cannot predict what reductions in offerings by educational institutions would result from this requirement. In-state tuition rules are set by individual States, and are undoubtedly driven by overall fiscal factors and other policy considerations. Additionally, the bill creates ambiguity since it is unclear whether institutions that charge out-of-state tuition and fees to other eligible persons for a course of education, but that charge in-state tuition to Veterans in the same course, would also be disapproved.

VA estimates approximately 11.8 percent of Yellow Ribbon participants attended public institutions since the program's inception. Of those, an estimated 80.6 percent were Veterans during the 2012 fall enrollment period. VA applied these percentages to the total amount of Yellow Ribbon benefits paid in FY 2012 and projected through FY 2023, assuming growth consistent with the overall chapter 33 program. Based on those projections, VA estimates that enactment of S. 257 would result in benefit savings to VA's Readjustment Benefits account of $2.3 million in the first year, $70.3 million over 5 years, and $179.9 million over 10 years. VA estimates there would be no additional GOE administrative costs required to implement this bill.

S. 262

S. 262, the "Veterans Education Equity Act of 2013," would amend section 3313(c)(1) of title 38, United States Code, to revise the formula for the payment of

tuition and fees for individuals entitled to educational assistance under the Post-9/11 GI Bill who are pursuing programs of education at a public institution of higher learning (IHL). The revised formula would include, as an additional payment formula, the lesser of the actual net cost for tuition and fees after applying the receipt of any tuition waivers, reductions, and scholarships, versus the greater of the actual net cost for in-state tuition and fees after applying the receipt of any tuition waivers, reductions, and scholarships, or $17,500 for the academic year beginning on August 1, 2011 (such amount to be increased each subsequent year by the average percentage increase in undergraduate tuition costs). The amendment would be effective with respect to the payment of educational assistance for an academic year beginning on or after the date of enactment.

Currently, resident and non-resident students pursuing programs of education at public IHLs receive the actual net cost for in-state tuition and fees charged by the institution. As written, this bill would allow non-resident students to receive an amount above net in-state tuition charges in some instances.

While VA understands the issue of rising educational costs and supports the intent underlying the bill to provide payment equity for individuals training under the Post-9/11 GI Bill, VA cannot support the proposed legislation.

The additional separate rules for tuition-and-fee charges would add yet another level of complexity to the Post-9/11 GI Bill for both Veterans and schools to understand. VA continues to receive complaints from participants regarding confusion about exactly how much they will receive in tuition and fees under the program. This bill would exacerbate that problem.

S. 262 would also lead to very complicated processing scenarios in the Long Term Solution (LTS), the computer processing system for the Post-9/11 GI Bill. Rules in the LTS system regarding payment amounts would need to be updated. Additionally, since the amount of educational assistance would be based on the actual net cost for tuition and fees versus the greater of the actual net cost for in-state tuition and fees and $17,500, VA would have to apply a blended set of rules to each claim that falls under these provisions.

In addition, VA has identified technical concerns with the bill's text. For example, it is unclear how to apply the $17,500 cap per academic year to enrollments. The bill does not specify if VA would need to pay the first term of the academic year up to the maximum amount or divide the total yearly allotment over the course of different semesters. There could be scenarios in which an individual may receive most of, if not all, the yearly allotment for the fall term alone, leaving no money to be spent in the subsequent terms.

VA estimates that the benefit cost associated with enactment of this bill would be $613.0 million in the first year, $3.4 billion over 5 years, and $7.6 billion over 10 years. No administrative or personnel costs to VA are associated with this bill. VA information technology costs are estimated to be $1 million. These costs include enhancements to the Post-9/11 GI Bill Long-Term Solution.

S. 294

Section 2(a) of S. 294, the "Ruth Moore Act of 2013," would add to 38 U.S.C. § 1154 a new subsection (c) to provide that, if a Veteran alleges that a "covered mental health condition" was incurred or aggravated by military sexual trauma (MST) during active service, VA must "accept as sufficient proof of service-connection" a mental health professional's diagnosis of the condition together with satisfactory lay or other evidence of such trauma and the professional's opinion that the condition is related to such trauma, provided that the trauma is consistent with the circumstances, conditions, or hardships of such service, irrespective of whether there is an official record of incurrence or aggravation in service. Service connection could be rebutted by "clear and convincing evidence to the contrary." In the absence of clear and convincing evidence to the contrary, and provided the claimed MST is consistent with the circumstances, conditions, and hardships of service, the Veteran's lay testimony alone would be sufficient to establish the occurrence of the claimed MST. The provision would define the term "covered mental health condition" to mean Post Traumatic Stress Disorder (PTSD), anxiety, depression, "or other mental health diagnosis described in the current version" of the American Psychiatric Association Diagnostic and Statistical Manual of Mental Disorders that VA "determines to be related to military sexual trauma." The bill would define MST to mean "psychological trauma, which in the judgment of a mental health professional, resulted from a physical assault of a sexual nature, battery of a sexual nature, or sexual harassment which occurred during active military, naval, or air service."

Section 2(b) would require VA, for a 5-year period beginning with FY 2014, to submit to Congress an annual report on claims covered by new section 1154(c) that

were submitted during the fiscal year. Section 2(b) would also require VA to report on the: (1) number and percentage of covered claims submitted by each sex that were approved and denied; (2) rating percentage assigned for each claim based on the sex of the claimant; (3) three most common reasons for denying such claims; (4) number of claims denied based on a Veteran's failure to report for a medical examination; (5) number of claims pending at the end of each fiscal year; (6) number of claims on appeal; (7) average number of days from submission to completion of the claims; and (8) training provided to Veterans Benefits Administration (VBA) employees with respect to covered claims.

Section 2(c) would make proposed section 1154(c) applicable to disability claims "for which no final decision has been made before the date of the enactment" of the bill.

VA is committed to serving our Nation's Veterans by accurately adjudicating claims based on MST in a thoughtful and caring manner, while fully recognizing the unique evidentiary considerations involved in such an event. Before addressing the specific provisions of S. 294, it would be useful to outline those efforts, which we believe achieve the intent behind the bill. The Under Secretary for Benefits has spearheaded VBA's efforts to ensure that these claims are adjudicated compassionately and fairly, with sensitivity to the unique circumstances presented by each individual claim.

VA is aware that, because of the personal and sensitive nature of the MST stressors in these cases, it is often difficult for the victim to report or document the event when it occurs. To remedy this, VA developed regulations and procedures specific to MST claims that appropriately assist the claimant in developing evidence necessary to support the claim. As with other PTSD claims, VA initially reviews the Veteran's military service records for evidence of the claimed stressor. VA's regulation also provides that evidence from sources other than a Veteran's service records may corroborate the Veteran's account of the stressor incident, such as evidence from mental health counseling centers or statements from family members and fellow Servicemembers. Evidence of behavior changes, such as a request for transfer to another military duty assignment, is another type of relevant evidence that may indicate occurrence of an assault. VA notifies Veterans regarding the types of evidence that may corroborate occurrence of an in-service personal assault and asks them to submit or identify any such evidence. The actual stressor need not be documented. If minimal circumstantial evidence of a stressor is obtained, VA will schedule an examination with an appropriate mental health professional and request an opinion as to whether the examination indicates that an in-service stressor occurred. The mental health professional's opinion can establish occurrence of the claimed stressor.

With respect to claims for other disabilities based on MST, VA has a duty to assist in obtaining evidence to substantiate a claim for disability compensation. When a Veteran files a claim for mental or physical disabilities other than PTSD based on MST, VBA will obtain a Veteran's service medical records, VA treatment records, relevant Federal records identified by the Veteran, and any other relevant records, including private records, identified by the Veteran that the Veteran authorizes VA to obtain. VA must also provide a medical examination or obtain a medical opinion when necessary to decide a disability claim. VA will request that the medical examiner provide an opinion as to whether it is at least as likely as not that the current symptoms or disability are related to the in-service event. This opinion will be considered as evidence in deciding whether the Veteran's disability is service-connected.

VBA has also placed a primary emphasis on informing VA regional office (RO) personnel of the issues related to MST and providing training in proper claims development and adjudication. VBA developed and issued Training Letter 11–05, Adjudicating Posttraumatic Stress Disorder Claims Based on Military Sexual Trauma, in December 2011. This was followed by a nationwide broadcast on MST claims adjudication. The broadcast focused on describing the range of potential markers that could indicate occurrence of an MST stressor and the importance of a thorough and open-minded approach to seeking such markers in the evidentiary record. In addition, the VBA Challenge Training Program, which all newly hired claims processors are required to attend, now includes a module on MST within the course on PTSD claims processing. VBA also provided its designated Women Veterans Coordinators with updated specialized training. These employees are located in every VA RO and are available to assist both female and male Veterans with their claims resulting from MST.

VBA worked closely with the Veterans Health Administration (VHA) Office of Disability Examination and Medical Assessment to ensure that specific training was developed for clinicians conducting PTSD compensation examinations for MST-related claims. VBA and VHA further collaborated to provide a training broadcast tar-

geted to VHA clinicians and VBA raters on this very important topic, which aired initially in April 2012 and has been rebroadcast numerous times.

Prior to these training initiatives, the grant rate for PTSD claims based on MST was about 38 percent. Following the training, the grant rate rose and at the end of February 2013 stood at about 52 percent, which is roughly comparable to the approximate 59-percent grant rate for all PTSD claims.

In December 2012, VBA's Systematic Technical Accuracy Review team, VBA's national quality assurance office, completed a second review of approximately 300 PTSD claims based on MST. These claims were denials that followed a medical examination. The review showed an overall accuracy rate of 86 percent, which is roughly the same as the current national benefit entitlement accuracy level for all rating-related end products.

In addition, VBA's new standardized organizational model has now been implemented at all of our ROs. It incorporates a case-management approach to claims processing. VBA reorganized its workforce into cross-functional teams that give employees visibility of the entire processing cycle of a Veteran's claim. These cross-functional teams work together on one of three segmented lanes: express, special operations, or core. Claims that predictably can take less time flow through an express lane (30 percent); those taking more time or requiring special handling flow through a special operations lane (10 percent); and the rest of the claims flow through the core lane (60 percent). All MST-related claims are now processed in the special operations lane, ensuring that our most experienced and skilled employees are assigned to manage these complex claims.

The Under Secretary for Benefits' efforts have dramatically improved VA's overall sensitivity to MST-related PTSD claims and have led to higher current grant rates. However, she recognized that some Veterans' MST-related claims were decided before her efforts began. To assist those Veterans and provide them with the same evidentiary considerations as Veterans who file claims today, VBA in April 2013 advised Veterans of the opportunity to request that VA review their previously denied PTSD claims based on MST. Those Veterans who respond will receive review of their claims based on VA's heightened sensitivity to MST and a more complete awareness of evidence development. VBA will also continue to work with VHA medical professionals to ensure they are aware of their critical role in processing these claims.

Through VA's extensive, recent, and ongoing actions, we are ensuring that MST claimants are given a full and fair opportunity to have their claim considered, with a practical and sensitive approach based on the nature of MST. As noted above, VA has recognized the sensitive nature of MST-related PTSD claims and claims based on other covered mental health conditions, as well as the difficulty inherent in obtaining evidence of an in-service MST event. Current regulations provide multiple means to establish an occurrence, and VA has initiated additional training efforts and specialized handling procedures to ensure thorough, accurate, and timely processing of these claims.

VA's regulations reflect the special nature of PTSD. Section 3.304(f) of title 38 Code of Federal Regulations, currently provides particularized rules for establishing stressors related to personal assault, combat, former prisoner-of-war status, and fear of hostile military or terrorist activity. These particularized rules are based on an acknowledgement that certain circumstances of service may make the claimed stressor more difficult to corroborate. Nevertheless, they require threshold evidentiary showings designed to ensure accuracy and fairness in determinations as to whether the claimed stressor occurred. Evidence of a Veteran's service in combat or as a prisoner of war generally provides an objective basis for concluding that claimed stressors related to such service occurred. Evidence that a Veteran served in an area of potential military or terrorist activity may provide a basis for concluding that stressors related to fears of such activity occurred. In such cases, VA also requires the opinion of a VA or VA-contracted mental health professional, which enables VA to ensure that such opinions are properly based on consideration of relevant facts, including service records, as needed. For PTSD claims based on a personal assault, lay evidence from sources outside the Veteran's service records may corroborate the Veteran's account of the in-service stressor, such as statements from law enforcement authorities, mental health counseling centers, family members, or former Servicemembers, as well as other evidence of behavioral changes following the claimed assault. Minimal circumstantial evidence of a stressor is sufficient to schedule a VA examination and request that the examiner provide an opinion as to whether the stressor occurred. We recognize that some victims of sexual assault may not have even this minimal circumstantial evidence, and we are committed to addressing the problem.

As VA has continued its close review of this legislation as part of an Administration-wide focus on the critical issue of MST, we would like to further consider whether statutory changes could also be useful, while continuing to carry forward the training, regulatory, and case review efforts described above. VA would like to follow up with the Committee on the results of this review, and of course are glad to meet with you or your staff on this critical issue.

VA does not oppose section 2(b).

Section 2(c) does not define the term "final decision." As a result, it is unclear whether the new law would be applicable to an appealed claim in which no final decision has been issued by VA or, pursuant to 38 U.S.C. § 7291, by a court.

Benefit costs are estimated to be $135.9 million during the first year, $2.0 billion for 5 years, and $7.1 billion over 10 years.

S. 373

S. 373, the "Charlie Morgan Military Spouses Equal Treatment Act of 2013," would consider a person a spouse, for purposes of military personnel policies and military and Veterans' benefits, if the marriage of the individual is valid in the State in which the marriage was entered into or, in the case of a marriage entered into outside any State, if the marriage is valid in the place in which the marriage was entered into and the marriage could have been entered into in a State. It includes as a State: the District of Columbia, the Commonwealths of Puerto Rico and the Northern Mariana Islands, and U.S. territories and possessions. We defer to DOD's views on those parts of the bill amending titles 10, 32, and 37 of the United States Code.

Section 7 of title 1, United States Code, which implements section 3 of the Defense of Marriage Act, defines the term "marriage" for purposes of Federal statutes, regulations, or rulings to mean only a union between one man and one woman as husband and wife, and defines the term "spouse" to mean only a person of the opposite sex who is a husband or wife. This law excludes same-sex relationships from the definition of "marriage," and persons of the same sex from the definition of "spouse," regardless of whether the marital relationship is recognized under state law. Similarly, section 101(3) and (31) of title 38, United States Code, limits the definitions of "surviving spouse" and "spouse" for purposes of the statutory provisions in title 38 pertaining to VA benefits to only apply to a person of the opposite sex of the Veteran.

With regard to the laws that govern VA, section 2(d) of the bill would revise paragraph (3) of section 101 to remove the requirement that a "surviving spouse" must be a person of the opposite sex of the Veteran. We believe the revision to section 101(3) would most logically be read to incorporate the liberalized definition of "spouse" in the proposed section 101(31), but that there would be some ambiguity on that question absent language in section 101(3) expressly precluding application of section 7 of title 1, United States Code, which defines both "spouse" and "marriage" for purposes of all Federal laws.

Section 2(d) of the bill would revise paragraph (31) of section 101, which defines the term "spouse" for the purposes of title 38, to exclude the application of section 7 of title 1, United States Code, and, in most instances, to defer to the law of the State in which the parties celebrated their marriage to determine the validity of the marriage and whether an individual qualifies as a "spouse" of a Veteran. Under this section of the bill, an individual shall be considered a "spouse" if the marriage of the individual is valid in the State in which the marriage was entered into, or in the case in which the marriage was entered into outside any State, if the marriage is valid in the place in which the marriage was entered into as long as the marriage could have been entered into in a State. Section 2 would further revise section 101(31) to refer to paragraph (20) of the same section to provide the meaning of the term "State," with the additional inclusion of the Commonwealth of the Northern Mariana Islands. The bill's language in section 101(31) directly conflicts with 38 U.S.C. § 103(c), which provides that VA determines the validity of a marriage in accordance with the law of the State where the parties resided at the time of the marriage or the law of the State where the parties resided when the right to benefits accrued.

VA supports this bill to change the definition of "spouse" and "surviving spouse" in title 38 and exempt VA from the Defense of Marriage Act of 1996, which restricts Federal marriage benefits and requires inter-state marriage recognition to only opposite-sex marriages in the United States. However, VA is concerned about the conflict (noted above) between section 103(c) and the proposed amendments in section 101. We suggest the proposed legislation be amended to resolve this issue. Specifically, this bill could amend section 103(c), which defines a marriage based on "the

law of the place where the parties resided at the time of the marriage or the law of the place where the parties resided when the right to benefits accrued" to be consistent with the other amendments of section 2 providing that an individual shall be considered a "spouse" based on the law of the place where the parties entered into the marriage. Alternatively, the amendments in section 2 of the bill could be revised to be consistent with the current section 103(c). We note that a revision to section 103(c) would change how VA administers benefits for both same-sex and heterosexual couples.

S. 373 would require an amendment to several regulations, including section 3.1(j) of title 38, Code of Federal Regulations, which defines "marriage," and section 3.50 of title 38, Code of Federal Regulations, which defines "spouse" and surviving spouse." S. 373 would also require VA to revise several sections in its adjudication procedures manual and develop other policy and procedures guidance. Full implementation of this bill would require VA to amend governing regulations, procedures, and training products. Therefore, if this bill is codified, VA will work diligently to revise its regulations in a timely manner.

S. 373 would affect all VA benefits available to or for a veteran's spouse, including compensation, pension, insurance, death, burial, memorialization, and other benefits. Full implementation of this bill would require VA to amend governing regulations, procedures, and training products, which could result in some short-term delays due to the necessary transitions. For example, under Family Servicemembers' Group Life Insurance (FSGLI), members of the uniformed services insured under SGLI can purchase life insurance on the lives of their spouses. Currently same-sex spouses are not considered spouses for FSGLI purposes. Also, since the spousal coverage is automatically included for most SGLI-insured members, it would be necessary for DOD to adjust its data systems to accommodate recognized marriages, including its premium deduction functions, since DOD's systems maintain all SGLI-related information for its Servicemembers. It would have to be determined if the Office of Servicemembers' Group Life Insurance, the office that administers the SGLI program and receives from DOD the documentation necessary to identify and pay claims, will be able to rely on DOD's certifications, or will have to try to identify and verify claims for the death of a spouse that are based upon same-sex marriages.

VA will provide a cost estimate for the record.

S. 430

Section 2 of S. 430, the "Veterans Small Business Opportunity and Protection Act of 2013," would expand the scope of the "surviving spouse" exception associated with VA's Veteran-owned small business (VOSB) acquisition program established by 38 U.S.C. § 8127. This program requires that VA verify the ownership and control of VOSBs by Veterans in order for the VOSB to participate in VA acquisitions set aside for these firms.

Currently, an exception in the law is provided for certain surviving spouses to stand in the place of a deceased service-disabled spouse owner for verification purposes if the Veteran owner had a service-connected disability rated as 100 percent disabling or died as a result of a service-connected disability for a limited period of time. Section 2 would continue to provide that if the deceased Veteran spouse had a service-connected disability rated as 100 percent disabling or died as a result of a service-connected disability, the surviving spouse owner could retain verified service-disabled Veteran-owned small business (SDVOSB) status for VA's program for a period of 10 years. In addition, a surviving spouse of a deceased Veteran with any service-connected disability, regardless of whether the Veteran died as a result of the disability, could retain verified SDVOSB status for VA's program for a period of 3 years. VA supports this provision.

Section 3 of S. 430 would add a separate, new provision to 38 U.S.C. § 8127 to enable the surviving spouse or dependent of an servicemember killed in the line of duty who acquires 51 percent or greater ownership rights of the servicemember's small business to stand in place of the deceased servicemember for purposes of verifying the small business as one owned and controlled by Veterans in conjunction with VA's VOSB set-aside acquisition program also created by 38 U.S.C. § 8127. This status would continue, for purposes of a surviving spouse, until the earlier of the re-marriage of the surviving spouse, the relinquishment of ownership interest such that the percentage falls below 51 percent, or 10 years. With respect to dependent status, this would continue until the dependent holds less than 51 percent ownership interest or 10 years, whichever occurs earlier. VA supports this provision but recommends clarifying the term "dependent," as appropriate, to ensure the individual is one having legal capacity to contract with the Federal Government. VA

stands ready to work with the Committee to address this issue. VA estimates no additional appropriations would be required to implement this bill if enacted.

S. 492

S. 492, which would require conditioning certain DOL grants upon States establishing programs to recognize military experience in its licensing and credentialing programs. This bill affects programs or laws administered by DOL. Respectfully, we defer to that Department's views on this bill.

S. 495

Section 5 of S. 495, "Careers for Veterans Act of 2013," would add a new definition to 38 U.S.C. § 8127, VA's VOSB set-aside acquisition program, to clarify that any small business concern owned exclusively by Veterans would be deemed to be unconditionally owned by Veterans. VA supports this provision.

Section 6 of the bill essentially duplicates the extension of surviving spouse status previously discussed in conjunction with section 2 of S. 430. VA supports this provision. Section 7 of this bill essentially duplicates the provisions of section 3 of S. 430. Again, VA supports this provision subject to the caveat that "dependent" be more specifically defined. Last, section 8 of this bill would add a new subsection to 38 U.S.C. § 8127 that would eliminate consideration of state community property laws in verification examinations with respect to determinations of ownership percentage by the Veteran or Veterans of businesses located in States with community property laws. VA supports this provision. VA estimates that no additional appropriations would be required to implement the provisions of sections 5 through 8 of S. 495.

Section 2 affects programs or laws administered by OPM and sections 3 and 4 affect programs or laws administered by DOL. Respectfully, we defer to those Departments for views on those sections of S. 495.

S. 514

S. 514 would authorize VA to pay an additional appropriate amount to each individual entitled to educational assistance under the Post-9/11 GI Bill (chapter 33) who is pursuing a program of education with a focus (as determined in accordance with regulations prescribed by VA) on science, technology, engineering, and math (STEM) or an area leading to employment in a high-demand occupation. Such payment amount would be in addition to any other educational assistance to which the individual was entitled. The additional payment would be in an amount determined by the Secretary and would be in addition to other amounts payable under the Post-9/11 GI Bill.

While VA is in favor of legislation encouraging Veterans to pursue higher education, particularly in programs leading to employment in high-demand fields including science, technology, engineering, and math, we are unable to support the bill as drafted.

First, the bill could create inequity of payments among Veterans who have all earned the same benefit. Current chapter 33 beneficiaries are free to pursue programs and degrees that best fit their personal and professional goals, yet this bill could result in higher payments to certain Veterans based on an individual's decision to pursue a specific degree or career path.

Second, the proposed bill could create an inequity if a beneficiary begins his or her education by pursuing a STEM degree or a degree leading to a high-demand occupation and later decides to pursue a degree for which no additional benefit is granted. If this occurs, two beneficiaries could conceivably complete the same degree yet have received different payment amounts over the course of their education.

We will be pleased to provide for the record an estimate of the cost of enactment of this bill.

S. 515

S. 515 would amend title 38, United States Code, to permit a recipient of the Marine Gunnery Sergeant John David Fry Scholarship (available to a child of an individual who, on or after September 11, 2001, dies in the line of duty while serving on active duty) to be eligible for the "Yellow Ribbon G.I. Education Enhancement Program" (Yellow Ribbon Program), under the Post-9/11 Educational Assistance Program (Post-9/11 GI Bill). The Yellow Ribbon Program is available to Veterans and transfer-of-entitlement recipients receiving Post-9/11 GI Bill benefits at the 100% benefit level attending school at a private institution or as a non-resident student at a public institution. The Program provides payment for up to half of the tuition-and-fee charges that are not covered by the Post-9/11 GI Bill, if the institu-

tion enters into an agreement with VA to pay or waive an equal amount of the charges that exceed Post-9/11 GI Bill coverage. This bill would take effect at the beginning of the academic year after the date of enactment.

VA supports S. 515, but has some concerns, expressed below, that we believe should be addressed. The enactment of this proposed legislation would require programming changes to VA's Long Term Solution computer processing system. Obviously development funding is not available in VA's fiscal year 2013 budget for the changes that would be necessitated by enactment of this legislation. If funding is not made available to support them, manual processes would be required, which could result in some decrease in timeliness and accuracy of Post-9/11 GI Bill claims. The effective date for the proposed legislation would be the first academic year after enactment, which is also problematic. VA estimates that it would require one year from date of enactment to make the system changes necessary to implement this bill.

VA estimates that if S. 515 were enacted, the costs to the Readjustment Benefits account would be $609 thousand in the first year, $3.6 million over 5 years, and $8.4 million over 10 years. There are no additional FTE or GOE costs associated with this proposal.

S. 572

S. 572, the "Veterans Second Amendment Protection Act," would provide that a person who is mentally incapacitated, deemed mentally incompetent, or unconscious for an extended period will not be considered adjudicated as a "mental defective" for purposes of the Brady Handgun Violence Prevention Act in the absence of an order or finding by a judge, magistrate, or other judicial authority that such person is a danger to himself, herself, or others. The bill would, in effect, exclude VA determinations of incompetency from the coverage of the Brady Handgun Violence Prevention Act. VA does not support this bill.

VA determinations of mental incompetency are based generally on whether a person, because of injury or disease, lacks the mental capacity to manage his or her own financial affairs. We believe adequate protections can be provided to these Veterans under current statutory authority. Under the [National Instant Criminal Background Check System] NICS Improvement Amendments Act of 2007, individuals whom VA has determined to be incompetent can have their firearms rights restored in two ways: First, a person who has been adjudicated by VA as unable to manage his or her own affairs can reopen the issue based on new evidence and have the determination reversed. When this occurs, VA is obligated to notify the Department of Justice to remove the individual's name from the roster of those barred from possessing and purchasing firearms. Second, even if a person remains adjudicated incompetent by VA for purposes of handling his or her own finances, he or she is entitled to petition VA to have firearms rights restored on the basis that the individual poses no threat to public safety. VA has relief procedures in place, and we are fully committed to continuing to conduct these procedures in a timely and effective manner to fully protect the rights of our beneficiaries.

Also, the reliance on an administrative incompetency determination as a basis for prohibiting an individual from possessing or obtaining firearms under Federal law is not unique to VA or Veterans. Under the applicable Federal regulations implementing the Brady Handgun Violence Prevention Act, any person determined by a lawful authority to lack the mental capacity to manage his or her own affairs is subject to the same prohibition. By exempting certain VA mental health determinations that would otherwise prohibit a person from possessing or obtaining firearms under Federal law, the bill would create a different standard for Veterans and their survivors than that applicable to the rest of the population and could raise public safety issues.

The enactment of S. 572 would not impose any costs on VA.

S. 629

S. 629, the "Honor America's Guard-Reserve Retirees Act of 2013," would add to chapter 1, title 38, United States Code, a provision to honor as Veterans, based on retirement status, certain persons who performed service in reserve components of the Armed Forces but who do not have service qualifying for Veteran status under 38 U.S.C. § 101(2). The bill provides that such persons would be "honored" as Veterans, but would not be entitled to any benefit by reason of the amendment.

Under 38 U.S.C. § 101(2), Veteran status is conditioned on the performance of "active military, naval, or air service." Under current law, a National Guard or Reserve member is considered to have had such service only if he or she served on active duty, was disabled or died from a disease or injury incurred or aggravated in line

of duty during active duty for training, or was disabled or died from any injury incurred or aggravated in line of duty or from an acute myocardial infarction, a cardiac arrest, or a cerebrovascular accident during inactive duty training. S. 629 would eliminate these service requirements for National Guard or Reserve members who served in such a capacity for at least 20 years. Retirement status alone would make them eligible for Veteran status.

VA recognizes that the National Guard and Reserves have admirably served this country and in recent years have played an even greater role in our Nation's overseas conflicts. Nevertheless, VA does not support this bill because it represents a departure from active service as the foundation for Veteran status. This bill would extend Veteran status to those who never performed active military, naval, or air service, the very circumstance which qualifies an individual as a Veteran. Thus, this bill would equate longevity of reserve service with the active service long ago established as the hallmark for Veteran status.

VA estimates that there would be no additional benefit or administrative costs associated with this bill if enacted.

S. 674

S. 674, the "Accountability for Veterans Act of 2013," would require responses within a fixed period of time from the heads of covered Federal agencies when the Secretary of Veterans Affairs requests information necessary to adjudicate claims for benefits under laws administered by the Secretary. Covered agencies would include the Department of Defense (DOD), the Social Security Administration (SSA), and the National Archives and Records Administration (NARA).

The bill would require covered agencies to provide VA with requested Federal records within 30 days or submit to VA the reason why records cannot be obtained within 30 days, along with an estimate as to when the records could be furnished. If VA does not receive the records within 15 days after the estimated date, then VA would resubmit such request and the agency must, within 30 days, furnish VA with the records or provide an explanation of why the records have not been provided and an estimate of when the records will be provided. The bill would also require VA to provide notices to the claimant regarding the status of the records requests and to submit a semiannual report to the Senate and House Committees on Veterans' Affairs regarding the progress of records requests for the most recent 6-month period.

VA appreciates this effort to accelerate the response times when VA requests records from Federal agencies that are necessary to adjudicate disability claims. However, VA opposes this bill because adequate measures are already in place to facilitate expeditious transfer of records from the identified covered agencies.

Under a recent Memorandum of Understanding (MOU) between VA and DOD, DOD provides VA, at the time of a Servicemember's discharge, a 100-percent-complete service treatment and personnel record in an electronic, searchable format. As this MOU applies to the 300,000 annually departing Active Duty, National Guard, and Reserve Servicemembers, it represents a landmark measure that will significantly contribute to VA's efforts to achieve its 125-day goal to complete disability compensation claims.

VA also continues to work with SSA to enhance information sharing through SSA's Web-based portal, Government to Government Services Online (GSO). VA and SSA officials confer weekly to develop strategies to allow VA to more quickly obtain SSA medical records needed for VA claims. As a result, SSA is now directly uploading electronic medical records into VBA's electronic document repository at several regional offices (RO). These improvements are reducing duplication and streamlining the records transmittal and review processes. VA will continue with a phased nationwide deployment of this initiative for our new paperless processing system, beginning with the San Juan Regional Office.

VA is also concerned about the requirement to notify the claimant of the status of records requests. Although these extra administrative steps would provide additional information to claimants, they also require more work of claims processors and thus reduce claims processing capacity in ROs. VA wishes to concentrate its resources on eliminating the disability claims backlog.

There are no mandatory costs associated with this proposal. The discretionary costs associated with this bill cannot be determined, given the speculative nature of estimating what additional actions would be required of other Federal agencies.

S. 690

S. 690, the "Filipino Veterans Fairness Act of 2013," would expand VA benefits provided for Filipino Veterans of World War II.

Current law at section 107 of title 38, United States Code, addresses Filipino Veterans of World War II and restricts entitlement to VA benefits as compared to U.S. military Veterans. Section 107 states that certain service is deemed not to be "active military, naval, or air service" for purposes of some VA benefits. Accordingly, that service does not satisfy the statutory definition of "Veteran" under section 101(2) of title 38, United States Code, and persons with such service are not eligible for VA benefits, except for those benefits specifically provided under section 107.

Section 2(a)(1) and (2) of S. 690 would convert service in the Philippine Commonwealth Army, the Recognized Guerrillas, and the New Philippine Scouts into active military, naval, or air service for the purpose of VA benefits. Essentially, these individuals would no longer be excluded from the statutory definition of "Veteran" in section 101(2) of title 38, United States Code.

Section 2(a)(3) would require VA to make determinations as to whether individuals claiming such service did in fact serve, taking into account any "alternative documentation" that the Secretary determines relevant. Although the Secretary would have discretion to determine what documentation is relevant, this requirement would be a departure from VA's longstanding practice under section 3.203 of title 38, Code of Federal Regulations, of relying on service department records, which VA believes to be the most reliable source of service verification. This would add an evidence-intensive step to the processing of these claims that does not exist for other claims.

Section 2(a)(4) would relieve persons who become eligible for VA benefits under this law from the preclusive effect of a provision of the Filipino Veterans Equity Compensation (FVEC) law, which provided that acceptance of payments from the fund constituted a complete release of any claims against the United States based on the types of service qualifying for payment from the fund and described in subsection (a)(1) and (a)(2). In other words, those who were given FVEC payments could still file "traditional" claims for benefits under the expanded eligibility criteria of this bill.

Although VA appreciates and values the service of Filipino Veterans, VA cannot support S. 690 because it would effect a unique departure, for one group of claimants, from the sound and generally applicable procedures for verification of service and would accord such claimants potential entitlement to more benefits than other Veterans, insofar as they would be eligible to receive the full range of VA benefits in addition to the FVEC payments already received.

Based on the characterization of service as active service, this bill would confer statutory "Veteran" status under section 101(2) of title 38, United States Code, upon Filipino Veterans, entitling them to all VA benefits. This would not change the dollar amount of previously covered benefits ($.50 for each dollar authorized); however, full benefits under other programs, such as Education, Loan Guaranty, and those provided by VHA may be extended to certain Filipino Veterans who are not otherwise eligible. This has significant budgetary implications and raises issues of fairness and equity given that Filipino Veterans were authorized to receive payments from the FVEC fund. Section 2(a)(4) of this bill would rescind section 1002(h)(1) of the American Recovery and Reinvestment Act of 2009, the legislation which authorized FVEC payments. This Act provided that receipt of payment under the FVEC was a release of all claims against the United States. This bill would rescind that release notwithstanding the receipt of FVEC payments.

VA currently relies on service department records under section 3.203 of title 38, Code of Federal Regulations, to determine what service a claimant rendered. That policy and the resulting procedures would be invalidated by this bill for persons claiming this service. Section 2(a)(3) would require VA to consider alternative documentation as proof of service and make a determination on service verification. VA believes the current requirements and processes are both reasonable and important to maintain the integrity of this benefit program.

VA will provide its cost estimate for S. 690 for the record at a later time.

S. 695

S. 695 would amend section 322 of title 38, United States Code, to extend for 5 years (through FY 2018) the yearly $2 million appropriations authorization for VA to pay a monthly assistance allowance to disabled Veterans who are invited to compete for a slot on, or have been selected for, the U.S. Paralympic Team in an amount equal to the monthly amount of subsistence allowance that would be payable to the Veteran under chapter 31, title 38, United States Code, if the Veteran were eligible for and entitled to rehabilitation under such chapter. S. 695 also would amend section 521A of title 38 to extend for 5 years (through FY 2018) VA's appropriations authorization, with amounts appropriated remaining available without fiscal year

limitation, for grants to United States Paralympics, Inc. (now the United States Olympic Committee) to plan, develop, manage, and implement an integrated adaptive sport program for disabled Veterans and disabled members of the Armed Forces. These Paralympic programs have experienced ongoing improvement and expansion of benefits to disabled Veterans and disabled Servicemembers, to include 115 Veterans qualifying for the monthly assistance allowance, and over 1,900 Paralympic grant events with over 16,000 Veteran participants during FY 2012. Under current law, both authorities will expire at the end of FY 2013.

VA supports extension of these authorities, but recommends further revisions, to improve the accessibility and equity of these programs, by extending monthly assistance allowances to disabled Veterans who are invited to compete for a slot on, or have been selected for, the United States Olympic Team (not just the Paralympic Team) or Olympic and Paralympic teams representing the American Samoa, Guam, Puerto Rico, the Northern Mariana Islands, and the U.S. Virgin Islands, by authorizing grants to those Olympic and Paralympic sports entities, and by clarifying that the current authority to award grants is to promote programs for all adaptive sports and not just Paralympic sports.

VA estimates there would be no costs associated with implementing this bill.

S. 705

S. 705, the "War Memorial Protection Act of 2013," would add a new section 2115 to title 36, United States Code, Chapter 21, which governs the operations of the American Battle Monuments Commission (ABMC), to authorize the inclusion of religious symbols as part of any military memorial established or acquired by the U.S. Government or military memorials established in cooperation with ABMC.

Presently, VA's role in ABMC's monument authority is limited to a single mention in 36 U.S.C. § 2105(b) that "[t]he Secretary of Veterans Affairs shall maintain works of architecture and art built by the Commission in the National Cemetery [Administration], as described in section 2400(b) of title 38." The only known ABMC facility on VA property is the Honolulu Memorial at the National Memorial Cemetery of the Pacific.

As this bill does not mention VA, nor does VA establish U.S. Government or military memorials, VA defers to the ABMC regarding this bill.

S. 748

S. 748, the "Veterans Pension Protection Act," would amend sections 1522 and 1543 of title 38, United States Code, to establish in VA's pension programs a look-back and penalty period of up to 36 months for those claimants who dispose of resources for less than fair market value that could otherwise be used for their maintenance.

Subsection (a) would amend the net worth limitations applicable to Veteran's pension in section 1522 of title 38, United States Code. If a Veteran (or a Veteran's spouse) disposes of assets before the date of the Veteran's pension claim, VA currently does not generally consider those assets as part of the Veteran's net worth, so long as the transfer was a gift to a person or entity other than a relative living in the same household. As amended, section 1522 would provide that when a Veteran (or Veteran's spouse) disposes of "covered resources" for less than fair market value on or after the beginning date of a 36-month look-back period, the disposal may result in a period of ineligibility for pension. In such cases, the law would provide for a period of ineligibility for pension beginning the first day of the month in or after which the resources were disposed of and which does not occur in any other period of ineligibility.

Subsection (a) would also provide a method for calculating the period of ineligibility for pension resulting from a disposal of covered resources at less than fair market value. The period of ineligibility, expressed in months, would be the total uncompensated value of all applicable covered resources disposed of by the Veteran (or the Veteran's spouse) divided by the maximum amount of monthly pension that would have been payable to the Veteran under section 1513 or 1521 without consideration of the transferred resources.

This subsection would also give VA authority to promulgate regulations under which VA would consider a transfer of an asset, including a transfer to an annuity, trust, or other financial instrument or investment, to be a transfer at less than fair market value, if the transfer reduced the Veteran's net worth for pension purposes and VA determines that, under all the circumstances, the resources would reasonably be consumed for maintenance.

Subsection (a) would also provide that VA shall not deny or discontinue payment of pension under sections 1513 and 1521 or payment of increased pension under

subsections (c), (d), (e), or (f) of section 1521 on account of a child based on the penalty and look-back periods established by sections (a)(2) or (b)(2) of the bill if: (1) the claimant demonstrates to VA that the resources disposed of for less than fair market value have been returned to the transferor; or (2) VA determines that the denial would work an undue hardship.

Finally, subsection (a) would require VA to inform Veterans of the asset transfer provisions of the bill and obtain information for making determinations pertaining to such transfers.

VA supports in principle the look-back and penalty-period provisions of subsection (a), but cannot support the bill as written because of the manner in which the length of the penalty period would be calculated. Our reading of the bill indicates that the method used to calculate the penalty period in proposed section 1522(a)(2)(E)(i), "the total, cumulative uncompensated value of all covered resources," could be unnecessarily punitive because VA might have determined that only a small portion of the covered resources should have been used for the Veteran's maintenance. VA has similar concerns with language in proposed section 1522(b)(2)(E)(i).

VA proposes, as an alternative, that the dividend under proposed section 1522(a)(2)(E)(i) be, "the total, cumulative uncompensated value of the portion of the covered resources so disposed of by the veteran (or the spouse of the veteran) on or after the look-back date described in subparagraph (C)(i), that the Secretary determines would reasonably have been consumed for the Veteran's maintenance;." We propose that similar language be used in section 1522(b)(2)(E)(i).

Apart from the concerns expressed regarding the method for calculating the penalty period, VA supports this subsection of the bill, which would clarify current law by prescribing that pension applicants cannot create a need for pension by gifting assets that the applicant could use for the applicant's own maintenance. It would also clarify that an applicant cannot restructure assets during the 36-month period preceding a pension application through transfers using certain financial products or legal instruments, such as annuities and trusts. A 2012 Government Accountability Office study found that there is a growing industry that markets these products and instruments to vulnerable Veterans and survivors, potentially causing them harm. Subsection (a) would amend the law in a manner that will authorize VA's implementation of necessary program integrity measures.

Subsection (b) of S. 748 would amend the net worth limitations applicable to survivor's pension in section 1543 of title 38, United States Code. Subsection (b) of the bill would apply to surviving spouses and surviving children the same restrictions pertaining to disposal of covered resources at less than fair market value as would be applied to Veterans under subsection (a). This subsection would also provide that if the surviving spouse transferred assets during the Veteran's lifetime that resulted in a period of ineligibility for the Veteran, VA would apply any period of ineligibility remaining after the Veteran's death to the surviving spouse.

As with subsection (a), VA supports in principle the look back and penalty period provisions of subsection (b), but cannot support the bill as written because of the manner in which the length of the penalty period would be calculated. VA has the same concerns with the methodology language in proposed sections 1543(a)(2)(E)(i) and (b)(2)(E)(i) as expressed above pertaining to sections 1522(a)(2)(E)(i) and (b)(2)(E)(i).

VA opposes carrying over a penalty based on a transfer of assets made during the Veteran's lifetime to a pension claim filed by a surviving spouse because it could be potentially punitive. Under proposed paragraph (a)(2)(C) of section 1543, VA would apply the same 36-month look-back period to surviving spouses that it applies to Veterans. If the Veteran died soon after his or her pension claim was filed and the surviving spouse filed a claim for pension within 36 months of the Veteran's pension claim, VA would evaluate resource transfers that the surviving spouse made during the Veteran's lifetime under section 1543(a)(2)(C). However, if the surviving spouse did not claim pension until many years after the Veteran's pension claim or many years after the Veteran's death, under proposed section 1543(a)(2)(F), VA would apply the remainder of any penalty period assessed the Veteran based on a spouse's pre-death transfer of assets. In applying a penalty period based on a very old transaction to a new pension claim, this provision could be viewed as imposing a much longer look-back period for surviving spouses than that proposed for Veterans. Because VA will evaluate the surviving spouse's claim for pension on its own merits, VA proposes that the penalty-period carry-over provisions be eliminated.

Subsection (c) would provide that the amendments to section 1522(a)(2), (b)(2), and (c), and section 1543(a)(2), (a)(4), (b)(2), and (c) prescribed in the bill would take effect one year after the date of enactment and would apply to applications filed

after the effective date as well as to any pension redetermination occurring after the effective date.

Subsection (d) provides for annual reports from VA to Congress, beginning not later than two years after the date of enactment, as to: (1) the number of individuals who applied for pension; (2) the number of individuals who received pension; and (3) the number of individuals whose pension payments were denied or discontinued because covered resources were disposed of for less than fair market value.

VA would not oppose inclusion of subsections (c) and (d) if the bill were amended as we recommend.

We lack sufficient data to estimate benefit or administrative costs associated with this proposal.

S. 893

S. 893, the "Veterans' Compensation Cost-of-Living Adjustment Act of 2013," would require the Secretary of Veterans Affairs to increase, effective December 1, 2013, the rates of disability compensation for service-disabled Veterans and the rates of dependency and indemnity compensation (DIC) for survivors of Veterans. This bill would increase these rates by the same percentage as the percentage by which Social Security benefits are increased effective December 1, 2013. The bill would not, however, account for the expiration at the end of this fiscal year of the feature in current law that rounds down to the next lower whole dollar amount those increases not in whole dollars. The bill would also require VA to publish the resulting increased rates in the *Federal Register*.

VA strongly supports annual cost-of-living adjustments (COLA) for these important compensation programs because they express, in a tangible way, this Nation's gratitude for the sacrifices made by our service-disabled Veterans and their surviving spouses and children and would ensure that the value of their well-deserved benefits will keep pace with increases in consumer prices. However, VA recommends the current "round down" statutory provisions be extended. We recommend amending sections 1303(a) and 1104(a) of title 38, United States Code, to provide a 5-year extension of the round-down provisions of the computation of the COLA for service-connected disability compensation and DIC. Public Law 108–183 extended the ending dates of these provisions to 2013. The extension for the COLA round down provision beyond the 2013 expiration date results in cost savings. The benefit savings to round down the FY 2014 COLA are estimated to be $41.6 million in FY 2014, $712.5 million for 5 years, and $2.3 billion over 10 years as a result of the compounding effects of rounding down the COLA in subsequent years.

S. 894

S. 894 would amend section 3485(a)(4) of title 38, United States Code, extending for 3 years (through June 30, 2016) VA's authority to provide work-study allowances for certain already-specified activities. Under current law, the authority is set to expire on June 30, 2013.

Public Law 107–103, the "Veterans Education and Benefits Expansion Act of 2001," established a 5-year pilot program under section 3485(a)(4) that expanded qualifying work-study activities to include outreach programs with State Approving Agencies, an activity relating to the administration of a National Cemetery or a State Veterans' Cemetery, and assisting with the provision of care to Veterans in State Homes. Subsequent public laws extended the period of the pilot program and, most recently, section 101 of Public Law 111–275, the "Veterans' Benefits Act of 2010," extended the sunset date from June 30, 2010 to June 30, 2013.

S. 894 also would add a provision to section 3485(a) that would authorize for a 3-year period from June 30, 2013 to June 30, 2016, work-study activities to be carried out at the offices of Members of Congress for such Members. Work-study participants would distribute information about benefits and services under laws administered by VA and other appropriate governmental and non-governmental programs to Servicemembers, Veterans, and their dependents. Work-study participants would also prepare and process papers and other documents, including documents to assist in the preparation and presentation of claims for benefits under laws administered by VA.

Finally, S. 894 would require VA, not later than June 30 each year beginning with 2014 and ending with 2016, to submit a report to Congress on the work-study allowances paid during the most recent 1-year period for qualifying work-study activities. Each report would include a description of the recipients of the allowances, a list of the locations where qualifying work-study activities were carried out and a description of the outreach conducted by VA to increase awareness of the eligibility of such work-study activities for work-study allowances.

VA does not oppose legislation that would extend the current expiration date of the work-study provisions to June 30, 2016. However, we would prefer that the legislation provide a permanent authorization of the work-study activities, rather than extending repeatedly for short time periods.

VA has no objection to work-study participants conducting and promoting the outreach activities and services contemplated by the bill. We also have no objection to work-study participants assisting in the preparation and processing of papers and other documents, "including documents to assist in the preparation and presentation of claims for VA benefits" under the proposed new section. However, work-study participants would be subject to the limitations found in chapter 59 of title 38 on representing claimants for VA benefits.

VA does not oppose submitting annual reports to Congress regarding the work-study program.

S. 922

Section 3 of S. 922, the "Veterans Equipped for Success Act of 2013" would require VA, in collaboration with the Department of Labor (DOL), to create a 3-year pilot program in four locations of VA's choosing to assess the feasibility and advisability of offering career transition services to eligible Veterans. Such services would provide work experience in the civilian sector, increase participants' marketable skills, assist them to obtain gainful employment, and assist in integrating eligible individuals into their local communities. These services would be available to unemployed or underemployed Veterans discharged under conditions other than dishonorable and to members of the National Guard or Reserve Component who served at least 180 days on active-duty within 2 years of applying for the program. Not more than 50,000 eligible individuals would participate in this pilot program concurrently, and the program would be limited to participants between 18 and 30 years of age.

Career transition services offered would include:

- Internships—Participants would receive an internship on a full-time basis with an eligible employer as determined by VA. Among other restrictions, eligible employers would not include state or Federal Government agencies, those that derive 75 percent or more of their revenue from state and/or Federal Government, or employers that unsatisfactorily participated in the pilot previously. Such internships would last for 1 year, and interns would be paid by VA at the greater rate of an amount consistent with the minimum wage protections of the Fair Labor Standards Act or if the intern was receiving it, the rate of unemployment compensation, up to $30,000. For the purpose of health benefits and on-the-job injuries, interns would be considered VA employees.
- Mentorship and job-shadowing—Employers would be required to provide interns at least one mentor who would provide job-shadowing and career-counseling opportunities throughout the internship.
- Volunteer opportunities—Participants in the pilot program would be required to participate each month in a qualified volunteer activity, as determined by VA. Such volunteer activities could include outreach, service at an institution of higher learning or for a recognized Veterans Service Organization, and/or assistance provided to or for the benefit of Veterans in a State home or VA medical facility.
- Professional skill workshops—As part of the pilot, VA would be required to provide workshops to interns to develop and build their professional skills.
- Skills assessment—VA would be required to provide skills assessment testing to participants to help them select an appropriate place to perform their internship.
- Additional services—VA would provide, in addition to the services outlined above, career and job counseling, job-search assistance, follow-up services, and reimbursement of transportation expenses up to 75 miles.

VA could provide grants for up to four non-profit entities to administer this pilot. The bill would require VA and DOL to conduct a joint outreach campaign to advertise the pilot. VA would be authorized to develop an awards system by which exemplary employers and interns might be recognized.

VA would provide a report to Congress each year of the pilot containing an evaluation of the program, information about program participants and their internships, and intern job-placement rates, including wages and nature of employment among other data.

VA supports initiatives to assist Veterans in obtaining meaningful employment. While VA appreciates the intent underlying this bill, VA has several concerns with the program outlined in this legislation, including the following:

First, the requirement that the internship pilot begin in January 2014 would create a significant challenge. VA would have less than 1 year from enactment to, in

addition to other tasks: conduct a study of Veteran unemployment and population densities; select four pilot locations based on that study; create eligibility criteria for both employers and interns; solicit and approve applications from employers; once employers are identified, solicit and approve applications from interns; and match interns with employers. These tasks would require extensive coordination between VA and other stakeholders. Second, VA points out that this bill lacks specific information on the scope of the pilot program. The bill does not specify how many interns should be placed or how those interns should be dispersed across the four pilot locations. Additionally, the bill requires that participants be between the ages of 18 and 30. VA notes that the most recent data issued by the Bureau of Labor Statistics shows that Veterans aged 18 to 30 comprise less than 20 percent of currently unemployed Veterans. The third challenge posed by this bill is the requirement that VA establish criteria to determine an employer's eligibility to participate in the pilot. Among other factors, VA must consider prior investigations by the Federal Trade Commission (FTC), the employer's standing with state's business bureaus, tax delinquency, and the employer's reliance on state and Federal Governments as a source of revenue. VA would need to develop agreements with the FTC, Internal Revenue Service, and DOL to acquire this data. Additionally, the bill requires VA to consider whether interns comprise over 10 percent of an employer's workforce when placing additional interns with that employer. The language of the bill is unclear, however, on whether 10 percent is a cap or simply a factor to consider when placing interns in a workplace.

It would be challenging and costly for VA to create a payment system as described in the bill. The bill would require VA to issue payments to interns, which would require VA to determine hours worked in a given pay period, calculate salary earned, and issue payments. VA's current payment systems are designed to provide benefits payments in pre-determined increments on a monthly schedule. The closest analogous payment structure VA currently uses that could fulfill the requirements of the bill is our work-study process. Veterans who participate in the work-study program submit hard-copy time sheets, and VA performs a manual calculation of benefits earned and issues payment. In order to issue payments as required by this bill, VA would need an entirely new electronic payment system which would require both time and funding to develop.

Most of the cost of administering the pilot would be incurred "up front" by VA. VA would need funding to significantly expand its full-time, employment-focused staff, develop a new IT system to provide interns' payments, and process applications from both employers and Veterans. This issue would be further complicated by the legislation's restriction that no more than 5 percent of any appropriations made be used to administer the pilot. At the outset, VA would have no data from which to project how many Veterans may sign up for the pilot, and therefore would not know how much funding VA could apply toward administering the program. Because we cannot predict the scope and size of the program at its outset, The Administration has already undertaken numerous efforts to address unemployment among our Nation's veterans. Online resources including the Veterans Job Bank and My Next Move for Veterans help match unemployed veterans with jobs best suited to their unique skill sets. With the new Veterans Gold Card, Post-9/11 veterans are entitled to enhanced services and personalized case management, assessment, and counseling at the roughly 3,000 One-Stop Career Centers located nationwide. VA and DOL are currently piloting a newly enhanced Transition Assistance Program designed to make sure newly separating servicemembers never become unemployed.

VA will provide a cost estimate for S. 922 at a later date.

S. 928

S. 928, the "Claims Processing Improvement Act of 2013" would amend title 38, United States Code, to improve the processing of claims for compensation under laws administered by the Secretary of VA, and for other purposes. VA will provide later for the record its views on sections 101,102, 104, 105, 106, and 203 of the draft bill.

Currently, section 5103A(c)(2) of title 38, United States Code, requires VA, when requesting records on a claimant's behalf from a Federal department or agency, to continue to request records until VA obtains them or it is reasonably certain that such records do not exist or that further efforts to obtain them would be futile. VA is rarely able to determine with certainty that particular records do not exist or that further efforts to obtain them would be futile. Under current law, VA regional offices experience significant challenges and delays in their attempts to obtain certain non-VA Federal records, particularly service treatment records for National Guard and Reserve members who have been activated. While VA is currently working with

other Federal agencies to improve the process of procuring non-VA Federal records, past efforts to obtain records from other government agencies have significantly delayed adjudication of pending disability claims.

Section 103 of this draft bill would provide that, when VA attempts to obtain records from a Federal department or agency other than a component of VA itself, it shall make not fewer than two attempts to obtain the records, unless the records are obtained or the response to the first request makes evident that a second request would be futile. Section 103 would also ensure that if any relevant record requested by VA from a Federal department or agency before adjudication is later provided, the relevant record would be treated as though it was submitted as of the date of the original filing of the claim. This provision would streamline the process for obtaining non-VA Federal records, would further balance the responsibilities of VA and Veterans to obtain evidence in support of a claim, and would allow VA to better address its pending inventory of disability claims. Section 103 would provide a more feasible and realistic standard in this time of limited resources and burgeoning claim inventory, which would help ensure valuable resources are focused most effectively on what will make a difference for faster more accurate adjudications of Veterans' claims.

VA supports section 103 of this bill, which is similar to one of VA's legislative proposals in the FY 2014 budget submission.

No benefit costs or savings would be associated with this section.

Section 104 would amend section 5902(a)(1) of title 38, United States Code, to include "Indian tribes" with the American National Red Cross, the American Legion, the Disabled American Veterans, the United Spanish War Veterans, and the Veterans of Foreign Wars as an enumerated organization whose representatives may be recognized by the Secretary in the preparation, presentation, and prosecution of claims under laws administered by the Secretary.

VA does not support section 104 of S. 928. With the exception of the American National Red Cross, which provides services generally as a charitable organization, the organizations listed in current section 5902(a)(1) have as a primary purpose serving Veterans. Indian tribes are not charitable organizations, nor do they have as a primary purpose serving Veterans; therefore, VA does not believe Indian tribes should be named among these organizations in the statute. Under this bill as drafted, all Indian tribes, regardless of their size, capability, and resources to represent VA claimants, would essentially receive similar treatment as organizations recognized by VA for the purpose of providing representation to VA claimants. In other words, under section 14.629(a) of title 38, Code of Federal Regulations, Indian tribes could certify to VA that certain members are qualified to represent claimants before VA for the purpose of obtaining VA accreditation for those members, despite the tribes not meeting all the requirements for recognition under section 14.628 of title 38, Code of Federal Regulations.

Pursuant to the authority granted in section 5902(a), VA has established in section 14.628 of title 38, Code of Federal Regulations, the requirements for recognition of organizations to assist claimants in the preparation, presentation, and prosecution of claims under laws administered by the Secretary. Under this regulation, the organization must, among other requirements, have as a primary purpose serving veterans, demonstrate a substantial service commitment to Veterans, and commit a significant portion of its assets to Veterans' services. VA believes these are necessary characteristics of an organization whose representatives will be recognized in providing such assistance to Veterans. Indian tribes necessarily engage in a much broader scope of governance activities and operations and, therefore, generally do not have the Veteran-specific focus that is common to the organizations (save for the American Red Cross) recognized pursuant to section 5902(a)(1) of title 38, United States Code, and the VA regulations implementing that statute.

Currently, a member of an Indian tribe may request accreditation to assist Veterans in the preparation, presentation, and prosecution of claims for VA benefits as an agent or attorney under section 14.629(b) of title 38, Code of Federal Regulations, or as a representative of a currently recognized Veterans Service Organization. Thus, a member of an Indian tribe may be individually recognized by the Secretary to assist Veterans despite "Indian tribes" not being included among the enumerated organizations in section 5902(a)(1) of title 38, United States Code.

Section 201 of the bill would amend section 7105(b)(1) of title 38, United States Code, to require persons seeking appellate review of a VA decision to file a notice of disagreement (NOD) within 180 days from the date VA mails such decision to the claimant. Currently, persons challenging a decision of a VA agency of original jurisdiction (AOJ) have one year from the date the AOJ mails the decision to initiate an appeal to the Board of Veterans' Appeals (Board) by filing a NOD. This provision

would reduce the time period for initiating appellate review from one year to 180 days.

The intent behind this provision is to allow VA to more quickly resolve claims and appeals. Currently, VA must wait up to one year to determine if a claimant disagrees with a decision on a claim for benefits. If a claimant waits until the end of the 1-year period to file a NOD, VA is often required to re-develop the record to ensure the evidence of record is up to date. Data support the conclusion that such late-term development delays the resolution of the claim. If the period in which to file a NOD were reduced, VA could more quickly finalize the administrative processing of claims not being appealed and focus resources on the processing of new claims and appeals. Accordingly, adoption of this proposal would allow VA to more actively manage cases and work toward a faster resolution of claims and appeals.

Because most claimants are able to quickly determine if they are satisfied with VA's decision on their claims and because the NOD is a relatively simple document, enactment of this provision would not adversely affect claimants for VA benefits. The average filing time for NODs demonstrates that most claimants file their NOD shortly after receiving notice of VA's decision, and, consequently, claimants would not be adversely affected by this amendment.

VA supports this provision. VA submitted a similar proposal with the FY 2014 budget request. While this proposal is clearly a step in the right direction, VA believes that further changes are needed in what currently is an extraordinarily lengthy and cumbersome appellate process in order to provide Veterans with timely resolution of their appeals. VA believes there is a need to further shorten the timeframe for Veterans to initiate appellate review to 60 days. Data show that most appeals are filed within the first 30 days following notice to a claimant of VA's decision on a claim. We therefore believe this 60-day time period would still protect Veterans' rights to appeal VA's decisions while bringing the appeal filing period more in line with that of Federal district courts and the Social Security Administration, which allows 60 days for appeal of the initial agency decision.

This proposal has no measurable monetary costs or savings. However, VA estimates that enactment of the proposal would result in more expeditious adjudication of claims because VA would not have to wait one year from the date of an adverse decision to determine whether a claimant intended to file an appeal. Under this proposal, VA would have to wait only 180 days for such determination and could therefore more timely process the appeal.

Section 202 would allow for greater use of video conference hearings by the Board, while still providing Veterans with the opportunity to request an in-person hearing if they so elect. This provision would apply to cases received by the Board pursuant to a NOD submitted on or after the date of the enactment of the Act. VA fully supports section 202 as drafted, as this provision would potentially decrease hearing wait times for Veterans, enhance efficiency within VA, and better focus Board resources toward issuing more final decisions.

The Board has historically been able to schedule video conference hearings more quickly than in-person hearings, saving valuable time in the appeals process for Veterans who elect this type of hearing. In FY 2012, on average, video conference hearings were held almost 100 days sooner than in-person hearings. Section 202 would allow both the Board and Veterans to capitalize on these time savings by giving the Board greater flexibility to schedule video conference hearings than is possible under the current statutory scheme.

Historical data also shows that there is no statistical difference in the ultimate disposition of appeals based on the type of hearing selected. Veterans who had video conference hearings had an allowance rate for their appeals that was virtually the same as Veterans who had in-person hearings, only Veterans who had video conference hearings were able to have their hearings scheduled much more quickly. Section 202 would, however, still afford Veterans who want an in-person hearing with the opportunity to specifically request one.

Enactment of section 202 could also lead to more final decisions for Veterans as a result of increased productivity at the Board. Time lost due to travel and time lost in the field due to appellants failing to show up for their hearing would be greatly reduced, allowing Veterans Law Judges (VLJs) to better focus their time and resources on issuing decisions. The time saved for VLJs could translate into additional final Board decisions for Veterans.

Major technological upgrades to the Board's video conference hearing equipment over the past several years have resulted in the Board being well-positioned for the enactment of section 202. These upgrades include the purchase of high-definition video equipment, a state-of-the art digital audio recording system, implementation of a virtual hearing docket, and significantly increased video conference hearing capacity. These upgrades also include expanding the video conferencing system to

other strategic satellite sites in the continental United States, Puerto Rico, Guam, American Samoa, and the Philippines to support Veterans living in remote areas. Section 202 would allow the Board to better leverage these important technological enhancements.

In short, section 202 would result in shorter hearing wait times, better focus Board resources on issuing more decisions, and provide maximum flexibility for both Veterans and VA, while fully utilizing recent technological improvements. VA therefore strongly endorses this proposal.

Section 301 of the bill would extend the authority currently provided by section 315(b) of title 38, United States Code, to maintain the operations of VA's Manila RO from December 31, 2013, to December 31, 2014. Maintaining an RO in the Philippines has two principal advantages. First, it is more cost effective to maintain the facility in Manila than it would be to transfer its functions and hire equivalent numbers of employees to perform those functions on the U.S. mainland. Because the Manila RO employs mostly foreign nationals who receive a lower rate of pay than U.S. Government employees, transferring that office's responsibilities to a U.S. location would result in increased payroll costs. Second, VA's presence in Manila significantly enhances its ability to manage potential fraud. In an FY 2002 study of Philippine benefit payments, the VA Inspector General stated: "VA payments in the Philippines represent significant sums of money. That, coupled with extreme poverty and a general lack of economic opportunity, fosters an environment for fraudulent activity." Relocation of claims processing for VA benefits arising from Philippine service would result in less control of potential fraud. VA would lose the expertise the Manila staff applies to these claims and would need time to develop such expertise at a mainland site. Relocation would also diminish the RO's close and effective working relationship with the VHA's Outpatient Clinic, which is essential for the corroboration of the evidentiary record. Based on these factors, VA could not maintain the same quality of service to the beneficiaries and the U.S. Government if claims processing were moved outside of the Philippines.

VA supports this provision and submitted a similar proposal with the FY 2014 budget request. VA's version of the proposal would extend operating authority for 2 years rather than 1 year.

There would be no significant benefits costs or savings associated with this proposal.

Section 302 of the draft bill would amend section 1156(a)(3) of title 38, United States Code, to extend from 6 months to 18 months the deadline after separation or discharge from active duty by which VA must schedule a medical examination for certain Veterans with mental disorders.

Section 1156(a)(3) currently requires VA to schedule a medical examination not later than 6 months after the date of separation or discharge from active duty for each Veteran "who, as a result of a highly stressful in-service event, has a mental disorder that is severe enough to bring about the veteran's discharge or release from active duty." However, an examination a mere six months after discharge may lead to premature conclusions regarding the severity, stability, and prognosis of a Veteran's mental disorder. Six months is a relatively short period of treatment, and the stresses of active-duty trauma and the transition to civilian life may not fully have manifested themselves after 6 months. An examination conducted up to 18 months after discharge is more likely to reflect an accurate evaluation of the severity, stability, and prognosis of a Veteran's mental disorder.

VA supports section 302 of the bill, which is identical to one of VA's legislative proposals in the FY 2014 budget submission.

This provision will not result in cost savings or benefits.

Section 303 of the draft bill would amend section 1541(f)(1)(E) of title 38, United States Code, to extend eligibility for death pension to certain surviving spouses of Persian Gulf War Veterans who were married for less than 1 year; had no child born of, or before, the marriage; and were married on or after January 1, 2001.

Section 1541 authorizes the payment of pension to the surviving spouse of a wartime Veteran who met certain service requirements or of a Veteran who was entitled to receive compensation or retirement pay for a service-connected disability when the Veteran died. Section 1541(f) prohibits the payment of such a pension unless: (1) the surviving spouse was married to the Veteran for at least 1 year immediately preceding the Veteran's death; (2) a child was born of the marriage or to the couple before the marriage; or (3) the marriage occurred before a delimiting date specified in section 1541(f)(1). The current delimiting date applicable to a surviving spouse of a Gulf War Veteran is January 1, 2001. Section 303 would eliminate those restrictions and extend that delimiting date.

The Persian Gulf War Veterans' Benefits Act of 1991 established the delimiting marriage date of January 1, 2001, when pension eligibility was initially extended to

surviving spouses of Veterans of the Gulf War. However, due to the duration of the Gulf War, this date is no longer consistent with the other marriage delimiting dates in section 1541(f)(1). Generally, these delimiting dates are set for the day following 10 years after the war or conflict officially ended, (e.g., the Korean War officially ended on January 31, 1955; the applicable delimiting date is February 1, 1965). As provided in section 101(33) of title 38, United States Code, the official Persian Gulf War period, which began on August 2, 1990, is still ongoing and will end on a date to be prescribed by Presidential proclamation or law. Revising the marriage delimiting date for surviving spouses of Gulf War Veterans to 10 years and 1 day after the end of the war as prescribed by Presidential proclamation or law would make that delimiting date consistent with the other dates in section 1541(f)(1) and would prevent any potentially incongruous results in death pension claims based on Gulf War service compared to claims based on other wartime service. Furthermore, because the Gulf War has not yet ended, the language in this amendment would ensure that a standing 10-year qualifying period will be in place for surviving spouses seeking pension based on Gulf War service.

VA supports section 303 of the bill, which is identical to one of VA's legislative proposals in the FY 2014 budget submission.

There would be no significant benefit costs or savings associated with this proposal.

Section 304 of the draft bill would amend section 5110(l) of title 38, United States Code, to make the effective date provision consistent with section 103(e), which provides: "The marriage of a child of a veteran shall not bar recognition of such child as the child of the veteran for benefit purposes if the marriage is void, or has been annulled by a court with basic authority to render annulment decrees unless the Secretary determines that the annulment was secured through fraud by either party or collusion." Section 103(e) implies that a child's marriage that is not void and has not been annulled does bar recognition of the child as a child of the Veteran for VA benefit purposes, even if the marriage was terminated by death or divorce. In fact, section 8004 of the Omnibus Budget Reconciliation Act of 1990 repealed a prior provision in section 103(e) that "[t]he marriage of a child of a veteran shall not bar the recognition of such child as the child of the veteran for benefit purposes if the marriage has been terminated by death or has been dissolved by a court with basic authority to render divorce decrees unless the Veterans' Administration determines that the divorce was secured through fraud by either party or collusion."

Nevertheless, no amendment has been made to the corresponding effective date provision in section 5110(l), which still provides an effective date for an award or increase in benefits "based on recognition of a child upon termination of the child's marriage by death or divorce." Section 304 of the bill would delete that provision from section 5110(l) and make section 5110(l) consistent with section 103(e).

VA supports section 304 of the bill, which is identical to one of VA's legislative proposals in the FY 2014 budget submission.

There would be no costs or savings associated with this technical amendment.

Section 305 of the draft bill would amend section 704(a) of the Veterans Benefits Act of 2003, Public Law 108–183, which authorizes VA to provide for the conduct of VA compensation and pension examinations by persons other than VA employees by using appropriated funds other than mandatory funds appropriated for the payment of compensation and pension. In accordance with section 704(b), VA exercises this authority pursuant to contracts with private entities. However, under section 704(c), as amended by section 105 of the Veterans' Benefits Improvement Act of 2008, by section 809 of the Veterans' Benefits Act of 2010, and by section 207 of the VA Major Construction Authorization and Expiring Authorities Extension Act of 2012, this authority will expire on December 31, 2013.

Section 305(a) of the bill would extend VA's authority to provide compensation and pension examinations by contract examiners for another year. The continuation of this authority is essential to VA's ability to continue to provide prompt and high-quality medical disability examinations for our Veterans. If this authority is allowed to expire, VA will not be able to provide contracted disability examinations to Veterans in need of examinations. Extending the authority for another year would enable VA to effectively utilize supplemental and other appropriated funds to respond to increasing demands for medical disability examinations. Contracting for examinations is essential to VA's objective of ensuring timely adjudication of disability compensation claims and allows the VHA to better focus its resources on providing needed heath care to Veterans.

Section 305(b) of the bill would require VA to provide to the House and Senate Committees on Veterans' Affairs a report within 180 days of enactment of the bill. The report would have to include extensive information regarding medical exams furnished by VA from FY 2009 to FY 2012. Similarly, section 305(c) would require

VA to provide a report to the same committees in the same timeframe regarding Acceptable Clinical Evidence.

VA supports section 305(a) of this bill and submitted a similar proposal with the FY 2014 budget request. VA's version of the proposal would extend operating authority for five years rather than one year.

VA does not oppose the reporting requirements of sections 305(b) and 305(c); however, one year rather than 180 days would provide adequate time to compile the data needed to comply with the detailed reporting requirements and to adequately coordinate review of the report before submission.

No benefit or administrative costs would result from enactment of this provision.

S. 939

Section 1 of this draft bill would amend section 7103 of title 38, United States Code, to provide that the Board of Veterans' Appeals (Board) or Agency of Original Jurisdiction (AOJ) shall treat any document received from a person adversely affected by a decision of the Board expressing disagreement with that Board decision as a motion for reconsideration when that document is submitted to the Board or AOJ not later than 120 days after the date of the Board decision and an appeal with the United States Court of Appeals for Veterans Claims (Veterans Court) has not been filed. The section would further explain that a document will not be considered as a motion for reconsideration if the Board or AOJ determines that the document expresses an intent to appeal the decision to the Court and forwards the document to the Court in time for receipt before the appeal filing deadline. As explained below, VA has several concerns with the draft legislation.

Proposed new section 7103(c)(1) would state that a document filed within 120 days of a Board decision that "expresses disagreement with such decision" shall be treated as a motion for reconsideration. We believe this draft standard would prove too vague and would result in an excessive amount of uncertainty for reviewers determining how to classify a piece of correspondence. The Board and AOJ receive a significant amount of correspondence on a regular basis. The fact that a piece of correspondence is received at the Board or AOJ after a Board decision does not necessarily mean that the appellant intends to challenge that Board decision, nor does it necessarily indicate an expression of disagreement with a Board decision. An appellant could be contacting VA to challenge a Board decision by way of a motion to vacate the decision, a motion to revise the decision based on clear and unmistakable error, or a motion for reconsideration—all types of motions that imply some level of disagreement. Additionally, an appellant could be contacting VA after a Board decision to file a new claim, reopen an old claim, check on the status of a claim, or simply express a generalized complaint, without intending to initiate an appeal. In order for Board or AOJ correspondence reviewers to be able to properly identify an appellant's intent from a piece of correspondence, it is not unreasonable to require the appellant to articulate the purpose of his or her correspondence and the result he or she is seeking. Allowing an appellant to seek reconsideration by merely expressing disagreement with a final Board decision would not provide reviewers with sufficient ability to distinguish whether the appellant is seeking a motion for reconsideration or some other legitimate action, such as a motion to vacate a Board decision or a motion to challenge based on clear and unmistakable error. This broad standard would, in turn, result in greater uncertainty and delay in an already heavily burdened system while benefiting few Veterans. The current proposal's broad language will likely lead to reconsideration rulings in cases where the appellant was not seeking further appellate review and would occupy limited adjudicative resources, thus delaying the claims of other Veterans.

Under section 20.1001(a) of title 38, Code of Federal Regulations, a motion for reconsideration must "set forth clearly and specifically the alleged obvious error, or errors, of fact or law in the applicable decision, or decisions, of the Board or other appropriate basis for requesting Reconsideration." Further, the discretion of the Chairman or his delegate to grant reconsideration of an appellate decision is limited to the following grounds: (a) upon allegation of obvious error of fact or law; (b) upon discovery of new and material evidence in the form of relevant records or reports of the service department concerned; or (c) upon allegation that an allowance of benefits by the Board has been materially influenced by false or fraudulent evidence submitted by or on behalf of the appellant. Although VA construes all claimants' filings liberally, under these governing regulations, a document that expresses general disagreement with a Board decision would not be construed a motion for reconsideration.

The draft legislation would, however, require VA to consider such general statements of dissatisfaction or disagreement to be motions for reconsideration, thereby

considerably broadening and weakening the standard required to render a Board decision nonfinal. This could cause confusion among correspondence reviewers. In fact, the standard contemplated by the draft legislation would be lower than the standard used to determine whether a document is a notice of disagreement (NOD) with an AOJ decision, pursuant to section 20.201 of title 38, Code of Federal Regulations.

Moreover, the language of proposed new section 7103(c)(1) indicates that the lower standard would only apply to documents submitted within the 120-day period for appeal to the Veterans Court. This would essentially result in two standards being applied to motions for reconsideration based on whether the appellant submits the motion before or after the 120-day appeal period. Such different standards would understandably result in confusion in determining whether a document is a reconsideration motion.

Proposed new section 7103(c)(2) indicates that VA will not treat a submitted document as a motion for reconsideration if VA determines that the document expresses an intent to appeal the Board decision to the Veterans Court and forwards that document to the court, and the court receives the document within the statutory deadline to appeal the Board decision. The draft legislation appears to make VA's determination of whether a document is a motion for reconsideration or a notice of appeal (NOA) to the Veterans Court partially contingent upon whether VA forwards the document to the court and the court timely receives it. Yet court decisions have found equitable tolling may apply in situations where VA timely received a misfiled NOA, but the Veterans Court did not timely receive it. The bill would give VA the authority to potentially take away a course of action from an appellant. The legislation would essentially provide VA with the authority to determine whether a document is an NOA based in part on whether VA can timely forward the document to the Veterans Court. This would prevent an appellant who timely misfiled an NOA with VA from having an opportunity to have the court determine whether equitable tolling applies and whether the court will accept the misfiled submission as timely. Further, an appellant may have been seeking to file a motion for reconsideration with the Board. However, if VA determines that a document is an NOA instead of a motion for reconsideration, VA may inadvertently prevent an appellant from having the Board consider his or her motion for reconsideration. Consequently, the proposed legislation would pose a number of legal and practical difficulties.

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

THE SECRETARY OF VETERANS AFFAIRS
WASHINGTON

September 13, 2013

The Honorable Bernard Sanders
Chairman
Committee on Veterans' Affairs
United States Senate
Washington, DC 20510

Dear Mr. Chairman:

I am writing to provide you with the views of the Department of Veterans Affairs (VA) on the following bills: S. 735, S. 778, S. 819, S. 863, S. 889, S. 927, sections 101, 102, 105, and 106 of S. 928, S. 930, S. 932, S. 935, S. 938, S. 944, S. 1039, and S. 1042. These bills were included on the Senate Committee on Veterans' Affairs agenda for its June 12, 2013, hearing, but VA was unable to provide its views in time for that hearing. We are also providing cost estimates for S. 514, S. 894, and S. 922, as promised during the hearing. S. 868 would affect programs or laws administered by the Department of Defense. Respectfully, we defer to that Department's views on the bill.

We appreciate this opportunity to comment on this legislation and look forward to working with you and the other Committee Members on these important legislative issues.

Sincerely,

Eric K. Shinseki

Enclosure

ENCLOSURE:
VA VIEWS

S. 514

S. 514 would amend subchapter II of chapter 33, title 38, United States Code, to provide additional educational assistance under the Post-9/11 Educational Assistance Program (Post-9/11 GI Bill) to Veterans pursuing a degree in science, technology, engineering, math, or an area that leads to employment in a high-demand occupation. The additional payment would be in an amount determined by the Secretary and would be in addition to other amounts payable under chapter 33. VA provided views for this bill at the June 12, 2013, hearing.

The amount of increase in additional benefits is not specified in this legislation; therefore, we are unable to provide an estimate for the additional benefit costs that this legislation would incur. There are no full time equivalent (FTE) or general operating expense (GOE) costs associated with enactment of this bill.

S. 735

S. 735, the "Survivor Benefits Improvement Act of 2013," would amend title 38, United States Code, to improve benefits and assistance provided to surviving spouses of Veterans under laws administered by the Secretary of VA and for other purposes.

Section 2 of this bill would amend section 1311 of title 38, United States Code, by extending, from 2 to 5 years, the period for increased dependency and indemnity compensation (DIC) for surviving spouses with children. VA supports the extended period of eligibility, subject to Congress identifying the appropriate offsets. The bill

extends the with-children increase period by 3 additional years. Benefits costs associated with section 2 are estimated to be $5.6 million during the first year, $72.1 million for 5 years, and $199.3 million over 10 years.

Section 3 of S. 735 would extend eligibility for DIC, heath care, and home loan guaranty benefits to surviving spouses who remarry after age 55. Currently, such benefits may be granted to surviving spouses who remarry after age 57. VA supports this provision because it would make consistent VA's provision of benefits and health care to surviving spouses. Under section 103(d)(2)(b) of title 38, United States Code, remarriage after age 55 is not a bar to health care benefits. On December 16, 2003, Congress enacted the Veterans Benefits Act of 2003, which for the first time gave certain surviving spouses the right to retain VA benefits after remarriage. Prior law required VA to terminate those benefits upon remarriage regardless of the age of the surviving spouse.

There will be no additional costs for health care as, under section 103(d)(2)(b) of title 38, United States Code, remarriage after age 55 is not a bar to health care benefits. Regarding costs associated with home loans, the provision would produce negligible estimated subsidy costs over 10 years because of a very small change expected in loan volume. We do not currently have an estimate of the costs associated with additional DIC eligibility.

Section 4 of S. 735 would provide benefits to children of certain Thailand service Veterans born with spina bifida. The Spina Bifida Health Benefits Program was originally enacted for the birth of children with spina bifida to Vietnam Veterans based on evidence of an increased incidence of spina bifida among Veterans exposed to herbicides. The program was later expanded to include the children with spina bifida of certain Veterans whom the Veterans Benefits Administration (VBA) determined had been exposed to herbicides in Korea. The proposed bill would incorporate language from Subchapter I of Chapter 18 regarding spina bifida benefits for children of Vietnam Veterans and from Subchapter II, section 1821, regarding spina bifida benefits for children of Veterans with covered service in Korea. The covered service in this proposed bill is defined as "active military, naval, or air service in Thailand, as determined by the Secretary in consultation with the Secretary of Defense, during the period beginning on January 9, 1962, and ending on May 7, 1975," in which an individual "is determined by the Secretary, in consultation with the Secretary of Defense, to have been exposed to a herbicide agent during such service in Thailand." The proposed bill goes on to define "herbicide agent" as "a chemical in a herbicide used in support of United States and allied military operations in Thailand, as determined by the Secretary in consultation with the Secretary of Defense, during the period beginning on January 9, 1962, and ending on May 7, 1975."

VA supports section 4, pending congressional funding, which would provide benefits for this population similar to the benefits offered to those eligible under the Spina Bifida Health Care Benefits Program. However, there are several aspects that may limit its application. The benefit it seeks to provide to children of Veterans with Thailand service is based on the premise that the parent Veteran was exposed to the herbicide Agent Orange with its carcinogenic element dioxin, and that this contributed to the spina bifida. Veterans with service in Vietnam from January 9, 1962, to May 7, 1975, are presumed exposed to this herbicide based on section 1116 of title 38, United States Code. Veterans with service in certain units located on the Korean demilitarized zone (DMZ) from April 1, 1968, to August 31, 1971, are also given the presumption of exposure under section 3.307(a)(6)(iv) of title 38, Code of Federal Regulations. This presumption is the basis for the child's spina bifida benefits. However, there is no presumption of Agent Orange exposure for service in Thailand, and DOD has stated that only commercial herbicides were used within the interiors of military installations in Thailand. As a result, there is some question as to how the proposed bill's "covered service" in Thailand would be applied.

Although there is no applicable presumption of herbicide exposure for purposes of identifying "covered service" in Thailand, there is some evidence supporting the possibility that tactical herbicides, such as Agent Orange, may have been used on the fenced-in perimeters of Thailand air bases during the Vietnam War. Some evidence for this is found in the 1973 DOD document "CHECO Report: Base Defense in Thailand," which emphasizes the security role of herbicides within the fenced-in perimeters, but does not specifically identify the herbicide type. As a result, VA has given the benefit of the doubt to those Veterans who walked the perimeters as dog handlers or security guards and has acknowledged their exposure on a direct facts-found occupational basis. This is not the same as a legal presumption of exposure. These Veterans would be the only ones currently recognized as having the "covered service" that is referred to in the proposed legislation. General service in Thailand is not considered by VA to be the "covered service" involved with this legislation.

VA estimates that medical-care costs associated with this section would be $3.14 million in fiscal year (FY) 2014; $17.81 million over 5 years; and $56.73 million over 10 years. Benefits costs associated with this section of the bill are estimated to be $1.8 million during the first year, $9.4 million for 5 years, and $19.8 million over 10 years.

Section 5 of S. 735 would require VA, not later than 6 months after the date of enactment, to conduct a pilot program to assess the feasibility of providing grief counseling services in a group retreat setting to surviving spouses of Veterans who die while serving on active duty in the Armed Forces. The pilot program would be carried out by the Readjustment Counseling Service (RCS). Participation would be at the election of the surviving spouse. The pilot program would be carried out at not fewer than six locations, including three locations where surviving spouses with dependent children are encouraged to bring their children, and three locations where surviving spouses with dependent children are not encouraged to bring their children. Services provided under the pilot would include information and counseling on coping with grief, information about benefits and services available to surviving spouses under laws administered by VA, and other information considered appropriate to assist a surviving spouse with adjusting to the death of a spouse.

VA supports the concept of providing readjustment counseling in retreat settings. Initial results from similar retreat-based pilot programs operated by RCS found participants were able to reduce symptoms and maintain a higher quality of life after the retreat. The retreats proposed in section 5 have the potential for similar results; however, a permissive or discretionary authority to operate such a program would be preferable to a mandatory pilot authority. Such authority would permit VA to determine eligible cohort participation based on criteria such as local demand and available funding.

We estimate that the cost of the pilot would be approximately $512,730.

S. 778

S. 778 would grant VA the authority to issue a card, known as a "Veterans ID Card," to a Veteran that identifies the individual as a Veteran and includes a photo and the name of the Veteran. The issuance of the card would not be premised on receipt of any VA benefits nor enrollment in the system of annual patient enrollment for VA health care established under section 1705(a) of title 38, United States Code. The card could be used by Veterans to identify themselves as Veterans in order to secure pharmaceuticals and consumer products offered by retailers to Veterans at reduced prices.

VA understands and appreciates the purpose of this bill, to provide Veterans a practical way to show their status as Veterans to avail themselves of the many special programs or advantages civic-minded businesses and organizations confer upon Veterans. However, VA does not support this bill. The same benefit to Veterans can best be achieved by VA and DOD working with the states, the District of Columbia, and United States territories to encourage programs for them to issue such identification cards. Those entities already have the experience and resources to issue reliable forms of identification.

VA is working with states on these efforts. For example, VA and the Commonwealth of Virginia launched a program to allow Veterans to obtain a Virginia Veteran's ID Card from its Department of Motor Vehicles (DMV). The program will help thousands of Virginia Veterans identify themselves as Veterans and obtain retail and restaurant discounts around the state. On May 30, 2012, the program was launched in Richmond, and a DMV "2 Go" mobile office was present to process Veterans' applications for the cards.

Virginia Veterans may apply for the cards in person at any Virginia DMV customer service center, at a mobile office, or online. Each applicant presents an unexpired Virginia driver's license or DMV-issued ID card, a Veterans ID card application, his or her DOD Form DD–214, DD–256, or WD AGO document, and $10. The card, which does not expire, is mailed to the Veteran and should arrive within a week. In the meantime, the temporary Veterans ID card received at the time of the in-person application can be used as proof of Veteran status.

Other jurisdictions can use this model to establish similar programs without creating a new program within VA that may not be cost-efficient. It is not known whether enough Veterans would request the card to make necessary initial investments in information technology and training worthwhile.

In addition, a VA-issued card could create confusion about eligibility. Although the card would not by itself establish eligibility, there could nonetheless be misunderstandings by Veterans that a Government benefit is conferred by the card. As the Committee knows, entitlement to some VA benefits depends on criteria other

than Veteran status, such as service connection or level of income. Confusion may also occur because the Veterans Health Administration (VHA) issues identification cards to Veterans who are eligible for VA health care. Having two VA-issued cards would pose the potential for confusion.

It is difficult to predict how many Veterans would apply for such a card. Therefore, VA cannot provide a reliable cost estimate for S. 778.

S. 819

S. 819, the "Veterans Mental Health Treatment First Act of 2013," would provide the Department with significant new tools to maximize and reward a Veteran's therapeutic recovery from certain service-related mental health conditions, and, to the extent possible, reduce the Veteran's level of permanent disability from any of the covered conditions. The goal of the legislation is to give the Veteran the best opportunity to reintegrate successfully and productively into the civilian community.

Specifically, S. 819 would require the Secretary to carry out a mental health and rehabilitation program for certain Veterans who have been discharged or released from service in the active military, naval, or air service under conditions other than dishonorable for a period of not more than 2 years, and who have been enrolled for care in the VA health care system since before the date of enactment of this bill. The program would be available to a Veteran who has been diagnosed by a VA physician with any of the following conditions: Post Traumatic Stress Disorder (PTSD); depression; or anxiety disorder that is service related, as defined by the bill. The bill would also cover a diagnosis of a substance use disorder related to service-related PTSD, depression, or anxiety. For purposes of this program, a covered condition would be considered to be service related if: (1) VA has previously adjudicated the disability to be service-connected; or (2) the VA physician making the diagnosis finds the condition plausibly related to the Veteran's active service. S. 819 would also require the Secretary to promulgate regulations identifying the standards to be used by VA physicians when determining whether a condition is plausibly related to the Veteran's active military, naval, or air service.

The bill sets forth conditions of participation for the Veterans taking part in the program. If a Veteran has not filed a VA claim for disability for the covered condition, the Veteran would have to agree not to submit a VA claim for disability compensation for the covered condition for 1 year (beginning on the date the Veteran starts the program) or until the date on which the Veteran completes his or her treatment plan, whichever date is earlier.

If the Veteran has filed a disability claim but it has not yet been adjudicated by the Department, the Veteran could elect either to suspend adjudication of the claim until he or she completes treatment or to continue with the claims adjudication process. As discussed below, the stipend amounts payable to the Veteran under the program will depend on which election the Veteran makes.

If the Veteran has a covered condition that has been adjudicated to be service-connected, then the individual would have to agree not to submit a claim for an increase in VA disability compensation for 1 year (beginning on the date the Veteran starts the program) or until the date the Veteran completes treatment, whichever is earlier.

S. 819 would establish a financial incentive in the form of "wellness" stipends to encourage participating Veterans to obtain VA care and rehabilitation before pursuing, or seeking additional, disability compensation for a covered condition. The amount of the stipend would depend on the status of the Veteran's disability claim. If the Veteran has not filed a VA disability claim, VA would pay the Veteran $2,000 upon commencement of the treatment plan, plus $1,500 every 90 days thereafter upon certification by the VA clinician that the Veteran is in substantial compliance with the plan. This recurring stipend would be capped at $6,000. The Veteran would receive an additional $3,000 at the conclusion of treatment or 1 year after the Veteran begins treatment, whichever is earlier.

If the Veteran has filed a disability claim that has not yet been adjudicated, the participating Veteran who elects to suspend adjudication of the claim until he or she completes treatment would receive "wellness" stipends in the same amounts payable to Veterans who have not yet filed a disability claim. If the participating Veteran elects instead to continue with the claims adjudication process, the Veteran would receive "wellness" stipends in the same amounts payable to Veterans whose covered disabilities have been adjudicated and found to be service-connected: $667 payable upon the Veteran's commencement of treatment and $500 payable every 90 days thereafter upon certification by the Veteran's clinician that the individual is in substantial compliance with the plan. Recurring payments would be capped at $2,000,

and the Veteran would receive $1,000 when treatment is completed or 1 year after beginning treatment, whichever is earlier.

If the Secretary determines that a Veteran participating in the program has failed to comply substantially with the treatment plan or any other agreed-upon conditions of the program, the bill would require VA to cease payment of future "wellness" stipends to the Veteran.

Finally, S. 819 would limit a Veteran's participation in this program to one time, unless the Secretary determines that additional participation in the program would assist in the remediation of the Veteran's covered condition.

VA does not support S. 819. Although VA philosophically appreciates the purpose of the bill and the legislator's intent, we have concerns with its premises and are unable to support it.

S. 819 assumes that early treatment intervention by VA health care professionals for a covered condition would be effective in either reducing or stabilizing the Veteran's level of permanent disability from the condition, thereby reducing the amount of VA disability benefits ultimately awarded for the condition. No data exist to support or refute that assumption.

With the exception of substance use disorders, we are likewise unaware of any data to support or refute the bill's underlying assumption that paying a Veteran a "wellness" stipend will ensure the patient's compliance with his or her treatment program. Although there is a growing trend among health insurance carriers or employers to provide short-term financial incentives for their enrollees or employees to participate in preventive health care programs (e.g., reducing premiums for an enrollee who participates in a fitness program, loses weight, or quits smoking), we are unaware of any data establishing that these and similar financial incentives produce long-term cost savings to the carrier or employer. It would be extremely difficult, if not impossible, to quantify savings or offsets because there is no way to know whether a particular patient's health status would have worsened without VA's intervention, and whether the intervention directly resulted in a certain or predictable total amount in health care expenditure savings. We would experience the same difficulties trying to identify what would have been the level of disability and costs of care for a particular Veteran had he or she not participated in the early clinical intervention program.

The "wellness" stipends, themselves, raise several complex issues. None of VA's current benefits systems is equipped to administer such a novel benefit, and no current account appears to be an appropriate funding source from which to pay the benefit. Second, authorization of wellness benefits would be determined based solely on adherence to the treatment/wellness program. This would place the clinician in the position of determining whether the patient will continue to receive these wellness benefits and would pose a significant conflict of interest which would likely compromise the healing relationship between the patient and clinical provider.

There would be significant indirect costs as well. VHA currently lacks the information technology infrastructure, expertise, and staff to administer monetary benefits with the potential level of complexity and scale proposed in this legislation. The challenge posed in connection with this bill would be nearly insurmountable, which calls for a very complex, nationwide patient tracking and monitoring system that also has the capacity to administer payments at different points in time for Veterans participating in the program. The fact that the duration of each Veteran's treatment plan would be highly individualized would only complicate the requirements of such a system design, as would the fact that the bill would permit some Veterans to receive treatment (and payment) extensions.

The cost of administering S. 819 would be potentially higher than the benefit received by the Veteran. The maximum VA could pay any Veteran under the bill would be $11,000; however, it is reasonable to assume that the costs associated with designing, operating, and administering such a complex benefit program would far surpass the actual amounts we would pay out to the Veterans (individually or collectively).

S. 819 would also place practitioners in the difficult position of determining if their patients will receive "wellness" stipends available under the program. It is quite atypical for a VA physician's clinical determination regarding treatment to have direct financial implications or consequences for his or her patients. VA physicians and practitioners seek to help their Veteran patients attain maximum functioning as quickly as clinically possible. S. 819 would create potential conflict for our health care practitioners. They should focus solely on issues of health care and not feel pressure to grant requests for extensions of treatment in order to maximize the amount of money patients receive under the program.

Additionally, it would be difficult to define "substantial compliance," for purposes of S. 819, in a way that is measurable and objective as well as not easily amenable

to fraud or abuse. For instance, substantial compliance could be defined in part by a Veteran stating that he or she took prescribed medications as ordered by the physician and VA confirming the Veteran obtained refills in a timely manner. But that information does not actually verify that the patient in fact ingested the medication or did so as prescribed.

There would unavoidably be some patients whose motivation for participating in this program is strictly financial, and they would invariably find ways to circumvent whatever criteria we established in order to receive their stipends. Although these payments would not be sizable, they would be sufficient to entice some patients who would not otherwise access VA's health care system to participate in the program. We fear these patients would cease their treatment and stop accessing needed VA services once their treatment and payments end.

If the use of "wellness" stipends were able to produce reliable, positive results in terms of patients' compliance or outcomes, there may then be a demand to extend this reward system to other VA treatment programs. We note this only to point out that the cost implications in the out-years could be very difficult to estimate accurately.

Finally, it is also troubling that S. 819 would require VA to treat specific diseases and not the Veteran as a whole. This approach would place VA practitioners in the difficult and untenable position of being able to identify conditions they cannot treat under the proposed program. This would create a particularly serious ethical dilemma for the practitioner who knows that his or her Veteran patient has no other access to needed health care services. In our view, authority to treat specific diseases-and not the person-would be counter to the principles of patient-centered and holistic medicine.

We do not currently have a cost estimate for S. 819.

S. 863

Section 2 of S. 863, the "Veterans Back to School Act of 2013," would amend section 3031 of title 38, United States Code, to repeal the time limitations on the use of educational assistance under the Montgomery GI Bill-Active Duty (MGIB-AD) program. Currently, pursuant to section 3031, the period for which an individual is entitled to education assistance under the MGIB-AD program expires, generally, 10 years after the individual's last discharge or release from active duty.

Section 2 of S. 863 would add a new subsection to section 3031 to provide that, notwithstanding other delimiting-date provisions in that section, the period for a "covered individual" to use MGIB-AD education benefits would expire 10 years after the date on which the individual begins using the benefit. A "covered individual" would be defined to be any individual whose basic pay was reduced by $100 for 12 months under paragraph (1) of section 3011, or an amount equal to $1,200 not later than 1 year after completion of 2 years of active duty service. This legislation would not apply to the period for using entitlement transferred under section 3020 of title 38.

The amendment made by section 2 would be made effective as if the legislation had been enacted immediately after the enactment of the Veteran's Educational Assistance Act of 1984.

VA is unable to support section 2 of S. 863. Currently, a Veteran must use MGIB-AD benefits during the 10-year period beginning on the date of his or her release from active duty. Under the proposed legislation, an individual could wait more than

10 years before he or she begins use of the benefit. This would require VA to administer the MGIB-AD program for an unknown number of individuals for an unlimited period of time. The MGIB-AD-eligible population is decreasing, as the 10-year period of eligibility for Veterans with service ending prior to 2001 has passed, and the majority of individuals with service after that date are electing to use benefits under the Post-9/11 GI Bill program, which provides a 15-year eligibility period.

VA also has concerns with the effective date of the legislation. We interpret the effective date in paragraph (c) of section 2 to mean all individuals who have not received MGIB-AD education benefits would now be eligible and those that previously received benefits would have their time limitation recalculated. This would require VA to retroactively make adjustments to individual periods of eligibility, creating a significant workload that would impact our timeliness in processing all education claims.

VA estimates that the benefit cost associated with enactment of section 2 of the bill would be insignificant. While section 2 would effectively extend the delimiting date of MGIB-AD, the Secretary currently has authority under Title 38 Section 3031 to extend the delimiting date in certain circumstances. Additionally, MGIB-AD

usage data suggests that the majority of trainees begin receiving benefits within three years of separation and would not require more than the current ten year delimiting date to use their entitlement. Finally, because MGIB-AD is a decreasing program due to the implementation of the Post-9/11 GI Bill, we anticipate that MGIB-AD participation will decrease below 10,000 within ten years, further minimizing any impact of extending the delimiting date.

Section 3 of S. 863 would amend chapter 36 of title 38, United States Code, to require VA, subject to the availability of appropriations, to provide funding for "offices of veterans affairs" at institutions of higher learning (IHL) at which there are in attendance at least 50 students receiving educational assistance administered by VA.

This legislation would require that an IHL or consortium of IHLs submit an application to VA to determine eligibility for this program. Such application would be required to identify policies, assurances, and procedures to ensure that the funds received by the institution would be used solely to enhance the institution's Veterans' education outreach program. During each academic year an institution receives payments, the IHL would be required to fund an amount equal to at least the amount of the award paid by VA. The funding for the additional expenditure could not come from other Federal sources, and the applicant would have to submit any reports requested by VA. VA would determine what information must be included in the application and when the application should be submitted. In addition, the application must state that the applicant will maintain an "office of veterans affairs" and use that office for Veterans' certification, outreach, recruitment, and special education programs. This would include referral to educational, vocational, and personal counseling for Veterans, as well as providing information for other services provided to Veterans by VA, such as readjustment counseling; job counseling, training, and placement services; and employment and training of Veterans.

If VA determines that an institution eligible for funding is unable to carry out by itself any or all activities proposed in this legislation, the institution might carry out the program activities through a consortium agreement with one or more other IHLs in the same community. However, VA could not approve an application unless it is determined that the applicant would implement the necessary requirements within the first academic year in which a payment would be received.

An eligible institution would receive $100 for each person that received VA educational assistance, with a maximum amount of $150,000 to any IHL during the fiscal year. Six million dollars would be authorized to be appropriated for FY 2012 and each fiscal year thereafter. If the amount appropriated for any fiscal year would not be sufficient to pay all IHLs, the payments would be reduced. However, if any amounts become available in any fiscal year after such reductions, the reduced payments would be increased at the same level they were reduced.

From the amounts made available for any fiscal year, VA would also be required to set aside 1 percent or $20,000, whichever is less, for the purpose of collecting information about exemplary programs and disseminating that information to other institutions with similar programs on their campuses. Such collection and dissemination would be completed each year. VA could not retain more than 2 percent of the funds available for administering this program.

VA supports the intent of section 3; however, we have significant concerns about the potential additional administrative burden that could result. In calendar year 2012, there were more than 3,100 schools with 50 or more recipients of VA education benefits. As the Post-9/11 GI Bill continues to grow, VA can expect the number of schools with 50 or more recipients to increase. During FY 2012, there were 646,302 students who received Post-9/11 GI Bill benefits, which is an increase of 16.4 percent over FY 2011. VA would need to provide staffing to administer and process the number of applications received for this program. Additionally, VA would need to establish a method of reporting and tracking the success of these programs.

We also have concerns about the broad scope of this legislation, and how VA would effectively administer the provisions. While the bill would require an institution to use funds solely to carry out Veterans' education outreach programs, VA does not have a mechanism to ensure that all funds would be used accordingly. Additionally, the funding limitations by fiscal year present challenges. The risk of funding uncertainty would jeopardize effective planning.

We note that the 2014 President's Budget includes funding to expand the Department's VetSuccess on Campus initiative to a total of 94 campuses. VA is beginning a partnership with the Corporation for National and Community Service to provide additional support for VetSuccess on Campus counselors through AmeriCorps members. Furthermore, as of May 29, 2013, 6,282 campuses have voluntarily agreed to comply with the Principles of Excellence outlined in Executive Order 13607, which

requires the schools designate a point of contact to assist Veteran and Servicemember students and their families with academic and financial advising.

This legislation authorizes appropriation of $6 million to carry out section 3 for FY 2012 and each fiscal year thereafter. It is assumed that such funding would be made available through the GOE account, but we request that specific language be added to the legislation to make this clear. No benefits cost would be associated with enactment of this section. Although the bill would authorize $6 million to carry out this section, VA estimates GOE costs for the first year of $8 million based on 17 FTE to administer the Veterans' education outreach program established under section 3 (including salary, benefits, rent, supplies, equipment, payments made to institutions of higher learning, and an outreach study). The estimated 5-year cost would be $40 million, and the 10-year cost would be $81.2 million. In addition, VA estimates that information technology (IT) costs to support the additional staff for the first year would be $31,000 (this includes the IT equipment for FTE, installation, maintenance, and IT support). The estimated 5-year IT cost would be $175,000, and the 10-year cost would be $409,000.

S. 868

S. 868, the "Filipino Veterans Promise Act," would require the Secretary of Defense, in consultation with the Secretary of VA, to establish a process to determine whether individuals claiming certain service in the Philippines during World War II are eligible for certain benefits despite not being on the so-called "Missouri List." This bill affects programs and laws administered by DOD. Respectfully, we defer to that Department's views on this bill.

S. 889

S. 889, the "Servicemembers' Choice in Transition Act of 2013," would amend section 1144 of title 10, United States Code, to improve the Transition Assistance Program (TAP). The current law does not stipulate any requirements for TAP beyond pre-separation counseling and the Department of Labor (DOL) Employment Workshop.

S. 889 would mandate the following additions to TAP providing: (1) information on disability-related employment and education protection; (2) an overview of available education benefits; and (3) testing to determine academic readiness for post-secondary education. The deadline for implementation of these provisions would be April 1, 2015. The bill would also require a feasibility study by VA on providing the instruction of pre-separation counseling (described in subsection (b) of section 1142 of title 10, United States Code) at overseas locations, no later than 270 days after the date of the enactment.

VA appreciates the strong interest and support from the Committee to ensure that separating Servicemembers are given full and effective engagement on their employment and training opportunities, as well as other VA benefits they have earned. However, VA does not support this legislation. The passage of the Veterans Opportunity to Work (VOW) to Hire Heroes Act (VOW Act) of 2011 and the introduction of the President's Veterans Employment Initiative (VEI) satisfy the intent underlying S. 889. VA believes those efforts should be afforded an opportunity to be fully implemented and assessed before any further legislation concerning TAP is enacted. Allowing agencies to proceed under current plans will provide greater flexibility in implementing improvements and making adjustments based on accurate data analysis during assessment. VA will be pleased to brief the Committee on the improvements and enhancements that are currently being implemented as part of the Administration's VEI.

VA and Federal agency partners including DOD, DOL, Department of Education, Office of Personnel Management (OPM), and the Small Business Administration (SBA), are currently working to develop a plan for the implementation of an enhanced TAP curriculum, known as Transition GPS (Goals, Plans, Success), which was developed under the Administration's VEI.

Current components of the Transition GPS curriculum include mandatory pre-separation counseling, service-delivered modules, enhanced VA benefits briefings, a DOL Employment Workshop, and Servicemember-selected tracks focused on technical training, higher education, and entrepreneurship opportunities. With the implementation of the Capstone event by the end of FY 2013, the Transition GPS curriculum will take approximately 7 to 8 days to complete.

VA has primary responsibility in the development and delivery of the VA benefits briefings and the Career Technical Training Track, and additional responsibilities to support partner agencies in the development of curriculum of the higher education track, the entrepreneurship track, and the Capstone event. The Capstone

event is intended to serve as a standardized end-of-career experience to validate, verify, and bolster transition training and other services to prepare for civilian career readiness, including those delivered throughout the entire span of a Servicemember's career, from accession to post-military civilian life.

The VA Benefits I and II Briefings are part of the current Transition GPS Curriculum. During the VA Benefits I Briefing, information is provided on VA education benefits, as well as identifying the forms and documentation necessary to access those education benefits. The VA Benefits I Briefing also provides information on all other benefits and services offered by VA. The Benefits II Briefing provides an in-depth overview of VA's disability compensation process, VA health care, and navigation of the eBenefits portal, a one-stop, self-service tool providing access to all benefits information.

Testing to determine academic readiness for post-secondary education for any member who plans to use educational assistance under title 38 does not play a role in how VA determines eligibility and disburses VA education benefits. VA does not agree that this type of testing should be a part of Transition GPS, since Servicemembers who are interested in pursuing post-secondary education already go through an application process in order to determine readiness and acceptance to accredited schools, universities, or colleges. The final determination for one's acceptance to post-secondary education is the responsibility of the academic institutions. VA believes the intent of this amendment is already being met under the revised Transition GPS. As part of the new process, Servicemembers receive pre-separation counseling by a representative within their respective Service, where they may receive additional guidance on appropriate next steps to include planning for a post-secondary education.

This legislation would also mandate providing information on disability-related employment and education protections. As VA does not have oversight on employment and education protections, we defer to our agency partners (e.g., DOL and Department of Education) regarding the extent to which they address these topic areas during Transition GPS.

Because pre-separation counseling is the responsibility of DOD, the feasibility study on the implementation of subsection (b) of section 1142 of title 10, United States Code, would be a new requirement for VA and would necessitate agreements and information sharing between VA and DOD to finalize within 270 days after enactment.

We note that the Transition GPS curriculum is new and still being evaluated for effectiveness and efficiency. VA is in the process of fine tuning delivery and content to best meet Servicemembers' needs, and additional legislation at this stage may hinder those efforts. For these reasons, VA does not support the feasibility study.

VA estimates that, if S. 889 were enacted, costs for the first year would be $8.2 million (including salary, benefits, travel, rent, supplies, training, equipment, and other services [including curriculum development]), $40.6 million over 5 years, and $86.5 million over 10 years. VA estimates that IT costs for the first year would be $0.3 million (including the IT equipment for FTE, installation, maintenance, and IT support) $0.9 million over 5 years, and $2.0 million over 10 years.

S. 894

S. 894 would extend, through June 30, 2016, the Secretary's authority to pay allowances for certain qualifying work-study activities performed by certain individuals pursuing programs of education. This bill would also amend section 3485(a)(4) of title 38, United States Code, to add a new subparagraph to add to the list of qualifying work-study activities certain activities performed at the offices of Members of Congress. Finally, this bill would require VA to submit annual reports to Congress regarding the work-study allowances paid under section 3485(a). VA provided views for this bill at the June 12, 2013, hearing.

VA estimates that, if enacted, benefit costs for S. 894 would be $572,000 during FY 2013 and $7.4 million for the 3-year period beginning on June 30, 2013, and ending on June 30, 2016. There are no additional FTE or GOE cost requirements associated with this legislation.

S. 922

Section 3 of S. 922, the "Veterans Equipped for Success Act of 2013," would require VA, in collaboration with DOL, to create a 3-year pilot program in four locations to assess the feasibility and advisability of offering career transition services to eligible Veterans. VA provided views for this bill at the June 12, 2013, hearing.

VA estimates that, if S. 922 were enacted, costs for the first year would be $1.9 billion (including salary, benefits, travel rent, other services, supplies, and equip-

ment), and $6.7 billion over 4 years. VA IT costs are estimated to be $0.1 million in the first year and $0.2 million over 4 years. IT costs include IT equipment, FTE, installation, maintenance, systems, and IT support.

S. 927

S. 927, the "Veterans Outreach Act of 2013," would require VA to carry out a demonstration project to assess the feasibility and advisability of using state and local government agencies and nonprofit organizations to increase outreach to Veterans regarding VA benefits and services. VA would require additional resources, such as manpower, funds, and space, to administer the mandated grant program, comply with the reporting requirements, and support the advisory committee called for in section 5 of the bill. In addition, VA has several recommendations and concerns regarding particular bill language. Because of the central role of outreach in ensuring that Veterans know of the benefits they have earned and the role of outreach throughout the myriad missions of VHA, VBA, and the National Cemetery Administration, we would benefit from meeting with the Committee to discuss ongoing outreach efforts and the ideas represented in this bill.

Section 2 of S. 927 would require VA to conduct a demonstration project to increase coordination of outreach efforts between VA and Federal, state, and local agencies and nonprofit organizations. In the absence of a requirement for specific appropriations dedicated to the implementation of the bill, VA requests that, in section 2(a), "shall" be replaced with "may."

Section 2(a)(2) lists "nonprofit providers of health care and benefits services for veterans" as an entity with which VA would coordinate outreach activities. VA would like for the bill to have broad reach but would like to discuss with the Committee the different types of entities this language could cover.

Section 2(c)(3) would require the Secretary to "consider where the projects will be carried out" and a number of other factors. VA recommends the considerations of section 2(c)(3) be deleted and that VA be directed to include appropriate project criteria, such as location and other factors, in VA implementing regulations. VA is concerned that, under section 2(c)(5), which would limit awards to a single state entity to 20 percent of all grant amounts awarded in a fiscal year, limitations would only be established for state entities while local and nonprofit entities would not be subject such limitations. VA recommends including all eligible grantees in this paragraph. Similarly, under section 2(d), the 50 percent matching funds requirement would only apply to states while county, municipal, and nonprofit entities would not have this burdensome requirement. VA recommends including all eligible grantees in this subsection as well. Essentially, there should be one standard: matching funds should be required for all entities or no such requirement should exist. VA already submits a consolidated biennial report on outreach activities, and therefore recommends that, rather than requiring the annual report as prescribed by section 2(e), the biennial report already submitted address the grants called for in this proposed legislation.

Section 3 would provide for cooperative agreements between the Secretary and states on outreach activities. VA already has an existing Memorandum of Agreement through the National Association of State Directors of Veterans Affairs that encompasses the intent of this legislation. Therefore, VA recommends removing this section.

Section 4 would provide for specific budget reporting requirements for VA's outreach activities. VA administrations currently plan and track outreach budgets without a Congressionally-mandated requirement in order to report to VA's Office of Public and Intergovernmental Affairs (OPIA). However, the language of section 4 would require additional collection and coordination that could represent additional expenditures for VA. Additional manpower would be required to plan, coordinate, track, and report all outreach budget activities throughout VA. VA would be glad to discuss the requirements of this section with the Committee.

Section 5 would establish an advisory committee on outreach activities in VA. Additional resources would be required to manage, plan, coordinate, support, and report on an outreach advisory committee's activities. In addition, VA already has several committees, such as the Advisory Committee on Minority Veterans, the Advisory Committee on Women Veterans, and the Research Advisory Committee on Gulf War Veterans' Illnesses, which look at outreach as a component of their charters. Should this additional advisory committee be established, VA believes that the quarterly consultation and reporting requirements contemplated by section 5(d) and (e) are excessive. Most VA committees already meet two to three times annually. VA recommends instead a biannual meeting requirement.

Section 6 would require each VA medical center to establish an advisory board on outreach activities. VA does not support this section of S. 927 as it would require 152 additional advisory boards, each one being a potential distracter to mission workload.

VA is unable to estimate the costs of this bill, as they would depend upon the scope of the grant program which, in turn, would depend upon amounts appropriated for such grants.

S. 928

Section 101 of S. 928, the "Claims Processing Improvement Act of 2013," would establish a working group to improve the employee work credit and work management systems of VBA. Not later than 90 days after the date of the enactment of this Act, VA would establish a working group to assess and develop recommendations for the improvement of the employee work credit and work management systems of VBA. The work group would be comprised of VA adjudicators, labor representatives, and individuals from Veterans Service Organizations (VSOs). The working group would develop a data-based methodology to be used in revising the employee work credit system and a schedule by which revisions to such system would be made, and would assess and develop recommendations for improvement of the resource allocation model. In carrying out its duties, the working group would review the findings and conclusions of the Secretary regarding previous studies of the employee work credit and work management systems of VBA.

Within 180 days following establishment of the working group, VA would submit a progress report to Congress. Within 1 year following the establishment of the working group, VA would submit a report to Congress detailing the methodology and schedule developed by the working group.

VA does not support section 101. VA is fully aware of the need to improve its work credit and work management systems, but does not believe it necessary to legislate a formal working group to carry out an improvement plan. VA benefited from the Center for Naval Analyses report, mandated by section 226, Public Law 110–389, which revealed needed improvements of VA's work credit and management system. It is vital that VA continue to improve its evolving claims processing system, including the enhancement of the Veterans Benefits Management System (VBMS) to incorporate advanced workload management functionalities. VBA's planned future state includes development of VBMS workload management capabilities that are entirely electronic. The workload management capabilities of VBMS are being developed in two steps. Currently, a working group is building the design requirements that will provide managers with the tools and reporting capabilities to manage their workload most effectively at the regional office level. Second, a national work queue will be developed, to include the capability of routing claims automatically through a pre-determined model, which will route claims based on VBA's priorities and the skill levels of our employees, essentially matching claims processors with the "next best claim" to work based on their skill levels and areas of expertise, as well as national workload management policies.

As VBA moves toward the full integration of the entire claims process in VBMS, the capability to capture transactional data will allow VA to move from a points-based work credit system dependent on employee-user input to a system that can automatically capture employees' transactions, activities, claims completions, and timeliness, enabling VBA to measure performance against standards that truly reflect the desired outcome of timely and accurate completion of claims. VBA recognizes the importance of assessing the impact of our transformational initiatives on employees' job requirements and appropriately adjusting the work credit system. VBA established a new team in April 2013 to work in concert with VBMS programmers to ensure the requirements and functionality for employee work-credit is incorporated into VBMS and that a system is established that measures and manages the work production of employees in accordance with actions required by the updated claims process.

No mandatory or discretionary costs are associated with this section of the bill.

Section 102 of the bill would establish a task force on retention and training of claims processors and adjudicators who are employed by VA and other Federal agencies and departments. The task force would be comprised of the VA Secretary, Director of OPM, Commissioner of the Social Security Administration, a representative from a VSO, and other individuals from institutions as the Secretary considers appropriate. The duties of the task force would include:

(1) Identifying key skills required by claims processors and adjudicators to perform the duties of claims processors and adjudicators in the various claims processing and adjudication positions throughout the Federal Government;

(2) Identifying reasons for employee attrition from claims processing positions;

(3) No later than 1 year after establishment of the task force, developing a Government-wide strategic and operational plan for promoting employment of Veterans in claims processing positions in the Federal Government;

(4) Coordinating with educational institutions to develop training and programs of education for members of the Armed Forces to prepare such members for employment in claims processing and adjudication positions in the Federal Government;

(5) Identifying and coordinating offices of DOD and VA located throughout the United States to provide information about, and promotion of, available claims processing positions to members of the Armed Forces transitioning to civilian life and to Veterans with disabilities;

(6) Establishing performance measures to assess the plan developed under paragraph (3), assessing the implementation of such plan, and revising such plan as the task force considers appropriate; and

(7) Establishing performance measures to evaluate the effectiveness of the task force.

No later than 1 year after the date of the establishment of the task force, VA would be required to submit to Congress a report on the plan developed by the task force. Not later than 120 days after the termination of the task force, the Secretary would be required to submit to Congress a report that assesses the implementation of the plan developed by the task force.

VA does not support section 102 because VA already has systems and programs in place to achieve the goals of the bill.

As VA's claims processes evolve, VA continues to identify critical skills needed by adjudicators. Establishing a task force to address concerns at this stage would be premature and counterproductive as VA implements, modifies, and enhances its transformational initiatives and automated processing systems.

With regard to development of a Government-wide strategic and operational plan for promoting employment of Veterans in claims processing positions in the Federal Government, VA defers to OPM. However, 73 percent of VBA's hires this year have been Veterans, and over 51 percent of VBA's current workforce is Veterans. Our attrition rate in disability claims processing positions was only 6 percent last year and 4 percent this fiscal year through June 30. VA currently utilizes tools in regional offices that capture reasons for attrition when employees leave Federal service. This information is used for succession planning and future hiring at the local level.

Over the last several years, VBA has developed competency models for claims processing positions. The models describe the knowledge, skills and abilities necessary for these jobs. VBA is in the process of linking the models to training.

The linked models will guide supervisors and employees as they develop training plans to improve capabilities and/or remediate skill deficits. Training to develop claims processing skill requires practical application using VA systems and processes that closely guard Veterans' privacy. Effective training requires close evaluation achievable only by experts in claims processing, such as is conducted within VA. Educational institutions are unlikely to provide meaningful development of claims processor skills in Veterans.

The requirement to coordinate with educational institutions to develop training and programs for members of the Armed Forces seems to contradict the rules in section 3680A of title 38, United States Code, which prohibits VA from approving programs of education where more than 85 percent of the students enrolled are in receipt of VA education benefits. Additionally, VA has concerns that the intent of providing specific training for employment for claims processing positions may actually limit their employment opportunities as their training would be specific to a position and not an industry or general career field.

VA has partnered with other Federal agencies to include DOD, Department of Education, DOL, SBA, and OPM to develop a process through redesign of the TAP in order to achieve the President's intent for a "career-ready military." The redesign provides training to enable transitioning Servicemembers to meet Career Readiness Standards by translating military skills into Federal or private work opportunities and better prepare Servicemembers in making a successful transition from military to civilian life. VA is also responsible for delivering the Career Technical Training Track (CTTT) which assists Servicemembers in developing a plan for a technical career after departing the military. The CTTT is a 16-hour course targeted toward Servicemembers who may not choose a 4-year education option and who are seeking rapid employment. As part of the redesign efforts of TAP, VA partners with DOD and the Military Services in implementing a Capstone event to verify Servicemembers are career ready when departing the military. VA will provide support in the development of a Military Life Cycle, which will incorporate Career Readiness

Standards throughout an individual's military career versus during the last few months prior to separation.

There are no mandatory or discretionary costs associated with this section.

Section 105 of S. 928 would mandate a pilot program to assess the feasibility and advisability of entering into memorandums of understanding with local governments and tribal organizations, to include at least two tribal organizations and 10 state or local governments, for the purpose of improving the quality of claims submitted and assisting Veterans who may be eligible for disability compensation in submitting claims.

While VA supports efforts to enhance service and benefits delivery to all categories of Veterans to include those of tribal organizations, the rationale and intent behind this section of the bill is unclear. Therefore, VA does not support this section. A pilot is unnecessary given that VA regularly conducts outreach to tribal organizations. Further, VA works closely with State and local governments, which employ claims representatives to assist Veterans and their family members with filing claims. VA regularly trains state and county personnel to ensure they are equipped to assist Veterans in their communities.

Costs cannot be accurately estimated without understanding the scope of this provision. However, it is anticipated that additional discretionary funds would be needed to administer the program and to train the local governments and tribal organizations to accurately discuss VA benefit programs and assist with claims.

Section 106 of the bill would require VA, not later than 90 days after the date of the enactment of this Act and not less frequently than quarterly thereafter through calendar year 2015, to submit to the Senate and House Committees on Veterans' Affairs a report on the backlog of claims. The report would include the following elements:

(1) For each month through calendar year 2015, a projection of the following:

a. The number of claims completed;
b. The number of claims received;
c. The number of claims backlogged at the end of the month;
d. The number of claims pending at the end of the month; and
e. A description of the status of the implementation of initiatives carried out by the Secretary to address the backlog.

(2) For each quarter through calendar year 2015, a projection of the average accuracy of disability determinations for compensation claims that require a disability rating (or disability decision);

(3) For each month during the most recently completed quarter, the following:

a. The number of claims completed;
b. The number of claims received;
c. The number of claims backlogged at the end of the month;
d. The number of claims pending at the end of the month; and
e. A description of the status of the implementation of initiatives carried out by the Secretary to address the backlog.

(4) For the most recently completed quarter, an assessment of the accuracy of disability determinations for compensation claims that require a disability rating (or disability decision).

VA does not oppose section 106. Although various data elements from this bill are already publicly available and/or provided to Congress on a regular basis, this section of the bill would formalize the transmission of specific performance data.

No mandatory or discretionary costs are associated with this section.

S. 930

S. 930 would add a new subsection to section 5314 of title 38, United States Code, to delay the recovery of overpayments made by VA to individuals receiving Post-9/11 GI Bill benefits until their last payment or payments under that program. This new provision would not apply to individuals, who either completed the program of education for which the debt was made or failed to attend class during the two academic semesters following the creation of the overpayment. VA would be authorized to charge interest on the amount of indebtedness so that the delayed payment actuarially would be equal to the amount as if the debt were paid immediately. The new subsection would apply to all debts created after the date of enactment and would expire 9 years after the date of enactment.

VA does not support this bill. It would require VA to delay the collection of debts by making deductions from the last payment or payments due to beneficiaries. VA would not be able to project when Post-9/11 GI Bill beneficiaries would use their benefits for the last time and the amount of the last payment. As a result, it would

be difficult to determine when the debt should be recouped. Furthermore, withholding some or all the payments due to a Veteran for his/her final enrollment may place undue financial burden on the Veteran during his/her last school term, potentially putting at risk the Veteran's ability to complete his or her program and graduate. If an overpayment remains after the final payment has been withheld, that overpayment would be the responsibility of the Veteran and would be subject to collection through the Treasury Offset Program if the Veteran is unable to pay out of pocket.

This legislation would not apply to individuals who fail to attend classes in a manner consistent with "normal pursuit" of a program of education during the next two academic semesters after such overpayment. It is not clear what is meant by "normal pursuit" as individuals may pursue training on a part-time basis and may take short breaks in training periods. Furthermore, the proposed legislation directs VA to charge the individual interest for debts that must be collected. It is not clear whether interest would accrue from the date the overpayment is created or the date VA begins collection due to non-pursuit of training. It is also unclear whether the debt should be deferred if the individual resumes "normal pursuit" after the debt collection process is initiated.

VA does not believe that the potential benefits gained by deferring some Veteran debts would outweigh the increased burden Veterans may face to repay large amounts out-of-pocket (as there will be little to no benefits remaining) or the burden placed on VA to administer this provision. Moreover, this legislation conflicts with the intended spirit of the Improper Payment Elimination and Recovery Act of 2010 and the Debt Collection Improvement Act of 1996, both of which speak to proper identification and recovery of Federal debts.

S. 930 would be effective on the date of enactment; however, its implementation would require extensive changes to VA's collection process, including labor-intensive systems changes. Thus, VA would need at least 18 months from the date of enactment to develop and/or amend systems to account for this change, train personnel on the change, and inform beneficiaries.

VA estimates that enactment of S. 930 would result in benefits costs to VA of $233 million during the first year, $1.3 billion over 5 years, and $2.4 billion over 10 years.

S. 932

S. 932, the "Putting Veterans Funding First Act of 2013," would extend the authority for advance appropriations provided in the Veterans Health Care Budget Reform and Transparency Act to all of VA's discretionary accounts, effective in 2016 and in each fiscal year thereafter. We appreciate how Congressional support for VA advance appropriations for our medical care accounts has enabled a multi-year approach to medical budget planning and ensured continued medical services for Veterans. The advance medical care appropriation was designed to ensure continuity of critical medical operations in the face of fiscal uncertainty.

A proposal to expand VA advance appropriations needs to be considered by the Administration as part of an across-the-government review of the advantages and disadvantages of such an approach not only for VA, but potentially other programs and agencies. Only in the context of such a broad review could the Administration offer an opinion on making such a change for VA. We cannot therefore offer a position on S. 932 at this time. We very much appreciate the concern for Veterans services reflected in the proposal and look forward to working with the Committee on how to best maintain the provision of VA benefits and services in light of fiscal uncertainties.

S. 935

S. 935, the "Quicker Veterans Benefits Delivery Act of 2013," would revise statutes pertaining to adjudications and payment of disability benefits.

Section 2 of this bill would prohibit VA from requesting a medical examination when the claimant submits medical evidence or an opinion from a non-VA provider that is competent, credible, probative, and adequate for rating purposes. Section 3 would add a third level of pre-stabilization rates under section 4.28 of title 38, Code of Federal Regulations, that can be assigned to recently discharged Veterans. Currently, pre-stabilization rates include a 50-percent and 100-percent evaluation. This bill proposes to add a 30-percent evaluation. In addition, the bill would create a new "temporary minimum disability rating." The bill would authorize such a rating for a Veteran who has one or more disabilities not already covered under the current temporary-rating scheme and "submits a claim for such disability that has sufficient evidence to support a minimum disability rating." Under section 4, VA would be au-

thorized to issue benefits payments prior to the month for which such payments are issued. Currently, VA issues benefits payments on the first of the month for the previous month's entitlement.

VA does not support S. 935. VA appreciates the intent of the provisions, which seek to provide benefits to Veterans more expeditiously. However, as written, these provisions are, in some respects, unnecessary, unclear, and problematic to implement.

Section 2 of the bill is duplicative of existing law. This section prohibits VA from requesting a medical examination when evidence that is submitted is adequate for rating purposes. Section 5103A(d)(2) of title 38, United States Code, notes that an examination or opinion is only required when the record does not contain sufficient medical evidence to make a decision. Furthermore, section 5125 of title 38, United States Code, explicitly notes that private examinations may be sufficient, without conducting additional VA examinations, for adjudicating claims. VA regulations are consistent with these statutory requirements. Therefore, this section is unnecessary and duplicative. VA is already allowed to adjudicate a claim without an examination if evidence is provided by the claimant that is adequate for rating purposes. There are no costs associated with section 2.

VA does not support section 3. The intent of this provision and how it would be implemented are unclear. The existing pre-stabilization rates, 50 percent and 100 percent, are used to compensate Veterans with severe injuries that are unstable and which materially impair employability. The criteria for when the proposed 30-percent evaluation would be used are not specified. However, generally, a rating of 30 percent indicates that an individual is able to participate in the examination process and is capable of employment. Because the Veteran would be required to be re-examined and re-evaluated between 6 and 12 months after discharge, this provision would inconvenience Veterans as well as require additional work on the part of claims adjudicators and medical examiners.

To the extent the bill would create a whole new category of claimants eligible to receive a temporary minimum disability rating, VA does not support this provision. It is unclear how this would be implemented (i.e., whether the term "temporary minimum disability rating" refers to the proposed 30 percent pre-stabilization rating or whether it refers to the current minimum compensable schedular rating of 10 percent. Additionally, it is unclear what is meant by the requirement that the claimant submit "sufficient evidence to support a minimum disability rating." If interpreted to mean that the claimant need only submit evidence of a current disability to be assigned a temporary rating of 30 percent, such a practice would likely result in frequent overpayments that would later need to be adjusted. Likewise, a Veteran with multiple disabilities would often be undercompensated. In general, establishing temporary ratings means that cases will need to be processed twice, which is not an efficient use of resources. Subsection (c), which directs that cases with pre-stabilization ratings or temporary minimum disability ratings not be counted in the backlog of disability claims, raises questions about how these cases would be tracked and counted in VA's workload and concern about data integrity. VA is unable to provide costs for section 3, as the provision is unclear. Additional information concerning the criteria that would create entitlement would be required to determine costs.

VA does not support section 4 of the bill, as its intent is unclear, and it could create significant administrative burdens and costs for VA. This provision would authorize the Secretary to certify benefit payments so that payments will be delivered "before the first day of the calendar month for which such payments are issued." VA is already authorized to make payments prior to the first of the month whenever the first day of the calendar month falls on a Saturday, Sunday, or legal public holiday. The payment VA makes on or near the first of the month is payment for the prior month's entitlement. If the intent of section 4 is to permit VA to make this payment prior to the first of the month irrespective of whether that date falls on a weekend or holiday, we recommend replacing the phrase "for which such payments are issued" with the phrase "in which such payments would otherwise be issued." However, if the intent is to authorize VA to deliver disability payments a full month in advance, such a change in procedure would raise several concerns. For a Veteran with an award that is currently ongoing, an additional month of mandatory funding would be required, as an extra payment would need to be made to advance payments to a month-in-advance status. Additionally, paying benefits in advance significantly increases the chances for overpayment of benefits and directly conflicts with the spirit of the Debt Collection Improvement Act and the Improper Payment Elimination and Recovery Improvement Act. Current processing allows VA to prevent payments from being released if a Veteran becomes ineligible during the month. For example, if a Veteran student drops out of school or passes away during

the month, VA is able to amend his or her benefit award and prevent payment from being released. Paying in advance would eliminate VA's ability to prevent this type of improper payment. Paying benefits prior to the month in which they are earned would potentially result in increased overpayments.

Absent clarification as discussed above, VA opposes this section of the bill, as it potentially would create an administrative burden and significant costs in the reprogramming of VA's computer systems. The systems used by VA do not currently allow prospective payments, and this section would create the need to reprogram multiple applications.

For section 4, if the intent of the proposed bill is to release benefit payments on the last day of the month for which they are due, rather than the first of the following month, as is the current practice, VA sees little impact to our internal processes or Office of Information Technology (OIT) applications. This change would require that our schedule of operations be modified by at least 1 business day to send our bulk payment files to the Department of the Treasury earlier in the month so payments could be delivered (by mail or electronically) on the last business day of the month rather than the first of the following month. The Department of the Treasury does not anticipate this potential change would be an issue with regards to processing and releasing VA benefit payments.

However, if the intent of section 4 is to issue payments in advance of when they are due, VA OIT systems would require significant modifications, which would take longer than the 90-day period allowed to implement this section. For example, if the intent is that payment for July be received prior to July 1 (e.g., June 30), rather than August 1, the current functionality that generates the recurring or monthly payment files would require significant changes. VBA has ten separate OIT payment applications that produce a recurring or monthly payment file that would need to be modified. Changes of this nature would require significant OIT funding that is not budgeted and re-prioritization of planned OIT initiatives.

If the intent of section 4 is to release benefit payments on the last day of the month for which they are due, rather than the first of the following month as is the current practice, there are no benefit costs or savings associated with section 4. While this provision would impact the timing of outlays, it would not affect obligations. If the intent of section 4 is to issue payments in advance of when they are due, there would be costs, including costs associated with the increased chances of overpayments. However, more information would be required to calculate the benefit costs in this scenario.

S. 938

S. 938, the "Franchise Education for Veterans Act of 2013," would amend title 38 United States Code, to allow Veterans who are eligible for educational assistance under the All-Volunteer Force Educational Assistance Program (chapter 30) or the Post-9/11 Educational Assistance Program (chapter 33) and no longer on active duty, to pursue training and receive educational assistance for franchise training. The amount of educational assistance payable under this program shall be, within any 12-month period in which training is pursued, the sum of the fees assessed by the training establishment, a monthly housing stipend for each month of training pursued equal to the monthly amount of the basic allowance for a Servicemember with dependents in pay grade E–5 residing in military housing within the zip code area of the training establishment, and a monthly stipend in the amount equal to $83 for each month of training for books, supplies, equipment, and other educational costs or $15,000, whichever is less.

VA supports the intent of S. 938; however, we cannot support this bill due to significant administrative impacts and a need for further refinement in order to make this policy executable and supportable. We are unclear how VA would determine that the franchise training pursued by the Veteran would result in the establishment of a franchise. Franchise training times vary depending on what the franchise business requirements are (e.g., Meineke may be 4 weeks, whereas 7-Eleven may be 2–4 weeks). VA would have to establish ways to measure the franchise training and conduct adequate oversight to ensure compliance that is necessary for the State Approving Agencies (SAA) to approve the training programs. It is unclear whether any limitations should be established as to when VA should approve the individual pursuit of the franchise training. For example, it is unclear whether VA would need to ensure the individual who desires to open a business first provide business plans or proof of funding in order to establish the franchise.

Due to the need to develop regulations to provide rules to administer this new benefit type, provide training to the SAAs who will approve the training, and provide training to the field offices on processing, VA recommends that this provision

become effective at the beginning of a fiscal year but no earlier than 12 months from date of enactment.

VA estimates that benefit costs associated with enactment of S. 938 would be $1.5 million in the first year, $7.5 million over 5 years, and a total of $15.0 million over 10 years.

S. 944

S. 944, the "Veterans' Educational Transition Act of 2013," would amend section 3679 of title 38, United States Code, by adding a new subsection at the end. The new subsection would require VA to disapprove any course offered by a public institution of higher education that does not charge Veterans and eligible dependents pursuing a course of education with educational assistance under the All-Volunteer Force Educational Assistance Program (chapter 30) or the Post-9/11 Educational Assistance Program (chapter 33), in-state tuition, and fees, regardless of their state of residence.

Under this legislation, a "covered individual" would be a Veteran who was discharged or released from a period of no less than 180 days of service in the active military, naval, or air service less than 2 years before the date of enrollment in the course concerned, or an individual who is entitled to assistance under section 3311(b)(9) or 3319 of title 38 by virtue of such individual's relationship to a covered Veteran.

S. 944 would apply to educational assistance provided for pursuit of programs of education during academic terms that begin after July 1, 2015.

While VA is sympathetic to the issue of rising educational costs, we cannot endorse this legislation until we know more about the impact. VA is concerned that possible reductions in course offerings could be the result from this requirement, which could negatively impact Veterans' educational choices. In-state tuition rules are set by individual States and are undoubtedly driven by overall fiscal factors and other policy considerations.

Enactment of S. 944 may result in cost savings for VA because the Department would no longer make Yellow Ribbon program payments to public institutions of higher learning—these schools would either charge in-state tuition, negating the need to make up the difference between in-state and out-of-state tuition, or the school would cease to be approved for VA education benefit participation. However, as noted above, it is difficult to project the effect of this legislation on the courses offered by public educational institutions, so students may choose not to use their benefits at all because of reduced educational choices.

VA estimates that benefit savings to the Readjustment Benefits account would be $70.2 million over 5 years and $206.2 million over 10 years.

VA estimates that there would be no additional GOE administrative costs required to implement this amendment.

S. 1039

S. 1039, the "Spouses of Heroes Education Act," would amend the Post-9/11 GI Bill (chapter 33 of title 38, United States Code) to expand the Marine Gunnery Sergeant John David Fry scholarship to include spouses of members of the Armed Forces who die in the line of duty. Currently, only children of Servicemembers who die in the line of duty while serving on active duty in the Armed Forces are eligible for such education benefits.

This bill would make spouses eligible for education benefits under chapter 33 for 15 years from the date of the Servicemember's death, or the date on which the spouse remarries, whichever comes first.

A surviving spouse who establishes chapter 33 eligibility based on this bill and is also eligible for education benefits under the Dependents' Educational Assistance (chapter 35) program would have to make an irrevocable election with respect to receipt of educational assistance (under one program only).

S. 1039 also would amend section 3321(b)(4) of title 38 to specify that the period of eligibility for a child entitled to Post-9/11 GI Bill educational assistance under the Marine Gunnery Sergeant John David Fry scholarship expires 15 years after the child's eighteenth birthday.

VA supports S. 1039, subject to Congress identifying appropriate offsets for the benefit costs. If enacted, this legislation would offer eligible surviving spouses more generous monetary benefits than they are currently eligible to receive. Currently, a surviving spouse of a Servicemember who dies in the line of duty may receive education benefits under chapter 35, which include a 20-year delimiting date, 45 months of entitlement, and a current full-time monthly rate of $987. Under this legislation, eligible spouses would receive full tuition and fees at a public institution

(or the maximum amount payable at private institutions), a housing allowance, and a books and supplies stipend of up to $1,000.

Since the benefits are greater under chapter 33 than under chapter 35, VA anticipates surviving spouses would elect to receive benefits under chapter 33. As a consequence, this would decrease the number of chapter 35 beneficiaries.

VA estimates that, if enacted, S. 1039 would result in benefit costs to VA of $10.3 million during the first year, $67.7 million for 5 years, and $163.9 million over 10 years. No administrative or personnel costs to VA are associated with this bill. VA IT costs are estimated to be $9.3 million. These costs include enhancements to the Post-9/11 GI Bill Long-Term Solution. If these IT enhancements could not be implemented, manual processing of claims would be required, which would result in an overall decrease in timeliness and accuracy in processing Post-9/11 GI Bill claims. We estimate that VA would need one year from date of enactment to implement this change.

S. 1042

S. 1042, the "Veterans Legal Support Act of 2013," would allow the Secretary to provide support to one or more university law school programs that are designed to provide legal assistance to Veterans. Funding for such programs would be derived from amounts appropriated for or made available to the Medical Services account of VA.

VA does not support S. 1042. While VA supports the endeavors of university law school programs to assist Veterans in seeking VA benefits, it does not believe such a program would be an effective use of Medical Services funds.

Under the terms of the bill, the amount that can be expended in any one year is limited to $1 million.

RESPONSE TO POSTHEARING QUESTIONS SUBMITTED BY HON. BERNARD SANDERS TO U.S. DEPARTMENT OF VETERANS AFFAIRS

Question 1. Section 201 of S. 928 would amend section 7105(b)(1) of title 38 to require claimants seeking appellate review of a VA decision to file a notice of disagreement (NOD) within 180 days from the date VA mails such decision to the claimant. For the last three fiscal years please provide the following:

i. Total number of notice of disagreements filed with VA;

Response.

Fiscal Year 2013: 117,472
Fiscal Year 2012: 116,802
Fiscal Year 2011: 126,665

ii. Number and percentage of notice of disagreements that were filed within 0–30 days, 31–60 days, 61–90 days, 91–189 days, and 181–365 days.

Response.

	0-30 days		31-60 days		61-90 days		91-180 days		181+ days	
	Number	Pct.	Number	Pct.	Number	Pct.	Number	Pct.	Number	Pct.
FY 2013	40,819	35%	19,911	17%	10,336	9%	17,426	15%	28,980	25%
FY 2012	39,518	34%	19,726	17%	10,645	9%	18,318	16%	28,595	24%
FY 2011	40,025	32%	20,871	16%	11,613	9%	20,199	16%	33,957	27%

Question 2. VA's written testimony in regards to section 201 of S. 928 states "* * * If a claimant waits until the end of the 1-year period to file a NOD, VA is often required to re-develop the record to ensure the evidence of record is up to date. Data support the conclusion that such late-term development delays the resolution of the claim."

a. What data supports the conclusion that late-term development delays resolution of the claim? Please provide this data to the Committee.

Response. There is a well-established pattern within the appeals system that the longer an individual takes to appeal his or her decision; the more likely it is that further development will be necessary. For example, a Veteran filing an appeal after 340 days from the decision is much more likely to have had medical treatment during those 340 days than an individual that filed an appeal after 27 days. This requires VA to develop for such evidence, which in turn leads to a longer appeals resolution time.

The table below includes data pulled from VA's Veterans Appeals Control and Locator System (VACOLS) on June 24, 2013. A review of fiscal years 2009–2012 data reveals evidence of a direct relationship between later filing (beyond 300 days) and longer resolution times. Notice of Disagreements (NOD) filed after 300 days took 36 days longer on average to resolve than the entire inventory of NODs, 42 days longer than those filed between 31–60 days, and 55 days longer than those filed within 30 days.

Days from RO Decision to NOD	Days to BVA Decision
Fiscal Year 2012	
0–30	1,325
31–60	1,355
300+	1,383
Average for all NODs	1,348
Fiscal Year 2011	
0–30	1,175
31–60	1,182
300+	1,228
Average for all NODs	1,196
Fiscal Year 2010	
0–30	1,153
31–60	1,156
300+	1,202
Average for all NODs	1,169
Fiscal Year 2009	
0–30	1,143
31–60	1,155
300+	1,201
Average for all NODs	1,159

Question 3. During a discussion of the interoperability of DOD and VA medical record systems, Mr. Murphy's oral testimony discussed the delivery by DOD of certified complete service treatment records. VA stated that "* * * 97 percent of those records are being delivered with a certified complete statement on top."

a. Please provide the Committee with copies of all previous and current agreements, including but not limited to the December 6, 2012, agreement and February 22, 2013 amended agreement referenced in Fast Letter 13–09, between DOD and VA on certification and transfer of service treatment records.

Response. The Fast Letter and agreements follow:

DEPARTMENT OF VETERANS AFFAIRS
Veterans Benefits Administration
Washington, D.C. 20420

December XX, 2012

Director (00/21)
All VA Regional Offices and Centers

In Reply Refer To: XXX
Fast Letter XX-XX

ATTN: All Veterans Service Centers and Pension Management Centers

SUBJ: Certification of Completeness of Service Treatment Records (STRs)

Purpose

The purpose of this fast letter (FL) is to inform VA Regional Offices of the Department of Defense (DoD) policy on certifying the completeness of paper service treatment records (STRs).

Background

In the past, the Veterans Benefits Administration (VBA) assumed, barring evidence to the contrary, that the military services only sent complete packages of paper STRs. DoD required the collection and shipment of all paper STRs within 45 days after separation of the servicemember from military service. The military services only notified VBA if sending paper STRs that were not associated with the primary medical records (i.e., late and loose flowing documents), the paper STRs were obviously incomplete (such as lacking entrance and exit examinations), or the paper STRs were simply unavailable for shipment.

On October 28, 2010, DoD released Instruction (DoDI) 6040.45, requiring all five military service branches to certify that the paper STRs were complete when sent to VBA at the point of separation from military service. It also required the military services to provide points of contact when forwarding unassociated paper STRs to VBA.

STRs are the outpatient treatment records and discharge summaries of inpatient care only. The STRs do not include the full inpatient treatment records or behavior health records. The inpatient records and behavior health records will not contain a certification letter as they are not part of the DoDI Instruction 6040.45.

Effective January 2013, the military services will began full implementation of the DoDI instruction 6040.45.

Procedures

The final medical treatment facility at each military service, including the National Guard and Reserves, will now certify the completeness of all paper STRs at the point of separation from military service, eliminating the need for unnecessary additional development.

Development for additional paper STRs should only be conducted on these certified STRs when:

1. The Veteran alleges treatment at a specific military treatment facility for a specific time frame and,
2. That treatment information is not included within the certified paper STRs.

A request for the needed paper STRs should be sent to the military point of contact on the paper STRs certification letter and all follow-ups should follow the guidance outlined in the M21-1MR III.iii.2.I.61 titled "General Information on Special Follow-Up by Military Records Specialists."

For January 1, 2013 and later separations, if the paper STR does not contain a certification letter or the certification letter is unsigned, then

1. The Veterans Service Representative (VSR) will contact the station's Military Records Specialist (MRS) and request assistance in obtaining the certification letter,

2. The MRS shall review the claims folder and validate that a certification letter is missing/unsigned from the paper STRs,

    a. In instances where a certification letter would not have been required (for separating service members in December 2012 and prior), the MRS will return the claims folder to the VSR and explain why a certification letter was not included with those particular paper STRs

    b. In these instances where a certification letter is missing or unsigned, the MRS will request assistance from the VA Records Management Center (RMC) via the corporate email box VAVBASTL/RMC/STRCERT. In the email, the MRS should:

        i. Request certification of the STRs
        ii. Provide the Veteran's name, social security number, branch of military service, and dates of service
        iii. Provide the MRS contact information (phone number, fax number, and email address)

3. The VA Regional Office will not return the paper STRs to the military service for the certification letter.

4. RMC will contact the appropriate military service point of contact (POC) via phone and/or email and provide to the POC all of the needed information.

    a. The MRS will allow 15 days for RMC to obtain the certification letter from the military service. If RMC has not responded within the 15 days, the MRS will follow-up with RMC at the corporate email box titled VAVBASTL/RMC/STRCERT.

5. The military service will send a PDF certification letter to RMC. RMC will forward the certification letter to the MRS.

6. The MRS will print and insert the certification letter into the paper STRs and, if needed, upload the certification letter into a VBA system of record.

7. The MRS will return the claims folder to the VSR for further action.

Enclosures 1 through 5 are examples of the certification letters that the Departments of the Army, Air Force and Navy, and the Marine Corps and the Coast Guard will use to certify STRs as complete.

Applicability

These procedures only apply to separated servicemembers. Do not delay pre-separation ratings for the purpose of obtaining certification of STRs completeness.

Questions

For questions concerning this FL, contact VAVBAWAS/CO/212A.

/S/
Thomas J. Murphy
Director
Compensation Service

/S/
David R. McLenachen
Director
Pension and Fiduciary Service

Enclosures

Enclosure 1 – Department of the Army

(Use Official Letter Head)

Date

MEMORANDUM FOR THE DEPARTMENT OF VETERANS AFFAIRS RECORDS MANAGEMENT CENTER OR VETERAN AFFAIRS REGIONAL OFFICE

FROM: (Insert Sending Organization's Complete Mailing Address)

Subject: CERTIFICATION LETTER

1. These documents are forwarded via the Army Medical Department (AMEDD) Record Processing Center to the Department of Veterans Affairs (VA) for utilization in potential claims processing.

2. The Service Treatment Record (STR) for the Service Member identified within has been forwarded from the final servicing Military Treatment Facility (MTF) to the AMEDD Record Processing Center IAW DODI 6040.45. A thorough review of all known record systems was accomplished as directed by the aforementioned instructions. As such, other than the records enclosed herein, it has been concluded that no further records exist and the STR for the Service Member is complete as of the date received by the ARPC. In the event additional documentation is discovered, it will be immediately dispatched to the ARPC to be forwarded to the VA for utilization in potential claims processing.

3. The MTF point of contact is _____ (insert appropriate point of contact name), and can be reached at _____ (insert contact phone number and e-mail address for the point of
contact listed above).

Signature Block

Enclosure 2 – Department of the Air Force

DEPARTMENT OF THE AIR FORCE
APPLICABLE MTF/RMU/GMU LETTERHEAD
CITY, STATE, ZIP

Date

MEMORANDUM FOR THE DEPARTMENT OF VETERANS AFFAIRS RECORDS MANAGEMENT CENTER OR VA REGIONAL OFFICE

FROM: # MTF/RMU/GMU
Mailing Address
City, State, Zip

SUBJECT: Certification Letter to the Department of Veterans' Affairs (VA)

The Service Treatment Record (STR) for the Service Member identified within has been forwarded from the final servicing Military Treatment Facility (MTF) to the Air Force Personnel Center (AFPC) Health Treatment Record Central Processing Center IAW AFI 41-210, 5.7 and DoDI 6040.45. A thorough review of all known record systems was accomplished as directed by the afore mentioned instructions. As such, other than the records enclosed herein, it has been concluded that no further records exist and the STR for the Service Member is complete as of the date received by AFPC. In the event additional documentation is discovered, it will be immediately dispatched to AFPC to be forwarded to the VA for utilization in potential claims processing.

Questions regarding this STR should be directed to the # MTF/RMU/GMU, Outpatient Medical Records section at xxx-xxx-xxxx/email xxxxxx@us.af.mil.

//signed//
MTF/RMU/GMU
Outpatient Medical Records

Enclosure 3 – Department of the Navy

(Use Official Letter Head)

Date

MEMORANDUM FOR THE DEPARTMENT OF VETERANS AFFAIRS RECORDS MANAGEMENT CENTER (VARMC) OR VETERAN AFFAIRS REGIONAL OFFICE (VARO)

FROM: (Insert Sending Organization's Complete Mailing

Address) Subj: CERTIFICATION LETTER

I. These documents are forwarded via the Military Service Personnel Out-Processing Centers to the Department of Veterans Affairs (VA) for utilization in potential claims processing.

4. The Service Treatment Record (STR) for the Service Member identified within has been forwarded from the final servicing Military Treatment Facility (MTF) to the Personnel Support Detachment (PSD) IAW the Manuel of the Medical Department, Chapter 16. A thorough review of all known record systems was accomplished as directed by the aforementioned instructions. As such, other than the records enclosed herein, it has been concluded that no further records exist and the service treatment record (STR) for the Service member is complete as of the date received by the PSD. In the event additional documentation is discovered, it will be immediately dispatched to the PSD to be forwarded to the VARMC for utilization in potential claims processing.

5. The MTF point of contact is _____ (insert appropriate point of contact name), and can be reached at _____ (insert contact phone number and e-mail address for the point of contact listed above).

Signature Block

Enclosure 4 – Department of the Marine Corps

DEPARTMENT OF THE NAVY
HEADQUARTERS UNITED STATES MARINE CORPS
MANPOWER MANAGEMENT SUPPORT BRANCH (MMSB)
2008 ELLIOT ROAD
QUANTICO, VA 22134-5030

IN REPLY REFER TO:
6150
MMSB-16

MEMORANDUM FOR THE DEPARTMENT OF VETERANS AFFAIRS RECORDS MANAGEMENT CENTER OR VETERANS AFFAIRS REGIONAL OFFICE

From: Commandant of the Marine Corps (MMSB-16), 2008 Elliot Road, Quantico, VA 22134-5030

Subj: CERTIFICATION LETTER

1. These documents are forwarded via this Headquarters to the Department of Veterans Affairs (VA) for utilization in potential claims processing.

2. The Service Treatment Record (STR) for the Service Member identified within has been forwarded from the final servicing Military Treatment Facility (MTF) to this Headquarters IAW DODI 6040.45 and MCO P1900.16F. A thorough review of all known record systems was accomplished as directed by the aforementioned instructions. As such, other than the records enclosed herein, it has been concluded that no further records exist and the STR for the Service Member is complete as of the date received by this Headquarters. In the event additional documentation is discovered, it will be immediately forwarded to the VA for utilization in potential claims processing.

3. Please refer any questions regarding medical documentation for this case to Mrs. Michelle Carr at DSN 278-5606 or commercial (703) 784-5606, or via email at michelle.d.carr@usmc.mil or Ms. Jo-Ann Lovell at DSN 278-5600 or commercial (703) 784-5600, or via email at joann.lovell@usmc.mil.

M. D. CARR
Human Resource Technician
By direction of the
Commandant of the Marine Corps

Enclosure 5 – United States Coast Guard

U.S. Department of Homeland Security
United States Coast Guard

Commandant
United States Coast Guard

2100 Second Street, S.W.
Washington, DC 20593-0001
Staff Symbol: CG-1121
Phone: (202) 475-5170
Fax: (202) 475-5926

6000

MEMORANDUM

From: **X. XXXXX, RANK**
Health Services Administrator

Reply to
Attn of:

To: DEPARTMENT OF VETERANS AFFAIRS RECORDS MANAGEMENT CENTER

Subj: Certification Letter to the Department of Veterans' Affairs (VA)

1. The Service Treatment Record (STR) for the Service Member identified within has been forwarded from the **INSERT NAME OF CLINIC** IAW DoDI 6040.45. A thorough review of all known record systems was accomplished as directed by the aforementioned instruction. As such, other than the records enclosed herein, it has been concluded that no further records exist and the STR for the Service Member is complete as of the date of this memorandum. In the event additional documentation is discovered, it will be immediately dispatched to **INSERT NAME OF CLINIC** to be forwarded to the VA for utilization in potential claims processing.

2. Questions regarding this STR should be directed to the **INSERT NAME OF CLINIC**

Signature Block

Based on the December 6, 2012 agreement, Fast Letter 13–09 was issued on January 1, 2013, and did not require service treatment records (STR) certification letters to contain the Servicemember's name and last four digits of his or her social security number (SSN). On February 22, 2013, the agreement with DOD was amended to require the military services to provide the name and last four digits of the Servicemember's SSN on each certification letter. DD Form 2963, STR Transfer or Certification, was published on June 25, 2013, for implementation effective August 1, 2013. Full implementation by the services is expected by November 1, 2013.

b. Please provide the Committee with the following information:

i. Number of service treatment records, by military department, received since implementation of the December 6th agreement.

Response. Please see the below chart with the number of service treatment records received by branch of service from January 2013 through June 21, 2013.

Branch of Service	Jan–Mar	Apr–Jun 21	Total Received
ARMY	15,074	11,374	26,448
NAVY	10,177	8,271	18,448
MARINE CORPS	9,814	6,332	16,146
AIR FORCE	8,708	8,824	17,532

Branch of Service	Jan–Mar	Apr–Jun 21	Total Received
COAST GUARD	495	545	1,040
TOTAL	44,268	35,346	79,614

ii. Number of service treatment records, by military department, with certification received since implementation of the December 6th agreement.

Response. The Records Management Center (RMC) began tracking and reporting STR certification compliance in April 2012. The following data was collected from April 2012 through June 21, 2013.

Branch of Service	Non-Availability Letter*	STRs Certified with 1/1/13 Guidance	STRs Certified with 2/22/13 Guidance**	Total Received
ARMY	1,134	4,335	1,942	7,411
NAVY	559	1,552	782	2,893
MARINE CORPS	198	1,829	445	2,472
AIR FORCE	908	4,574	2,592	8,074
COAST GUARD	24	117	73	214
TOTAL	2,823	12,407	5,834	21,064

*A non-availability letter is used when a complete STR is unavailable (i.e., Medical Only, Dental Only, or partial STRs).
**Letter is substantially similar to version implemented 01/01/2013, but includes Veteran's name and last 4 of SSN

At the end of May 2013, the RMC Director and the five service branches discussed the current process and established a way forward to ensure STRs were complete. On June 4, 2013, the Navy posted Servicemembers at the RMC to assist with obtaining a certification letter for all STRs for both the Navy and Marines.

DD Form 2963, STR Transfer or Certification, was published on June 25, 2013, for implementation effective August 1, 2013. Full implementation by the services is expected by November 1, 2013.

iii. Number of service treatment records, by military department, with certification received since implementation of the December 6th agreement that met the requirements of Fast Letter 13–09.

Response. Please see the chart in the previous response.

iv. Since May 31, 2013, how many service treatment records have been returned to the appropriate military service because they were not transmitted with the required certification letter?

Response. Since May 31, 2013, 32 STRs have been returned due to lacking the required certification letter.

c. How many service treatment records have been requested from the National Guard or Reserves while this agreement has been in effect and how many service treatment records have been received with the required certification?

Response. The legacy systems do not identify Veterans based on service component (active or reserve). The reserve components do not capture whether the member is assigned to the Guard or Reserves specifically. Although VA has the ability to pull data from VADIR that will identify members of the Guard and Reserve, that information does not provide how many claims require STRs.

d. If the service treatment records from one component, such as the National Guard are certified complete, will VA take any action where a veteran reports treatment during active duty with a different unit or component, but the treatment information is not included in the certified record? If so, what actions will be taken?

Response. These records are not received as certified if the member is still serving. For those who have separated or retired, current guidance in Fast Letter 13–09 states:

> STRs are the outpatient treatment records and discharge summaries of inpatient care only. The STRs do not include the full inpatient treatment records or behavior health records. The inpatient records and behavior health records will not contain a certification letter.
>
> Development for additional paper STRs should only be conducted on these certified STRs when:
>
> 1. The Veteran alleges treatment at a specific military treatment facility for a specific timeframe and,

2. That treatment information is not included within the certified paper STRs.

A request for the needed paper STRs should be sent to the military point of contact on the paper STRs certification letter and all follow-ups should follow the guidance outlined in the M21–1MR III.iii.2.I.61 titled "General Information on Special Follow-Up by Military Records Specialists."

Question 4. VA's written testimony indicated that the Department does not support section 104 of S. 928 on the basis that Indian tribes engage in a broad scope of governance activities, often lack veteran-specific focus, and are not among the organizations that, by regulation, can recognize representatives to prepare, present or prosecute claims. States and regional or local organizations can recognize representatives to prepare, present or prosecute claims. Like states, some Indian tribes have departments and offices responsible for administering benefits and services to eligible veterans, including persons who participate in VA's tribal veteran representative program. Given that geographical challenges can result in very little involvement on tribal lands from organizations that have recognized representatives, please explain why Indian tribes should not be provided that same opportunity to recognize their own representatives, under the criteria outlined in sections 14.628 and 14.629 of title 38, Code of Federal Regulations.

Response. VA's discretionary authority to recognize national, state, and regional/local organizations is derived from 38 United States Code (U.S.C.) § 5902(a)(1). Pursuant to the authority granted in section 5902(a)(1), VA has established in 38 CFR § 14.628 requirements for recognition of organizations to assist Veterans in the preparation, presentation, and prosecution of claims before VA. Under section 14.628, an organization seeking recognition must, among other requirements, have as a primary purpose serving Veterans, demonstrate a substantial service commitment to Veterans, and commit a significant portion of its assets to Veterans' services. These criteria are consistent with the purpose of VA's recognition regulations to ensure that claimants for VA benefits have responsible, qualified representation, 38 CFR § 14.626, and have been considered necessary characteristics of an organization that will be recognized in providing representation to Veterans.

Under S. 928, as drafted, all Indian tribes, regardless of their size and their capability and resources to represent Veterans, and without applying for or meeting the requirements for VA recognition applicable to other organizations seeking to represent Veterans, would be placed on a par with the five organizations specifically identified by Congress in authorizing VA recognition of organizations and their representatives. The draft legislation would seemingly assume that all Indian tribes have the capability to provide qualified, responsible representation to Veterans and are prepared to certify to VA that certain of their members are qualified to represent Veterans before VA.

Under current law, an Indian tribe Veterans service department may apply for VA recognition as a regional or local organization and may be recognized for purposes of providing representation services before VA if the organization satisfies the requirements for recognition under section 14.628. If an Indian tribe does not currently have a Veterans service department, a particular tribe or group of tribal Veterans representatives could establish a separate organization to provide representation services to Veteran members of Indian tribes with claims before VA and then apply for VA recognition as a regional or local organization. The organization would be required to submit information and documentation addressing each of the section 14.628 requirements. For instance, the application would have to include information regarding the organization and its purpose, such as a charter or bylaws of the organization; financial statements establishing the organization's financial viability; and the organization's plans regarding recruitment, training, and supervision of its representatives. If VA were to recognize such an organization, the organization could then certify for VA accreditation members of the organization who could provide representation services to Veteran members of Indian tribes.

Also, currently, a member of an Indian tribe may request accreditation to assist Veterans in the preparation, presentation, and prosecution of claims for VA benefits as an agent or attorney under 38 CFR § 14.629(b) or as a representative of a currently recognized Veterans Service Organization under 38 CFR § 14.629(a).

Nonetheless, to the extent the intent is that the proposed legislation explicitly provide a means for Indian tribe Veterans service departments to seek VA recognition in a manner similar to state Veterans affairs departments, and to expressly authorize VA to recognize particular Indian tribe Veterans service departments for purposes of providing representation services if the organizations apply for VA recognition and meet the requirements for recognition under section 14.628, the insertion of ", including organizations of Indian tribes (as defined in section 4 of the In-

dian Self-Determination and Education Assistance Act (25 U.S.C. 450(b))," after "and such other organizations" in section 5902(a)(1) would achieve that purpose and would be consistent with VA's current practice with respect to recognizing national, state, and regional or local Veterans organizations to ensure the provision of qualified, responsible representation to claimants for VA benefits.

Question 5. Unlike the Medicaid program, VA's pension program does not have any set aside of assets for the spouse of an institutionalized veteran who is residing in a health care facility. VHA has allowed a set aside of assets for the spouse of a veteran receiving health care in a long term care facility when assessing co-payments. VHA recently proposed amending their asset exclusion for a spouse residing in the community to match the amount allowed under Medicaid. 78 FR 23702 (April 22, 2013). S. 748 does not provide community spouses of veterans asset protections similar to those afforded to Medicaid recipients or recipients of VHA long term care. Would VA support providing similar protections to spouses provided by VHA to VBA pensioners?

Response. While it is true that there is no express "set aside" of assets for the spouse of an institutionalized Veteran who has applied for VA pension, VA has implemented the pension program in a manner that prevents the impoverishment of a spouse. Under current VA regulations, VA will deny pension when the "estate of the Veteran, and of the Veteran's spouse, are such that under all of the circumstances, it is reasonable that some part of the corpus of such estates be consumed for the Veteran's maintenance." In determining whether it would be reasonable to require such consumption, VA evaluates a number of factors, such as the claimant's income, whether property can be readily converted to cash, life expectancy, number of dependents, potential rate of depletion of assets, and medical expenses. This multi-factor evaluation generally provides a level of protection for spouses of institutionalized Veterans that is near the upper limit of the Community Spouse Resource Standard (CSRS) that Congress authorized for Medicaid. However, current VA regulations do not prescribe a bright-line net worth limit for pension eligibility that is based upon the CSRS or any other objective standard. The Veterans Benefits Administration's (VBA) Pension and Fiduciary (P&F) Service has drafted regulations that would establish such a limit and provide clear notice regarding protected assets. The draft regulations are under review within VA. Accordingly, VA is already taking steps to address Chairman Sanders' concerns.

Question 6. VA's testimony indicated concerns with the length and methodology of the look back period. Please explain the impact of the effect of the bill's methodology on veterans who transferred substantial assets (such as over a million dollars) and veterans who have transferred an amount which does not exceed the asset amount the veteran would be permitted to keep and still qualify for pension.

Response. For purposes of our response, assume that VA has established a net worth limit of $80,000, and that one Veteran transfers $80,000 prior to applying for pension and another transfers $1,000,000. Also assume that both Veterans transferred all of their resources and have no net worth when they apply for pension. Under S. 748, the Veteran who transferred $80,000 would not have a penalty period, while the Veteran who transferred $1,000,000 would have a 3-year penalty period.

However, if the first Veteran transferred $82,000 rather than $80,000, S. 748 would prescribe a penalty period based upon the entire $82,000 (rather than on $2,000), and the Veteran who transferred $82,000 would have the same 3-year penalty period as the Veteran who transferred $1,000,000.

RESPONSE TO POSTHEARING QUESTIONS SUBMITTED BY HON. RICHARD BURR TO U.S. DEPARTMENT OF VETERANS AFFAIRS

Question 1. If the Department of Veterans Affairs (VA) finds that veterans or other VA beneficiaries need help with their finances, VA assigns a fiduciary to help them and also sends their names to be included in the National Instant Criminal Background Check System (NICS). At the hearing, VA testified that it could be a physical disability, rather than a mental condition, that leads to assignment of a fiduciary.

a. Of the individuals VA has sent to the NICS list, how many are suffering from physical impairments, rather than mental ailments?

Response. To clarify, VA regulations specify that determinations of competency for purposes of the VA fiduciary program are based on mental competency, and not on physical disability status. The majority of VA beneficiaries on the NICS list suffer from mental disabilities that inhibit their ability to manage their VA affairs. Some individuals suffer from physical disabilities with co-existing mental conditions that

affect their capacity to handle their VA financial affairs (e.g., amyotrophic lateral sclerosis, Traumatic Brain Injury). VA does not have data on the number of incompetent beneficiaries who fall into this category.

b. Once their names are sent to the NICS list, are they included on that list under the category for people with mental health conditions?

Response. Incompetent Veterans and other incompetent beneficiaries are reported to the NICS list as mental defectives, per 18 U.S.C. 922(g)(4).

c. Under what legal authority does VA or the Department of Justice require the names of individuals with physical disabilities to be sent to a database for individuals with mental impairments?

Response. Some individuals suffer from physical disabilities with co-existing mental conditions that affect their capacity to handle their VA financial affairs (e.g., amyotrophic lateral sclerosis, Traumatic Brain Injury). This may perhaps lead to the need to appoint a fiduciary to manage their VA affairs. These individuals are determined to be incompetent for VA purposes, and thus are reported to the NICS list. The Brady Handgun Violence Prevention Act of 1993 (Public Law 103–159), as implemented by Department of Justice regulations at 27 CFR § 478.11, requires VA to report these individuals.

Question 2. Of the individuals VA has sent to the NICS list, how many are older than 85 years old?

Response. VA has sent information on 65,725 individuals age 85 or older to the NICS list, including 19,627 Veterans.

Question 3. VA beneficiaries who have trouble with their finances can try to keep their names off the NICS list by seeking relief from VA and proving they are not a risk to public safety.

a. How many individuals have sought relief from VA through this process?

Response. Since the NICS Improvements Amendments Act of 2007(NIAA) was effective, 236 individuals have sought relief through VA from the NICS list.

b. Has VA notified all individuals with fiduciaries that this relief process exists? If so, how was that done and how does VA gauge whether that notice was effective?

Response. Notice of the relief process is provided to an individual before and after a rating of incompetency. VA has received 236 requests for relief, thus we believe the notifications to be effective.

c. As of June 2012, VA had granted seven requests for relief from the NICS reporting requirements. How many requests have now been granted?

Response. To date, seven relief requests have been granted.

d. In July 2012, VA suspended processing requests for NICS relief so VA could revise its policy to require anyone seeking relief to also undergo a criminal history background check. Is that moratorium on deciding NICS relief requests still in place? If not, when was it lifted?

Response. As of June 20, 2013, the moratorium on deciding NICS relief requests was lifted.

e. How many NICS relief requests are currently pending and how long on average have they been waiting for a decision?

Response. Forty relief requests are currently pending. Because processing those requests was temporarily suspended, the average wait time rose to 292 days. Since processing has resumed, those cases will be expeditiously processed.

f. Does VA plan to require veterans and their families to pay for the costs of any background checks?

Response. VA does not plan to require Veterans and their families to pay for the costs of any background checks.

g. Would a criminal history background check be required for young children who have fiduciaries?

Response. In all cases, benefit payments to minors are made to a parent guardian, or fiduciary on their behalf. Mental incompetency for VA purposes would only become an issue for individuals age 18 or older.

h. Would a criminal history background check be required for individuals of extremely advanced age with limited mobility?

Response. All persons of age 18 or older are required to follow state and Federal laws requiring a criminal history background check. VA requires a criminal history for anyone before receiving a grant of relief under the NIAA.

i. Would a criminal history background check be required if VA already has clear evidence that the veteran or family member is not dangerous?

Response. All persons of age 18 or older would be required to follow state and Federal laws requiring a criminal history background check. VA would require a criminal history for anyone before receiving a grant of relief under the NIAA.

j. Please quantify the resources that VA expects to use to adjudicate these requests for NICS relief, in terms of the number of hours worked, number of employees designated to work on these requests, or funding required.

Response. Each VA regional office assigns an individual or individuals to make determinations for relief. The amount of hours worked, or funding required, would be dependent on the volume of relief requests received in any given time period for a particular regional office.

Question 4. Last year, the Government Accountability Office (GAO) reported that over 200 companies are marketing financial products to veterans and their families in order to help them qualify for need-based pension by manipulating their assets. GAO recommended that Congress create a "look-back" period, so VA can check whether a pension applicant moved assets before applying for pension. In response, VA indicated that it was already drafting regulations along those lines.

a. Other than the GAO investigation, what led VA to believe a look-back period may be necessary?

Response. VBA created its Pension and Fiduciary Service (P&F) in 2011 to improve the pension program and focus on the unique needs of pension beneficiaries. In its initial assessment of the program, which preceded GAO's investigation, P&F Service determined that current VA regulations did not adequately preserve the pension program for Veterans and survivors who have an actual need. The regulations permitted claimants to transfer assets prior to applying for pension, so long as the claimant relinquished all ownership and control over the assets. In addition, VBA had received complaints about financial planning businesses seeking to exploit asset transfers through the marketing of certain financial products, such as annuities and trusts, to Veterans and survivors. P&F Service determined that the pension program was at risk for becoming an estate planning tool rather than a needs-based program for wartime Veterans and their survivors.

b. What is the status of those draft regulations?

Response. The regulations are under review in VA.

Question 5. There were a number of bills on the agenda that deal with the tuition costs for veterans and their family members who are attending public institutions of higher education.

a. How many Post-9/11 GI Bill or Montgomery GI Bill users are currently attending public institutions of higher education?

Response. While VA does not have data that will show how many Post-9/11 GI Bill or Montgomery GI Bill users are currently attending public institutions of higher education, the table below shows the number of Post- 9/11 GI Bill beneficiaries that attended public, private for-profit, and private nonprofit domestic institutions from August 1, 2009, to January 17, 2013. Please note that the chart does not count unique program participants.

Post-9/11 GI Bill Number Trained by Domestic Institution Type

(August 1, 2009–January 17, 2013)

Profit Status	Trainees
Public	632,005
Private profit	325,105
Private nonprofit	185,995
Total	1,143,105

b. Of those, how many are estimated to be paying more than in-state tuition rates?

Response. VA does not have data that will show how many VA education beneficiaries are paying more than in-state tuition rates.

Question 6. Section 233 of Public Law 112–56, which included the VOW to Hire Heroes Act of 2011, entitled a veteran who had previously completed a vocational rehabilitation program and has exhausted state unemployment benefits to an additional 12-month period of vocational rehabilitation and employment services.

a. Since this expansion has been implemented, how many veterans have been approved for the additional 12 months of entitlement and started a new vocational rehabilitation program?

Response. Four Veterans started a new vocational program under this provision between May 2012 and June 2013.

b. If few have utilized it, are there other options that should be considered to improve vocational rehabilitation and employment programs to meet the needs of veterans?

Response. Before enactment of this law, Vocational Rehabilitation and Employment (VR&E) estimated that few Veterans would qualify under this provision. Most Veterans who meet the criteria under Section 233 would already be found eligible under existing VR&E regulations.

Question 7. S. 819, the Veterans Mental Health Treatment First Act, would incentivize veterans to seek treatment for certain conditions, such as Post Traumatic Stress Disorder (PTSD). A veteran may receive an initial rating of less than 100% but, over the years, may submit claims to increase the rating if the veteran's symptoms deteriorate. Eventually, a veteran could be rated 100 percent disabled and unable to work. The goal of the bill would be to provide veterans with early treatment and, hopefully, stop or slow down the progression to the 100 percent and unemployable determination later in life.

a. In total, how many veterans receive disability compensation from VA for PTSD?

Response. There are 625,820 Veterans currently receiving disability compensation who have a service-connected PTSD rating, including 4,190 Veterans rated 0 percent for PTSD.

b. How many of the current generation of veterans—those who served in Iraq and Afghanistan—are receiving disability compensation for PTSD?

Response. Of the 625,820 Veterans currently receiving compensation who are service-connected for PTSD, 188,903 Veterans served in Iraq and Afghanistan.

c. Please provide the Committee with the number of veterans receiving disability compensation for PTSD since 2001. Please break this data out by the rating percentage.

Response. Please see Attachment A Spreadsheet.

Attachment A

Fiscal Year	Number of Veterans Service Connected for Post Traumatic Stress Disorder										
	0	10	20	30	40	50	60	70	80	100	Total
2001	1,213	17,485	12	36,421	11	30,594	6	26,899	1	34,808	147,422
2002	1,261	17,066	17	40,879	14	35,914	6	34,254	2	39,099	168,485
2003	1,319	17,198	22	47,119	19	43,044	7	43,536	2	44,429	196,641
2004	1,303	16,871	26	51,778	21	49,315	7	52,242	1	49,319	220,850
2005	1,319	17,269	28	58,252	21	56,790	8	60,553	1	53,705	247,918
2006	1,440	18,385	25	66,236	30	63,649	7	66,360	1	56,465	272,541
2007	1,725	21,453	30	77,678	27	72,392	12	73,936	2	60,066	307,321
2008	1,965	24,166	28	90,206	27	82,907	17	81,681	2	63,668	344,667
2009	2,125	26,080	30	104,375	33	94,892	15	91,952	2	67,296	386,800
2010	2,359	28,272	40	120,780	36	109,393	17	105,075	0	71,252	437,224
2011	2,754	31,831	54	142,634	49	128,457	21	119,885	0	75,493	501,178
2012	3,072	31,672	64	154,107	50	152,737	26	146,835	0	83,917	572,480
FYTD 2013	4,190	32,691	62	162,247	54	170,101	31	166,239	0	90,205	625,820

d. What is the average disability rating assigned when an individual first applies for compensation for PTSD?

Response. The average degree of disability for Veterans who initially apply for service connection for PTSD is 50 percent.

e. Can you provide the number of veterans with an initial PTSD rating less than 100% who eventually apply for an increased rating?

Response. As of June 2013, 129,035 Veterans have applied for an increased rating for PTSD in FY 2013. Please see Sheet B of Attachment A for the number of Veterans that applied for an increased rating for PTSD by year since FY 2001.

Attachment A, Sheet B

Total Number of Unique Veterans per FY Who Applied for an Increased PTSD Rating

Fiscal Year	Total
2001	622
2002	6,463
2003	61,175

Attachment A, Sheet B—Continued

Total Number of Unique Veterans per FY Who Applied for an Increased PTSD Rating

Fiscal Year	Total
2004	108,207
2005	117,147
2006	117,923
2007	127,596
2008	148,105
2009	173,039
2010	227,484
2011	232,716
2012	223,021
FYTD 2013	129,035

RESPONSE TO POSTHEARING QUESTIONS SUBMITTED BY HON. JON TESTER TO U.S. DEPARTMENT OF VETERANS AFFAIRS

Question 1. Deputy Undersecretary Coy's written testimony for S. 294 stated: "Prior to these training initiatives, the grant rate for PTSD claims based on MST was about 38 percent. Following the training, the grant rate rose and at the end of February 2013 stood at about 52 percent, which is roughly comparable to the approximate 59-percent grant rate for all PTSD claims."

a. Please provide data used by the Veterans Benefits Administration (VBA) to make this determination.

Response. Please see Attachment A above, which contains grant rates for PTSD. As discussed in testimony, VBA conducted Military Sexual Trauma (MST) training in December 2011.

b. Does the VBA have data on MST-related claims which have been denied or remanded at the Board of Veterans Appeals?

Response.

	Total	Allowed	Denied	Remanded	Other (dismissed/ withdrawn)
FY 2013	249	76	39	126	8
FY 2012	257	85	38	129	5
FY 2011	280	98	56	119	7

Question 2. Please provide data and methodology used by the VA to determine the cost of S. 294.

Response. Please see the following methodology.

S. 294 1st Session of 113th Congress

Improvement of the Disability Compensation Evaluation Procedure for Veterans with Post-traumatic Stress Disorder or Mental Health Conditions Related to Military Sexual Trauma

Methodology

a) Identification Improvement of the disability compensation evaluation procedure for Veterans with post-traumatic stress disorder (PTSD) or mental health conditions related to military sexual trauma (MST).

b) Highlights This proposed bill would amend 38 U.S.C. § 1154 by adding a new subsection (c) that would alter the standard of proof for service connecting PTSD claims related to military sexual trauma and a new subsection (d) that would alter the standard of proof for service connecting claims for other "covered mental health conditions" related to military sexual trauma.

c) Estimated Cost Benefit costs are estimated to be $135.9 million during the first year, $2.0 billion for five years, and $7.1 billion over ten years.

d) Benefits Methodology
This economic impact analysis covers the costs associated with three different populations of Veterans who are expected to receive benefits as a result of enactment of this bill.

1. Veterans who have not applied for service connection for PTSD and other mental conditions based on MST (from both Veterans who are and are not currently in receipt of compensation),
2. Veterans who were previously denied service connection for PTSD or other mental conditions based on MST, and
3. Veterans who were denied service connection for PTSD or other mental conditions but never claimed an association with MST for service connection.

Compensation Service has determined that any survivor accessions as a result of this bill will be insignificant and therefore are not reflected.

Veteran Accessions and Reopens
The Office of Performance Analysis and Integrity (PA&I) identified the total number of accessions for Veterans who were granted service connection for PTSD and other mental conditions related to MST for fiscal years 2009 through 2011. Based on the total number accessions and reopened claims granted within the same time frame (from FY 2014 President's Budget), an estimated 0.5 percent of PTSD and other mental conditions accessions were MST related. Compensation Service assumes that with the enactment of this bill, total accessions for PTSD and other mental conditions related to MST would increase by 1.5 percent over the

historical level. With this percentage applied to the total annual Veteran accessions and reopened claims (granted), an estimated 7,222 Veterans will be receiving compensation for service-connected PSTD and other mental conditions related to MST in FY 2014. Compensation Service assumes that 60 percent of this total will be Veterans that are new to the rolls (4,333), and the remaining 40 percent will be reopened cases (2,889). Based on historical data from 2009-2011, Compensation Service assumes an average degree of disability of 50 percent for service connected PTSD and other mental conditions related to MST.

An estimated 4,333 Veterans will be new to the compensation rolls in FY 2014. Obligations are calculated by applying caseload to the annualized September average payment at the 50 percent degree of disability.
An estimated 2,889 Veterans are already on the compensation rolls for other service-connected disabilities and will reopen their claims. For these Veterans currently on the rolls, we assume an average degree of disability of 40 percent. Based on the Combined Rating Table, Veterans that are currently on the rolls will receive a higher combined disability rating of 70 percent. To calculate obligations, the difference in the annualized September average payments due to the higher rating was calculated and applied to the on-rolls caseload to determine increased obligations.

Veterans Previously Denied with a MST Claim
A data run from PA&I identified 9,030 Veterans with denied claims for PTSD or other mental conditions related to MST. Of these 9,030 Veterans, data suggests that 5,560 are not on the compensation rolls, and the remaining 3,470 are currently in receipt of compensation benefits. Compensation Service assumes an application rate of 100 percent and 85 percent grant rate. An average degree of disability of 50 percent is assumed for all previously denied claims. We assume these Veterans will reapply for benefits over a three-year period, and caseload is distributed evenly over three years.

With the application and grant rates applied, an estimated 4,726 Veterans out of the total 5,560 Veterans (currently not on the rolls) with a previously denied claim will be granted service connection starting in FY 2014 and access the rolls over three years. Obligations are calculated by applying caseload to the to the annualized September average payment at the 50 percent degree of disability.

Based on the data run, 3,470 Veterans are currently on the rolls for other conditions and were previously denied for a MST claim. With the application and grant rates applied, an estimated 2,950 Veterans will reopen their claims starting in FY 2014 and over three years. The Veterans on the rolls are assumed to be 40 percent disabled and will receive an increased rating of 70 percent when combined with the

additional 50 percent rating for the mental condition related to MST. To calculate obligations, the difference in the annualized September average payments due to the higher rating was calculated and applied to the on-rolls caseload to determine increased obligations.

Veterans Previously Denied without a MST Claim
PA&I identified 186,978 Veterans that were denied service connection for PTSD and other mental conditions that have not reported MST. Of this total, 47,989 are not in receipt of compensation benefits and the remaining 138,989 are already on the compensation rolls. Compensation Service assumes that 6 percent of those Veterans that are denied will reapply for PTSD or other covered mental conditions and claim association with MST under the provisions of this bill. Of the six percent, it is assumed 20 percent will be granted. An average degree of disability of 50 percent is assumed for all previously denied claims. We assume these Veterans will reapply for benefits over a three-year period, and caseload is distributed evenly over three years.

Based on the data, there are 47,989 Veterans who were previously denied without a report of MST and who are currently not on the compensation rolls. With an application rate of six percent and grant rate of 20 percent applied, an estimated 576 Veterans will file a claim over a three-year period starting in FY 2014. Obligations for these Veterans are calculated by applying caseload to the annualized September average payment at the 50 percent degree of disability.

There are 138,989 Veterans previously denied without a report of MST who are currently on the compensation rolls. With an application rate of six percent and a grant rate of 20 percent, an estimated 1,668 Veterans will reopen their claims over a three-year period starting in FY 2014. The Veterans on the rolls are assumed to be 40 percent disabled and will receive an increased rating of 70 percent with the additional 50 percent rating for a mental condition related to MST. To calculate obligations, the difference in the annualized September average payments due to the higher rating was calculated and applied to the on-rolls caseload to determine increased obligations.

COLAs commensurate with current economic assumptions and have been factored into this estimate.

We assume an enactment of October 1, 2013.

FY	Accessions	Reopens	Previously Denied	Obligations (in 000s)
2014	4,333	2,889	3,305	$ 135,872
2015	8,667	5,778	6,608	$ 277,700
2016	13,000	8,667	9,909	$ 425,680
2017	17,333	11,556	9,903	$ 533,729
2018	21,667	14,444	9,898	$ 646,333
5-year Total				**$ 2,019,315**
2019	26,000	17,333	9,891	$ 763,619
2020	30,333	20,222	9,885	$ 885,753
2021	34,667	23,111	9,879	$ 1,012,892
2022	39,000	26,000	9,872	$ 1,145,188
2023	43,333	28,889	9,865	$ 1,282,814
10-year Total				**$ 7,109,581**

e) Administrative Costs After the Compensation Service provides the resources requirements to implement this change, the GOE budget staff will calculate any additional FTE or GOE cost requirements.

f) Contact Neil Thompson 202-461-9958 or Michael Zaczek 202-461-9316, ORM Benefits Budget Division (24).

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RESPONSE TO POSTHEARING QUESTIONS SUBMITTED BY HON. MARK BEGICH TO U.S. DEPARTMENT OF VETERANS AFFAIRS

Question 1. I see you have not weighed in on my bill S. 932, Putting Veterans Funding First Act of 2013. This bill will provide for advance appropriations for discretionary accounts other than what was authorized in 2009.

I believe I have heard the Secretary mention the value of advanced appropriations for the medical services and I know some of the VSO's want to see some of the other important programs be included in advanced appropriations for continuity of care for veterans.

What do you see as obstacles to this advance and tell me what the advantages would be for the VA? Do you see any savings in doing a two year budget for the other programs?

Response. As noted in the Department's views on S. 932, the issues and implications raised by the expansion of advance appropriation as called for in S. 932 are ones that must be considered by the Administration in the context of Government-wide budget policy and operations.

Question 2. I cosponsored Senator Burr's bill to authorize the VA to issue cards to veterans that identify themselves as veterans. We have many veterans in Alaska who do not receive health care from the VA, but feel they served their country and want to have an identifier as a Veteran. My state did pass a driver's license identifier for vets; however there are some businesses that do not accept it. You did not submit a view on this bill, and I would like you to respond to at least the concept and give any reason you may not support the bill.

Response. As an advocate for Veterans, VA is pleased to see others recognize the service and sacrifice of these men and women.

VA issues a single-purpose identity card for Veterans enrolled in VA health care. Having two VA-issued cards could cause confusion. Although the bill does state that the card would not by itself establish eligibility, there could nonetheless be misunderstandings by Veterans that a Government benefit is conferred by the card.

VA neither encourages nor discourages private companies from recognizing Veterans for discounts and charity events. However, it is in the company's sole discre-

tion to determine what documentation they are willing to accept to qualify for their special offers. VA encourages companies to accept a broad range of documents for verifying Veteran status to include DD Form 214, Military Retiree Identification Card, and state issued driver's licenses with Veterans designation.

All states have some kind of structured identity program and infrastructure that are better suited to satisfy this need. Currently over 30 states provide Veterans designation on state drivers' licenses.

At this time, VA does not have an estimate of the portion of our 22.4 million Veterans that would apply for such a card. VA cannot produce a cost estimate for S. 778.

Question 3. Regarding fiduciary responsibility of the VA, please provide me with the laws and regulations that either direct, or authorize, the VA to submit individuals to the National Instant Criminal Background Check System. Please include legal justification for VA submitting individuals who have physical disabilities or who have voluntarily surrendered their fiduciary responsibilities.

Response. The Brady Handgun Violence Prevention Act of 1993 (Brady Act) (Public Law 103–159), as implemented by Department of Justice regulations at 27 CFR §478.11, is the legal authority that requires VA to report these individuals to the National Instant Criminal Background Check System (NICS). The Department of Justice regulations include within the definition of mental defective, for purposes of NICS reporting under the Brady Act, persons who have been determined by a court, board, commission, or other legal authority to lack the mental capacity to contract or manage their own affairs. A VA determination of incompetency for the purpose of the VA fiduciary program falls within the scope of this definition.

Some individuals suffer from physical disabilities with co-existing mental conditions that affect their capacity to handle their VA financial affairs (e.g., amyotrophic lateral sclerosis, Traumatic Brain Injury). This may perhaps lead to the need to appoint a fiduciary to manage their VA affairs. These individuals are determined to be incompetent for VA purposes, and thus are reported to the NICS list.

VA does not provide a fiduciary at an individual's request. An individual must meet the criteria as incompetent for managing their VA affairs to be assigned a fiduciary.

Chairman SANDERS. Thank you very much, Mr. Coy. Thank you all for being here. Before I get to my written questions, let me just ask if anyone wants to respond.

As you know, probably the major issue of concern for the veterans' community and to this Committee has been the backlog. So, my question is a simple one. As we transform the entire system—and I think that was long overdue—I think it should have been done years before we began this. But be that as it may, as we make that transformation from paper to paperless, in your judgment, are we making progress?

Mr. COY. Sir, I will defer that question to my colleague, Tom Murphy. He is very well vested in that process.

Mr. MURPHY. Yes, Mr. Chairman, we are. We are making significant progress. We, for the first time, have VBMS fielded in all regional offices in the country.

It is generation one software, but we are seeing more rapid development, improvements in performance of individuals and their ability to process claims and move them through. Over time we have seen the savings from not literally shipping as many boxes of files back and forth across the country. So, just those shipping fees are now taken out of the process.

So, we are starting to see the leverage from moving to the paperless system; and as that transition continues over the next year plus, we will see more benefits of that.

Chairman SANDERS. In your judgment, do you think we will reach the goal, the very ambitious goal established by the Secretary?

Mr. MURPHY. Yes, sir, I do.

Chairman SANDERS. OK. Thank you very much.

Mr. Coy, let me begin with you, although I believe this question may be best answered by Mr. Murphy. It deals with the Claims Processing Improvement Act which I have introduced, and there are a number of important provisions in that legislation which I am pleased to see VA indicating support for some of. I would like to discuss a couple of the provisions for which VA did not provide views.

First, this Committee has a responsibility to exercise aggressive oversight of VA's efforts to address the backlog. In other words, once again it is beyond my comprehension why it took so long for VA to move from paper to paperless. I applaud the Secretary for finally undertaking that very ambitious goal; but the job of this Committee is to make sure that that goal is achieved.

So, my question to you, Mr. Murphy, is, do you agree that this Committee and the public needs to be able to measure VA's progress? In other words, the Secretary, to his credit, did what very few people do: he put it right out there on the table. And correct me if I am wrong, but he said by the end of 2015 all claims would be processed within 125 days with 98 percent accuracy. Is that what he stated?

Mr. MURPHY. That is correct, sir.

Chairman SANDERS. OK, and what I just heard you say a moment ago is you believe that we are on target to reach that very ambitious goal.

Mr. MURPHY. Yes, I do, Mr. Chairman.

Chairman SANDERS. OK. So, what I want this Committee to be able to do is to make sure that we are monitoring effectively on a periodic basis our progress toward reaching that goal.

Do you agree that that is a reasonable thing for the American people to be doing?

Mr. MURPHY. Yes, I do, Mr. Chairman, and you point out there are some provisions of the bill that we have not put official testimony on, but I can speak to that in a very general sense.

What we are talking about here is specific publicly posted performance for all to see and understand exactly what VA is doing and the progress we are making toward the Secretary's goals of 125 days, 98 percent.

We have been reporting publicly for some time now all of the performance that we have on our ASPIRE Web site available to everybody, and we would be interested in discussing with you and the Committee on any further reportings that you would be talking about and talking about some of the details in your bill.

Chairman SANDERS. Good. That is what we are talking about. I personally believe that visibility into actual production when measured against projected workload and production will allow stakeholders to see what benchmarks VA must hit in order to reach the Secretary's goals.

In other words, here is what we want. We do not want in late 2015 for you to come in here and say, you know, we hoped that we would be able to do that but it turns out we cannot.

We want to be monitoring you at least on a quarterly basis to see what your goals are, where you think you should be, and in fact, where you are. Does that make sense to you?

Mr. MURPHY. Yes, it does, Mr. Chairman, and I have got to point out some numbers showing that we are making progress in that regard. The backlog reduction of approximate 74,000 cases in our overall inventory reduction is 44,000 cases just in the last 45 days.

What is significant about those numbers when we are talking about such a large volume of cases, it is not, well, that is the game changer; but it does indicate that we are at a tipping point. In order to break the backlog, we need to be putting more work out the door than is coming in and we are there solidly month after month, consistently now.

Chairman SANDERS. So, what you are telling us—and by the way, this is very good news for the American people—is that you think right now the backlog is decreasing. You think as the transformation of the system becomes firmer and we are more and more into digital rather than paper, you are going to see that backlog go down. Is that what you are telling us?

Mr. MURPHY. I am saying that the backlog, we can expect the backlog to continue to decrease going forward.

Chairman SANDERS. That it is decreasing and that it will continue to decrease?

Mr. MURPHY. The last 45 days it has decreased by over 44,000 cases, excuse me, 44,000 inventory, 74,000 backlog. They are two different numbers.

Chairman SANDERS. OK. Senator Boozman, did you have some questions?

Senator BOOZMAN. Yes, sir, I do. If you would like, you can move to Senator Blumenthal since I gave my opening statement. Go ahead, sir.

Chairman SANDERS. That is kind of you.

Senator Blumenthal.

STATEMENT OF HON. RICHARD BLUMENTHAL, U.S. SENATOR FROM CONNECTICUT

Senator BLUMENTHAL. Thank you. Thank you, Mr. Chairman. I thank you all for being here and thank you for your continued work on a number of these areas including the claims backlog which is vexing not only to us but obviously to stakeholders across the country; so I wondered if you could distinguish, you mentioned 74,000 and 44,000. 74,000 is the reduction in?

Mr. MURPHY. Total inventory in the VA.

Senator BLUMENTHAL. And 44,000?

Mr. MURPHY. Claims that are less than 125 days plus claims that are over 125 days comprise the total inventory. 44,000 is the reduction in that number.

Senator BLUMENTHAL. And rather than quizzing you now, could you get us a report in writing with the numbers showing when the backlog began to decrease, in other words, when the tide turned; and what your projections are for coming months, let us say until the end of the year and as far beyond as you can project?

Mr. MURPHY. Yes, I understand what you are looking for, Senator, and I can get you the numbers showing the performance up to where we are today; and we will have some discussions about what the future looks like for the rest of the fiscal year.

Senator BLUMENTHAL. Well, when you say "you will have," "we will have some discussions," do you mean you and we members of the Senate, or internally, "we will have?"

Mr. MURPHY. We internally delivered to you members of the Senate.

Senator BLUMENTHAL. OK. Do you have numbers for Connecticut?

Mr. MURPHY. Offhand I do not, not with me today.

Senator BLUMENTHAL. Could you get those numbers to me?

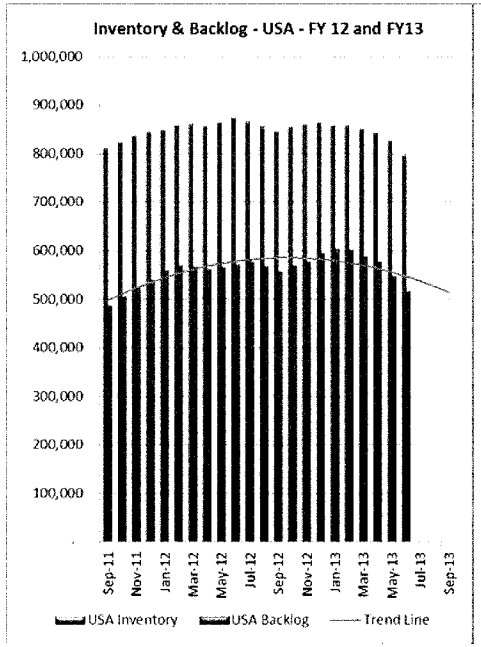
Mr. MURPHY. Yes, Senator, I would be happy to.

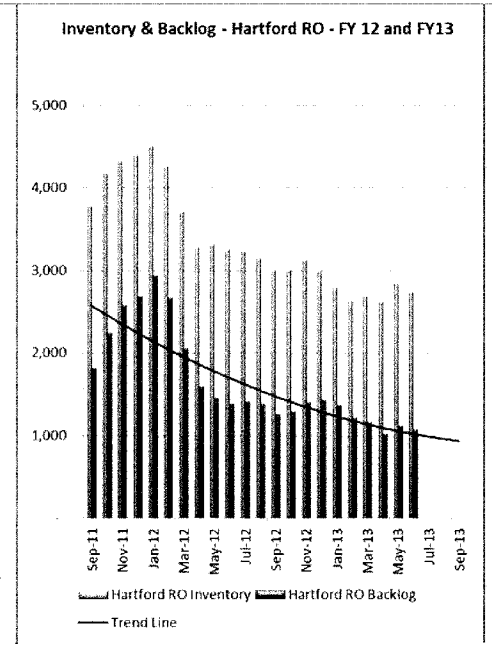
[The information requested during the hearing follows:]

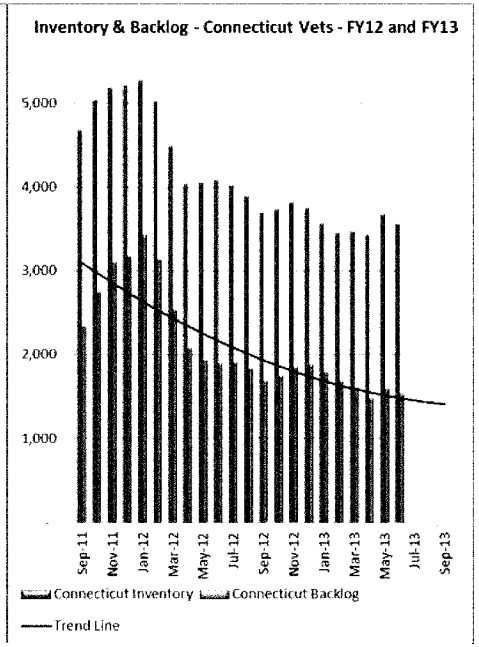
HEARING DELIVERABLES FROM SVAC JUNE 12, 2013 LEGISLATIVE HEARING

Deliverable: Senator Blumenthal, after the numbers were presented on recent decreases in inventory and backlog asked for more points of data that would show when a 'tipping point' when the backlog started to decrease was reached.

- He also asked for projections for coming months, at least to the end of the 2013 calendar year.
- Blumenthal also asked for numbers specific to Connecticut on the decrease of the inventory/backlog.







Senator BLUMENTHAL. Thank you.

You know, I want to join my colleagues in expressing a sense of urgency. We said on a number of occasions how important it is to reduce this backlog, and I know you share the view that the numbers right now are unacceptable. We have heard that from veterans and you have heard it from us, and I appreciate your cooperation.

Let me ask you about one of the issues that concerns me, the interoperability of the medical records system or the merger of the two, DOD and VA. Could you tell us what the status of that effort is today?

Mr. MURPHY. I can address it from the standpoint of processing compensation claims and what it is that I need in order to process claims efficiently and quickly, and that is tied back to the electronic delivery from the Department of Defense to the VA of electronic copies of their service treatment records.

There are two key things that have happened recently. The first one is the delivery by the Department of Defense of a certified complete record which relieves me of the responsibility to continue to search for Federal records, as required by the statute.

Since the beginning of June—it has been about 3 weeks now of full implementation of Department of Defense—97 percent of those records are being delivered with a certified complete statement on top. That is great progress forward with us working together with our DOD partners.

Senator BLUMENTHAL. And of those records that are automatically delivered seamlessly, they are interoperable without being, in effect, part of the same system. Is that what you are saying?

Mr. MURPHY. I think the answer to that is going to come in the second part of this, Senator.

Senator BLUMENTHAL. Sorry.

Mr. MURPHY. Today, I will take it in any form DOD can give it to me as quickly as they are. The DOD has committed that by the end of the calendar year they will deliver all of their medical records, certified complete like that, to us in an electronic format.

Senator BLUMENTHAL. By the end of the year, did you say?

Mr. MURPHY. This calendar year.

Senator BLUMENTHAL. This calendar year?

Mr. MURPHY. Yes.

Senator BLUMENTHAL. Sir, I apologize for interrupting. In effect, DOD has committed to you that by the end of the year 2013 the two systems will fit together seamlessly and they will become part of the same system? I am trying to put it in layman's language because I do not know how technically to describe it and I welcome whatever comment you have.

Mr. MURPHY. Senator, you scare me with the "get together seamlessly" portion of that. I will receive that in a format that I can ingest——

Senator BLUMENTHAL. Was that not the goal of Secretary Panetta——

Mr. MURPHY. Yes. Absolutely.

Senator BLUMENTHAL. And Secretary Shinseki——

Mr. MURPHY. The key is they will give it to me in any format that I can receive into VBMS electronically, call it up at the rater's desk without additional effort, see those records, search those

records in a format that is usable to us; and yes, that is the commitment.

Senator BLUMENTHAL. And that is by the end of the year?

Mr. MURPHY. That is by the end of this calendar year, correct.

Senator BLUMENTHAL. Great. Because my time is limited, I am going to jump to another topic.

I have sponsored a measure called the Veterans Back to School Act that would, in effect, eliminate the 10-year limit on GI Bill benefits. As you know right now, GI benefits are limited to 10 years after separation from the service.

In today's economy, 10 years is, in my view, no longer an acceptable limit because people change careers. They need new training. Veterans may simply be as much in need of these benefits after 10 years as they are 10 years before.

Could I ask you for a position on that measure?

Mr. MURPHY. I think we are in Mr. Coy's territory now, Senator.

Mr. COY. Thank you, Senator, for that question. S. 863 essentially, as you indicated, takes away the time limit; and instead of from separation, it makes it from the time that you start using those benefits.

We do not yet have cleared positions on that, and so, we are working through that. Some of this is "the devil is in the details," if you will.

So, we want to make sure we give you a good, complete answer for the record rather than make the effort to try and do that very quickly, and we hope to have those cleared views to you very shortly.

Senator BLUMENTHAL. Thank you.

Thank you, Mr. Chairman.

Chairman SANDERS. Thank you, Senator Blumenthal.

Senator Boozman.

Senator BOOZMAN. Thank you, Mr. Chair.

Again, I appreciate the fact that it seems like we are getting good news regarding the claims process. I know you all are working very, very hard, the entire system, to get that resolved.

As you know, when I visit with veterans and the mail that we received, that really is the overwhelming concern right now. Not only with veterans, but the public generally, feel like people that have served deserve the opportunity in a somewhat timely fashion at least, to get the answer one way or another so that they can move on.

So again, I appreciate your efforts and I appreciate the fact that we seem to be seeing some improvement. That is very positive. So, we will be able to pass that along.

I would just like to ask you to help me understand a little bit about the fiduciary issue that has come up and has for a long time. If VA finds that veterans or other VA beneficiaries need help with their finances, and you can correct me, but my understanding is the VA assigns a fiduciary to help them and also sends their names to be included in the National Instant Criminal Background Check System or the NICS list. That prevents them from purchasing or owning firearms. In some cases that might impact the ability of their families to possess firearms.

So, I guess the questions I would have is, does VA look at whether a beneficiary is in any way dangerous when assigning the fiduciary?

Mr. MURPHY. Can I ask a clarifying question there, Senator?

Senator BOOZMAN. Yes.

Mr. MURPHY. Is the fiduciary being appointed dangerous, is that what you are asking?

Senator BOOZMAN. Yes—no, no, the veteran.

Mr. MURPHY. The veteran themselves?

Senator BOOZMAN. Yes.

Mr. MURPHY. The veteran is through the fiduciary process deemed not capable of managing their own finances; and by virtue of that, they are added to the NICS database which restricts them from being able to own and purchase firearms.

Senator BOOZMAN. Is there——

Mr. MURPHY. There is also a relief process in place. If a veteran thinks that they should not be on that list, they can file an appeal to us. There is an active, ongoing process where appeals are happening, and veterans gun ownership rights are being restored.

Senator BOOZMAN. Is there any correlation with not being able to manage your finances and committing a violent crime?

Mr. MURPHY. I do not know the answer to that question, Senator.

Senator BOOZMAN. But we should know the answer in the sense that that is why we are doing it.

Mr. HIPOLIT. If I could address that, there was a determination made by public safety authorities essentially at the Department of Justice. When they set up the NICS program, they determined who would be placed on the list; and one of the categories they chose was people who were unable to handle their finances, essentially, which tie the VA's incompetence determinations into that process.

So, because that is how the Justice Department set it up, we are required to report that information.

Senator BOOZMAN. So, Social Security does the same thing?

Mr. HIPOLIT. They fall within the same requirements I believe.

Senator BOOZMAN. Is that correct?

Mr. HIPOLIT. That is my understanding.

Senator BOOZMAN. Social Security, my understanding was, and was confirmed, does not send names.

Mr. HIPOLIT. OK. Now, they may not. I think in some cases Social Security appoints fiduciaries without making a determination of incompetency, and it is our determination of incompetency is what kicks in the reporting requirements.

Senator BOOZMAN. Could it be a physical disability rather than a mental impairment that requires the assignment of a fiduciary?

Mr. HIPOLIT. Yes, that is correct. It could be an injury or whatever.

Senator BOOZMAN. So, an individual like that would go on the NICS list also?

Mr. HIPOLIT. Yes, if they are unable to handle their financial affairs.

Senator BOOZMAN. But that makes no sense if they have a physical impairment that would not allow them to do that.

Mr. HIPOLIT. There is a relief program in place that Mr. Murphy mentioned which, if a person is not a threat to public safety, they can be relieved from the reporting requirement.

Senator BOOZMAN. No, I understand but it should not be that the onus is on them when we are putting them in a situation in that case with a physical impairment, it does not make any sense at all in regard to their wanting to commit or any correlation with violent crime in that regard.

Who at VA makes the decisions about whether someone should have a fiduciary and do they have any law enforcement training or legal training? Or what is their training?

Mr. MURPHY. There are pension veteran service representatives that make these determinations and their determinations are based not from a law enforcement perspective but from the standpoint of is the veteran capable of managing their financial affairs.

Senator BOOZMAN. OK. How many individuals have their names on the NICS list as a result of the current policy?

Mr. MURPHY. That I do not have a number in front of me. I can tell you how many have been added to the list and have applied to be relieved. That number is 236.

Senator BOOZMAN. OK. Have you got a guess as to how many?

Mr. MURPHY. I do not. If you would like that number, I would be happy to take that for the record and provide you with the detailed numbers.

Senator BOOZMAN. Do you have any idea how many are children? How many are being added to the NICS list that are children?

Mr. MURPHY. No, I do not, Senator.

Senator BOOZMAN. OK. Elderly dependent parents? That would be something else we would be interested in.

Again, like I said, to me it makes no sense when you have no correlation to violent crime that these individuals—I understand if we are picking out people who are mentally impaired and we need to get much more aggressive in that regard, not only in this situation but with others.

But, somebody that is physically impaired, there are all kinds of categories that I think we would both agree that there is no correlation at all. So again, please, I would like the answers in writing. Thank you.

Thank you, Mr. Chair, for your indulgence.

[The information requested during the hearing follows:]

RESPONSE TO REQUEST ARISING DURING THE HEARING BY HON. JOHN BOOZMAN TO U.S. DEPARTMENT OF VETERANS AFFAIRS

1-3 1-17

INTERIM RESPONSE

DEC 2 3 1996

Mr. James P. Ficaretta
Regulations Branch
Bureau of Alcohol, Tobacco and Firearms
P.O. Box 50221
Washington, D.C. 20091-0221

27 C.F.R. PART 178

Dear Mr. Ficaretta:

I am pleased to respond to the Federal Register notice of the Bureau of Alcohol, Tobacco and Firearms (ATF) for comments on the proposed regulations providing definitions for the categories of persons prohibited from receiving or possessing firearms.

As background to this matter, the Brady Handgun Violence Protection Act (the Brady Act), Pub. L. No. 103-159 (Nov. 30, 1993), authorizes the Attorney General to secure information, notwithstanding any otherwise applicable confidentiality laws, from Federal departments on seven categories of persons who are ineligible to receive firearms pursuant to the Gun Control Act of 1968. Those categories of ineligible individuals are: persons under indictment or convicted of a crime punishable by imprisonment for a term exceeding one year; fugitives from justice; unlawful users of, or those addicted to, any controlled substance; illegal aliens; persons dishonorably discharged from the Armed Forces; persons who have renounced their U.S. citizenship; and persons adjudicated as a mental defective or committed to a mental institution.

X 1-5F P.L. 103-159 (BRADY ACT)

2.

Mr. James P. Ficaretta

The Brady Act requires the Attorney General to establish a National Instant Criminal Background Check System (NICS); licensed gun dealers will be required to contact NICS before transferring a firearm to an individual. The Federal Bureau of Investigation (FBI), having been tasked by the Attorney General to develop NICS, has indicated that it will seek information from VA claims files and medical records pertaining to two categories of disqualified individuals: (1) persons adjudicated as a mental defective or committed to a mental institution; and (2) unlawful users of, or those addicted to any controlled substance.

The term "adjudicated as a mental defective" has been defined in the proposed regulations as "a determination by a court, board, commission, or other lawful authority that a person, as a result of marked subnormal intelligence, or mental illness, incompetency, condition or disease: (1) Is a danger to himself or to others; or (2) Lacks the mental capacity to contract or manage his own affairs." The effect of this regulatory language is that anyone who is found incompetent by VA under 38 C.F.R. § 3.353 will be considered to have been adjudicated as a mental defective for purposes of the Gun Control Act. Thus, under the Brady Act, VA will be required to release, from claims files maintained by the Veterans Benefits Administration, information on all veterans who have been adjudicated mentally incompetent, to the FBI for entry into NICS.

We note that once an individual has been "adjudicated as a mental defective," that individual is forever disabled from gun ownership. The ATF definition is based in part upon a Supreme Court case interpreting the Gun Control Act, which indicated that Congress made no exceptions for subsequent curative events. The VA does, on occasion, make a finding of mental incompetency which is subsequently reversed. For example, a veteran could be declared mentally incompetent while in a coma, but if the veteran fully recovers, the determination would be reversed. In such instances, the veteran's remedy would be to apply to the Secretary of the Treasury for a discretionary grant of relief from the gun ownership disabilities imposed by Federal laws, pursuant to 18 U.S.C. § 925(c).

3.

Mr. James P. Ficaretta

The Department has no objection or comment on this aspect of the ATF regulations. However, as has been explained informally to the FBI, the Department will be unable to provide data on veterans who have been adjudicated incompetent in the computerized format requested by the FBI under the current Compensation and Pension (C&P) computer system without extensive reprogramming to extract the veteran's name from the address segment. We anticipate that VA will be capable of releasing the names of veterans to the FBI in 1998, when the new VETSNET database becomes operative. It should be noted that complete birthdates will not be available for many of the older veterans even under the new system.

The Veterans Health Administration is in the process of reviewing the definition of "unlawful user of or addicted to any controlled substance," and we will forward any comments in this regard in the near future.

Sincerely yours,

Jesse Brown

JB/lmj

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Federal Register / Vol. 61, No. 174 / Friday, September 6, 1996 / Proposed Rules 47095

member" after the words "membership on the board".

7. In § 1160.201, paragraph (b) is revised to read as follows:

§ 1160.201 Term of office.

* * * * *

(b) No member shall serve more than two consecutive terms, except that any member who is appointed to serve for an initial term of one or two years shall be eligible to be reappointed for two three-year terms. Appointment to another position on the Board is considered a consecutive term.

§ 1160.209 Duties of the board.

8. In § 1160.209, paragraph (b) is revised to read as follows:

* * * * *

(b) To prepare and submit to the Secretary for approval a budget for each fiscal period of the anticipated expenses and disbursements in the administration of this subpart, including a description of and the probable costs of consumer education, promotion and research projects;

* * * * *

9. In § 1160.211, paragraphs (a)(1) and (a)(2) are revised to read as follows:

§ 1160.211 Assessments.

(a)(1) Each fluid milk processor shall pay to the Board or its designated agent an assessment of $.20 per hundredweight of fluid milk products processed and marketed commercially in consumer-type packages in the United States by such fluid milk processor. Producer-handlers required to pay assessments under section 113(g) of the Dairy Production Stabilization Act of 1983 (7 U.S.C. 4504(g)), and not exempt under § 1160.108, shall also pay the assessment under this subpart. No assessments are required on fluid milk products exported from the United States. The Secretary shall have the authority to receive assessments on behalf of the Board.

(2) The Secretary shall announce the establishment of the assessment each month in the Class I price announcement in each milk marketing area by adding it to the Class I price for the following month. In the event the assessment is suspended for a given month, the Secretary shall inform all fluid milk processors of the suspension in the Class I price announcement for that month. The Secretary shall also inform fluid milk processors marketing fluid milk in areas not subject to milk marketing orders administered by the Secretary of the establishment or suspension of the assessment.

* * * * *

10. Section 1160.501 is amended by removing paragraph (a), redesignating paragraphs (b) through (d) as paragraphs (a) through (c), removing the the cross reference "1160.501(c)" in paragraph (c) and adding in its place "1160.501(b)", and revising newly designated paragraphs (a) and (b)(2) to read as follows:

§ 1160.501 Continuation referenda.

(a) The Secretary at any time may conduct a referendum among those persons who the Secretary determines were fluid milk processors during a representative period, as determined by the Secretary, on whether to suspend or terminate the order. The Secretary shall hold such a referendum at the request of the Board or of any group of such processors that marketed during a representative period, as determined by the Secretary, 10 percent or more of the volume of fluid milk products marketed in the United States by fluid milk processors voting in the preceding referendum.

(b) * * *

(1) * * *

(2) By fluid milk processors voting in the referendum that marketed during a representative period, as determined by the Secretary, 40 percent or more of the volume of fluid milk products marketed in the United States by fluid milk processors voting in the referendum.

11. In § 1160.605, paragraph (a) is removed, paragraphs (b) through (c) are redesignated as paragraphs (a) through (b), and newly designated paragraph (b)(2) is revised to read as follows:

§ 1160.605 Date of referendum.

* * * * *

(b) * * *

(1) * * *

(2) Upon request of the Board or upon request of any group of fluid milk processors that among them marketed during a representative period, as determined by the Secretary, 10 percent or more of the volume of fluid milk products marketed by fluid milk processors voting in the preceding referendum.

Dated: August 30, 1996.

Kenneth C. Clayton,

Acting Administrator.

[FR Doc. 96–22788 Filed 9–5–96; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

27 CFR Part 178

[Notice No. 839]

RIN 1512–AB41

Definitions for the Categories of Persons Prohibited From Receiving Firearms (95R–051P)

AGENCY: Bureau of Alcohol, Tobacco and Firearms (ATF), Department of the Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Bureau of Alcohol, Tobacco and Firearms (ATF) is proposing to amend the regulations to provide definitions for the categories of persons prohibited from receiving or possessing firearms. The proposed definitions will facilitate the implementation of the national instant criminal background check system (NICS) required under the Brady Handgun Violence Prevention Act.

DATES: Written comments must be received on or before December 5, 1996.

ADDRESSES: Send written comments to: Chief, Regulations Branch; Bureau of Alcohol, Tobacco and Firearms; P.O. Box 50221; Washington, DC 20091–0221; ATTN: Notice No. 839.

FOR FURTHER INFORMATION CONTACT: James P. Ficaretta, Regulations Branch, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue, NW., Washington, DC 20226 (202–927–8230).

SUPPLEMENTARY INFORMATION:

Background

On November 30, 1993, Public Law 103–159 (107 Stat. 1536) was enacted, amending the Gun Control Act of 1968 (GCA), as amended (18 U.S.C. Chapter 44). Title I of Pub. L. 103–159, the "Brady Handgun Violence Prevention Act" (hereafter, "Brady" or "Brady law"), imposed a waiting period of 5 days before a licensed importer, licensed manufacturer, or licensed dealer may transfer a handgun to a nonlicensed individual (interim provision). Brady requires that the chief law enforcement officer within 5 business days make a reasonable effort to determine whether the nonlicensed individual (transferee) is prohibited by law from receiving or possessing the handgun sought to be purchased. The waiting period provisions of the law became effective on February 28, 1994, and will cease to apply on November 30, 1998.

Brady also provides for the establishment of a national instant criminal background check system (NICS) that a firearms licensee must contact before transferring any firearm to nonlicensed individuals (permanent provision). Brady requires that NICS be established not later than November 30, 1998.

Section 922(g) of the GCA prohibits certain persons from receiving, possessing, shipping, or transporting any firearm. These prohibitions apply to any person who—

(1) Is under indictment for, or has been convicted in any court of, a crime punishable by imprisonment for a term exceeding one year;

(2) Is a fugitive from justice;

(3) Is an unlawful user of or addicted to any controlled substance;

(4) Has been adjudicated as a mental defective or who has been committed to a mental institution;

(5) Is an alien illegally or unlawfully in the United States;

(6) Has been discharged from the Armed Forces under dishonorable conditions;

(7) Having been a citizen of the United States, has renounced his citizenship; or

(8) Is subject to a court order that restrains the person from harassing, stalking, or threatening an intimate partner or child of such intimate partner.

To implement NICS, Brady authorizes the development of hardware and software systems to link State criminal history check systems into the national system. It also authorizes the Attorney General to obtain official information from any U.S. department or agency on persons for whom receipt of a firearm would be in violation of the law.

In order to establish NICS in such a way that it incorporates the information needed for all the categories of prohibited persons mentioned above, records systems from both Federal and State agencies must be included in the national system. For example, records on fugitives are needed from State and Federal law enforcement agencies. Records on aliens who are illegally or unlawfully in the United States are needed from the Immigration and Naturalization Service, and records on citizenship renunciates are needed from the Department of State. To ensure that the information provided to the national system is accurate, the categories of prohibited persons must be clearly defined in the regulations.

The current regulations already provide a definition for "crime punishable by imprisonment for a term exceeding 1 year." In the following paragraphs ATF is proposing additional regulations for the various categories of persons who are prohibited from receiving or possessing firearms. In some instances, the proposed definition merely clarifies an existing regulation. In other cases, the proposed definitions are new.

Persons Who Are Under Indictment for a Crime Punishable by Imprisonment for a Term Exceeding 1 Year

The definition of "indictment" is based on 18 U.S.C. § 922(n) which makes it unlawful for any person who is under indictment for a crime punishable by imprisonment for a term exceeding one year to ship, transport, or receive firearms in interstate commerce. The proposed definition includes any formal accusation of a crime made by a prosecuting attorney (e.g., information), as distinguished from an "indictment" issued by a grand jury. In addition, the proposed definition includes criminal charges referred to a court-martial.

Persons Who Are Fugitives From Justice

The definition of "fugitive from justice" in the GCA includes any person who has fled from any State to avoid prosecution for a crime or to avoid giving testimony in any criminal proceeding. 18 U.S.C. § 921(a)(15). The legislative history of this provision indicates that the term includes both felonies and misdemeanors. The Omnibus Crime Control and Safe Streets Act of 1968, Pub. L. 90–351, Title IV, § 921(a)(14), 82 Stat. 226 (1968), limited the definition to crimes "punishable by imprisonment for a term exceeding one year." However, the GCA amended Title IV to include any crime. To be a fugitive from justice, it is not necessary that the person left a State with the intent of fleeing the charges. *See, e.g., United States* v. *Spillane*, 913 F.2d 1079 (4th Cir. 1990). Rather, a person is a fugitive from justice if the person, knowing that charges are pending, purposefully leaves the State of prosecution and does not appear before the prosecuting tribunal. On the other hand, the definition does not include persons who are charged with crimes and there is no evidence that they left the State. For example, a person is not a fugitive from justice merely because he or she has outstanding traffic citations.

Persons Who Are Unlawful Users of or Addicted to Any Controlled Substance

With respect to the definition of "unlawful user of any controlled substance," Federal law, 18 U.S.C. § 802, defines a controlled substance as a drug or other substance, or immediate precursor, included in schedules I–V. For example, opium and cocaine are controlled substances, whereas alcoholic beverages and tobacco are specifically excluded from the definition.

Moreover, under the proposed definition, a person must be a current user of a controlled substance to be prohibited by the GCA from acquiring or possessing firearms. Although there is no statutory definition of current use, applicable case law indicates that a person need not have been using drugs at the precise moment that he or she acquired or possessed a firearm to be under firearms disabilities with respect to acquiring or possessing a firearm as an unlawful user of a controlled substance. In *United States* v. *Corona*, 849 F.2d 562 (11th Cir. 1988), a defendant purchased nine firearms from a dealer on six different occasions during a 3-year period. The Government proved unlawful use during the entire 3-year period with testimony of an acquaintance of the defendant who had used cocaine with the defendant, testimony of a psychiatrist that he treated the defendant for 2 years and that the defendant admitted drug use, and records of a rehabilitation center. The court noted that it was not necessary to show that the person was an illegal user or addict at the precise moment that the firearms were purchased. Furthermore, in *United States v. Ocequeda*, 564 F.2d 1363 (9th Cir. 1977), the Government proved the firearms disability by evidence of prolonged use of heroin before, during, and after the firearms purchases.

The proposed definition is also consistent with the definition of "current drug user" applied by the Department of Labor in its administration of the Americans with Disabilities Act (ADA), 42 U.S.C. §§ 12101–12213. Regulations issued pursuant to the ADA indicate that the term "current user" is not intended to be limited to the use of drugs on a particular day, or within a matter of days or weeks before, but rather that the unlawful use occurred recently enough to indicate that the individual is actively engaged in such conduct. 29 CFR Part 1630, Appendix.

Similarly, the definition of "addicted to any controlled substance" is based on Federal law, 21 U.S.C. § 802, and defines an "addict" as an individual who uses any narcotic drug and who has lost the power of self- control with respect to the use of the narcotic drug.

Persons Who Have Been Adjudicated as Mental Defectives or Been Committed to a Mental Institution

Under the GCA, it is unlawful for any person who has been adjudicated a mental defective or committed to a mental institution to ship, transport, receive, or possess firearms. The legislative history of the GCA makes it clear that a formal adjudication or commitment by a court, board, commission or similar legal authority is necessary before firearms disabilities are incurred. H.R. Rep. 1956, 90th Cong., 2d Sess. 30 (1968). The plain language of the statute makes it clear that a formal commitment, for any reason, e.g., drug use, gives rise to firearms disabilities. However, the mere presence of a person in a mental institution for observation or a voluntary commitment to a mental hospital does not result in firearms disabilities.

With respect to the term "adjudicated as a mental defective," ATF has examined the legislative history of the term, applicable case law, and the interpretation of the term by other Federal agencies. The legislative history makes it clear that Congress would broadly apply the prohibition against the ownership of firearms by "mentally unstable" or "irresponsible" persons. 114 Cong. Rec. 21780, 21791, 21832, and 22270 (1968).

The legislative history of the GCA is reviewed in detail in *Huddleston* v. *United States*, 415 U.S. 814 (1974). The Court stated that "the principal purposes of the federal gun control legislation * * * was to curb crime by keeping 'firearms out of the hands of those not legally entitled to possess them, because of age, criminal background, or incompetency.' " 415 U.S. at 824 (citation omitted). Citing remarks by Congressman Cellar, the Court added that "* * * no person can dispute the need to prevent persons with a history of mental disturbances from buying, owning or possessing firearms." *Huddleston*, 415 U.S. at 828. See also S. Rep. No. 1097, 90th Cong., 2d Sess. 2 (1968), U.S. Code Cong & Ad.News 1968, pp. 2113–2114.

The Supreme Court also addressed the disability in *Barrett v. United States*, 423 U.S. 212 (1976). As the Court observed, the GCA demonstrated that Congress sought to keep firearms away from those persons Congress classified as potentially irresponsible and dangerous. "These persons are comprehensively barred by the Act from acquiring firearms by any means." *Barrett* 413 U.S. at 218.

Another case held that the GCA is designed to prohibit the receipt and possession of firearms by individuals who are potentially dangerous, including those individuals who are mentally incompetent or are afflicted with mental illness. *U.S.* v. *Waters*, 23 F.3d 29, 35 (2d Cir. 1994), *cert. den.* 115 S. Ct. 185 (1994). In addition, the disability has been held to apply to persons in criminal cases who are found not guilty by reason of insanity. *See Buffaloe* v. *United States*, 449 F.2d 779 (4th Cir. 1971).

ATF has also examined the definition of "mental incompetent" used by the Department of Veterans Affairs. That definition covers persons who because of injury or disease lack the mental capacity to contract or manage their own affairs. 38 CFR § 3.353.

Based on the above, the proposed regulation will define "adjudicated as a mental defective" as a determination by lawful authority that persons are of marked subnormal intelligence, mentally ill, or mentally incompetent AND are found to be either a danger to themselves or to others as a result of mental disease or illness or because of injury or disease lack the mental capacity to contract or manage their own affairs. The term shall also include defendants in criminal cases who are determined by a verdict to be insane. It will not include persons who suffer from mental illness but have not been adjudicated by a lawful authority or committed to a mental institution. It would also not include persons who have been adjudicated to be suffering from a mental illness but who are not a danger to themselves or to others or do not lack the capacity to contract or manage their own affairs.

For purposes of this disability, the proposed regulations define "mental institution" to include mental health facilities, mental hospitals, sanitariums, psychiatric facilities, and other facilities that provide diagnoses by licensed professionals of mental retardation or mental illness, including a psychiatric ward in a general hospital.

Persons Who Are Aliens and Are Illegally or Unlawfully in the United States

Another category of prohibited persons under the GCA includes aliens who are illegally or unlawfully in the United States. Based on the statutory language and relevant case law, the proposed definition of "alien illegally or unlawfully in the United States" includes any alien: who has entered the country illegally; nonimmigrant whose authorized period of admission has expired; student who has failed to maintain status as a student; alien under order of deportation whether or not he or she has left the United States. The definition does not include aliens who are in "immigration parole" status in the United States pursuant to the Immigration and Naturalization Act. The proposed definition will provide that aliens who enter the country illegally and have not applied for legal status are subject to firearms disabilities. *United States* v. *Garcia*, 875 F.2d 257 (9th Cir. 1989). Further, students who enter the country legally but fail to maintain the student status required by their visas are illegal aliens subject to Federal firearms disabilities. *United States* v. *Bazargan*, 992 F.2d 844 (8th Cir. 1993).

Persons Who Have Been Discharged From the Armed Forces Under Dishonorable Conditions

The GCA makes it unlawful for persons who have been discharged from the Armed Forces under dishonorable conditions to receive or possess firearms. The legislative history of this provision shows that the prohibition originally applied to persons discharged under "other than honorable conditions." The Omnibus Crime and Safe Streets Act of 1968, Pub. L. 90–351, Title VII, § 1202(2), 82 Stat. 226 (1968). However, Title VII was amended by the GCA to limit the prohibition to persons discharged under "dishonorable conditions." Therefore, the proposed definition makes it clear that the prohibition applies only to persons discharged under dishonorable conditions but not to include persons separated from the Armed Forces as a result of other types of discharges, e.g., a bad conduct discharge.

Persons Who Have Renounced Their United States Citizenship

With respect to persons who have renounced their United States citizenship, Federal law provides that renunciation can only occur in a formal manner before a diplomatic or consular officer of the United States in a foreign state or before an officer designated by the Attorney General when the United States is in a state of war. 8 U.S.C. § 1481(a) (5) and (6).

Persons Who Are Subject to a Court Order Restraining Them From Committing Domestic Violence

ATF is proposing a definition of "actual notice" with respect to persons subject to court-issued restraining orders (§ 178.32). The Violent Crime Control and Law Enforcement Act of 1994 (the Act), Public Law 103–322, 108 Stat. 2014, September 13, 1994, amended the GCA to make it unlawful for persons subject to an order

restraining a person from harassing, stalking, or threatening an intimate partner of the person (e.g., spouse) to receive, ship, transport, or possess firearms. The Act provides that such restraining orders must have been issued after a hearing of which actual notice was given to the person and at which the person had an opportunity to participate. However, the Act does not define "actual notice." The proposed definition of actual notice conforms with the generally recognized legal definition of that term, i.e., notice that is either expressly and actually given or inferred from an examination of surrounding facts and circumstances. The definition would not include publication of notice in a newspaper.

Executive Order 12866

It has been determined that this proposed rule is not a significant regulatory action as defined in E.O. 12866, because the economic effects flow directly from the underlying statute and not from this notice of proposed rulemaking. Accordingly, this proposal is not subject to the analysis required by this Executive order.

Regulatory Flexibility Act

It is hereby certified that this proposed regulation will not have a significant economic impact on a substantial number of small entities. This notice proposes definitions for the categories of persons prohibited from receiving or possessing firearms. The proposed definitions are necessary to implement the national instant criminal background check system required under the Brady law. This notice does not propose any reporting or recordkeeping requirements on firearms licensees. Accordingly, a regulatory flexibility analysis is not required.

Paperwork Reduction Act

The provisions of the Paperwork Reduction Act of 1980, Public Law 96–511, 44 U.S.C. Chapter 35, and its implementing regulations, 5 CFR Part 1320, do not apply to this notice of proposed rulemaking because no requirement to collect information is proposed.

Public Participation

ATF requests comments on the proposed regulations from all interested persons. Comments received on or before the closing date will be carefully considered. Comments received after that date will be given the same consideration if it is practical to do so, but assurance of consideration cannot be given except as to comments received on or before the closing date.

ATF will not recognize any material in comments as confidential. Comments may be disclosed to the public. Any material which the commenter considers to be confidential or inappropriate for disclosure to the public should not be included in the comment. The name of the person submitting a comment is not exempt from disclosure.

Any interested person who desires an opportunity to comment orally at a public hearing should submit his or her request, in writing, to the Director within the 90-day comment period. The Director, however, reserves the right to determine, in light of all circumstances, whether a public hearing is necessary.

Disclosure

Copies of this notice and the written comments will be available for public inspection during normal business hours at: ATF Public Reading Room, Room 6480, 650 Massachusetts Avenue, NW., Washington, DC.

Drafting Information. The author of this document is James P. Ficaretta, Regulations Branch, Bureau of Alcohol, Tobacco and Firearms.

List of Subjects in 27 CFR Part 178

Administrative practice and procedure, Arms and ammunition, Authority delegations, Customs duties and inspection, Exports, Imports, Military personnel, Penalties, Reporting requirements, Research, Seizures and forfeitures, and Transportation.

Authority and Issuance

27 CFR Part 178—COMMERCE IN FIREARMS AND AMMUNITION is amended as follows:

Paragraph 1. The authority citation for 27 CFR Part 178 continues to read as follows:

Authority: 5 U.S.C. 552(a); 18 U.S.C. 847, 921–930; 44 U.S.C. 3504(h).

Par. 2. Section 178.11 is amended by revising the definitions for "discharged under dishonorable conditions", "fugitive from justice", and "indictment", and by adding definitions for "addicted to any controlled substance", "adjudicated as a mental defective", "alien illegally or unlawfully in the United States", "committed to a mental institution", "controlled substance", "mental institution", "renounced U.S. citizenship", and "unlawful user of any controlled substance" to read as follows:

§ 178.11 Meaning of terms.

* * * * *

Adjudicated as a mental defective. (a) A determination by a court, board, commission, or other lawful authority that a person, as a result of marked subnormal intelligence, or mental illness, incompetency, condition, or disease:

(1) Is a danger to himself or to others; or

(2) Lacks the mental capacity to contract or manage his own affairs.

(b) The term shall include a finding of insanity by a court in a criminal case.

Alien illegally or unlawfully in the United States. (a) Aliens who are unlawfully in the United States or are not in a valid nonimmigrant or immigrant status. The term includes any alien—

(1) Who has entered the country illegally;

(2) Nonimmigrant whose authorized period of admission has expired;

(3) Student who has failed to maintain status as a student; or

(4) Under an order of deportation, whether or not he or she has left the United States.

(b) The term does not include aliens who are in "immigration parole" status in the United States pursuant to the Immigration and Naturalization Act (INA).

* * * * *

Committed to a mental institution. A formal commitment of a person to a mental institution by a court, board, commission, or other legal authority. The term includes a commitment to a mental institution involuntarily. The term includes a commitment for mental defectiveness or mental illness. It also includes commitments for other reasons, such as for drug use. The term does not include a person in a mental institution for observation or a voluntary admission to a mental institution.

Controlled substance. A drug or other substance, or immediate precursor, as defined in section 102 of the Controlled Substances Act, 21 U.S.C. 802. The term includes, but is not limited to, marijuana, depressants, stimulants, and narcotic drugs. The term does not include distilled spirits, wine, malt beverages, or tobacco, as those terms are defined or used in Subtitle E of the Internal Revenue Code of 1986, as amended.

* * * * *

Discharged under dishonorable conditions. Separation from the U.S. Armed Forces resulting from a Dishonorable Discharge. The term does not include separation from the Armed Forces resulting from any other discharge, e.g., a bad conduct discharge or a dismissal.

* * * * *

Fugitive from justice. Any person who has fled from any State to avoid

prosecution for a felony or a misdemeanor; or any person who leaves the State to avoid giving testimony in any criminal proceeding. The term also includes any person who knows that misdemeanor or felony charges are pending against such person and who leaves the State of prosecution.

* * * * *

Indictment. Includes an indictment or any formal accusation of a crime made by a prosecuting attorney, in any court under which a crime punishable by imprisonment for a term exceeding 1 year may be prosecuted or where a case has been referred to court-martial if the person is in the military.

* * * * *

Mental institution. Includes mental health facilities, mental hospitals, sanitariums, psychiatric facilities, and other facilities that provide diagnoses by licensed professionals of mental retardation or mental illness, including a psychiatric ward in a general hospital.

* * * * *

Renounced U.S. citizenship. A person has renounced his U.S. citizenship if the person, having been a citizen of the United States, has renounced citizenship either—

(a) Before a diplomatic or consular officer of the United States in a foreign state pursuant to 8 U.S.C. § 1481(a)(5) and (6); or

(b) Before an officer designated by the Attorney General when the United States is in a state of war.

* * * * *

Unlawful user of or addicted to any controlled substance. A person who uses a controlled substance and has lost the power of self-control with reference to the use of the controlled substance; and any person who is a current user of a controlled substance in a manner other than as prescribed by a licensed physician. Such use is not limited to the use of drugs on a particular day, or within a matter of days or weeks before, but rather that the unlawful use has occurred recently enough to indicate that the individual is actively engaged in such conduct. A person may be an unlawful current user of a controlled substance even though the substance is not being used at the precise time the person seeks to acquire a firearm or receives or possesses a firearm. An inference of current use may be drawn from evidence of a recent use or possession of a controlled substance or a pattern of use or possession that reasonably covers the present time, e.g., a conviction for use or possession of a controlled substance within the past year, or multiple arrests for such offenses within the past five years if the most recent arrest occurred within the past year.

* * * * *

Par. 3. Section 178.32(e) is added to read as follows:

§ 178.32 Prohibited shipment, transportation, possession, or receipt of firearms and ammunition by certain persons.

* * * * *

(e) The actual notice required by paragraphs (a)(8)(i) and (d)(8)(i) of this section is notice expressly and actually given, and brought home to the party directly, including service of process personally served on the party and service by mail. Actual notice also includes proof of facts and circumstances that raise the inference that the party received notice including, but not limited to, proof that notice was left at the party's dwelling house or usual place of abode with some person of suitable age and discretion residing therein; or proof that the party signed a return receipt for a hearing notice which had been mailed to the party. It does not include notice published in a newspaper.

Signed: May 29, 1996.

John W. Magaw,

Director.

Approved: June 6, 1996.

John P. Simpson,

Deputy Assistant Secretary. (Regulatory, Tariff and Trade Enforcement).

[FR Doc. 96–22827 Filed 9–5–96; 8:45 am]

BILLING CODE 4810–31–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[TN–146–2–9608b; FRL–5554–5]

Approval and Promulgation of Air Quality Implementation Plans; Tennessee; Approval of Revisions To Permit Requirements, Definitions and Administrative Requirements

AGENCY: Environmental Protection Agency (EPA)

ACTION: Proposed rule.

SUMMARY: The EPA proposes to approve the revisions to the Nashville/Davidson County portion of the Tennessee State Implementation Plan (SIP) submitted by the State of Tennessee for the purpose of revising the current regulations for the permit requirements for major sources of air pollution, including revisions to the general definitions, permit requirements, the Board's powers and duties, the variances and hearings procedures, the measurement and reporting of emissions, and the testing procedures. In the final rules section of this Federal Register, the EPA is approving the State's SIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial revision amendment and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this proposed rule, no further activity is contemplated in relation to this proposed rule. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. The EPA will not institute a second comment period on this document. Any parties interested in commenting on this document should do so at this time.

DATES: To be considered, comments must be received by October 7, 1996.

ADDRESSES: Written comments on this action should be addressed to Karen Borel, at the EPA Regional Office listed below. Copies of the documents relative to this action are available for public inspection during normal business hours at the following locations. The interested persons wanting to examine these documents should make an appointment with the appropriate office at least 24 hours before the visiting day.

Air and Radiation Docket and Information Center (Air Docket 6102), U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460.

Environmental Protection Agency, Region 4 Air Programs Branch, 345 Courtland Street, NE, Atlanta, Georgia 30365.

Bureau of Environmental Health Services, Metropolitan Health Department, Nashville-Davidson County, 311–23rd Avenue, North, Nashville, Tennessee 37203.

Tennessee Department of Environment and Conservation, Division of Air Pollution Control, 9th Floor L & C Annex, 401 Church Street, Nashville, Tennessee 37243–1531.

FOR FURTHER INFORMATION CONTACT: Interested persons wanting to examine documents relative to this action should make an appointment with the Region 4 Air Programs Branch at least 24 hours before the visiting day. To schedule the appointment or to request additional information, contact Karen Borel, Regulatory Planning and Development Section, Air Programs Branch, Air, Pesticides & Toxics Management Division, Region 4 EPA, 345 Courtland

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procedures, and the Agency's written statement regarding the au pair program which govern the au pair's participation in the exchange program;

(2) Detailed profile of the family and community in which the au pair will be placed;

(3) A detailed profile of the educational institutions in the community where the au pair will be placed, including the financial cost of attendance at these institutions;

(4) A detailed summary of travel arrangements; and

(5) A complete and thorough pre-departure package clearly describing child care responsibilities and expectations and enumerating behavior that is unacceptable.

(g) Au pair training. Sponsors shall provide the au pair participant with child development and child safety instruction, as follows:

(1) Prior to placement with the host family, the au pair participant shall receive not less than eight hours of child safety instruction no less than 4 of which shall be infant-related; and

(2) Prior to placement with the American host family, the au pair participant shall receive not less than twenty-four hours of child development instruction of which no less than 4 shall be devoted to specific training for children under the age of two.

(h) Host family selection. Sponsors shall adequately screen all potential host families and at a minimum shall;

(1) Require that the host parents are U.S. citizens or legal permanent residents;

(2) Require that host parents are fluent in spoken English;

(3) Require that all adult family members resident in the home have been personally interviewed by an organizational representative;

(4) Require that host parents have successfully passed a background investigation including employment and personal character references;

(5) Require that the host family has adequate financial resources to undertake all hosting obligations;

(6) Provide a written detailed summary of the exchange program and the parameters of their and the au pair's duties, participation, and obligations; and

(7) Provide the host family with the prospective au pair participant's complete application, including all references.

(i) Host family orientation. In addition to the requirements set forth at § 514.10 sponsors shall:

(1) Inform all host families of the philosophy, rules, and regulations governing the sponsor's exchange program and provide all families with a copy of the Agency's written statement regarding the au pair program;

(2) Provide all selected host families with a complete copy of Agency-promulgated Exchange Visitor Program regulations including the published supplemental information;

(3) Advise all selected host families of their obligation to attend at least one family day conference to be sponsored by the au pair organization during the course of the placement year. Host family attendance at such a gathering is a condition of program participation and failure to attend will be grounds for possible termination of their continued or future program participation; and

(4) Require that the organization's local counselor responsible for the au pair placement contacts the host family and au pair within forty eight hours of the au pair's arrival and meets, in person, with the host family and au pair within two weeks of the au pair's arrival at the host family home.

(j) Wages and hours. Sponsors shall require that au pair participants:

(1) Are compensated at a weekly rate based upon 45 hours per week and paid in conformance with the requirements of the Fair Labor Standards Act as interpreted and implemented by the United States Department of Labor;

(2) Do not provide more than 10 hours of child care on any given day, nor more than 45 hours of child care in any one week;

(3) Receive a minimum of one and a half days off per week in addition to one complete weekend off each month; and

(4) Receive two weeks of paid vacation.

* * * * *

[FR Doc. 97–16909 Filed 6–26–97; 8:45 am]

BILLING CODE 8230–01–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

Income Taxes

CFR Correction

In title 26 of the Code of Federal Regulations, part 1 (§§ 1.641 to 1.850), revised as of April 1, 1997, on page 357, in § 1.704–2, paragraph (m), Example 1, text was inadvertently omitted, the text should appear at the top of the first column. The omitted text should read:

§ 1.704–2 Allocations attributable to nonrecourse liabilities.

* * * * *

(m) * * *

Example 1 . * * * the general partner, form a limited partnership to acquire and operate a commercial office building. LP contributes $180,000, and GP contributes $20,000. The partnership obtains an $800,000 nonrecourse loan and purchases the building (on leased land) for $1,000,000. The nonrecourse loan is secured only by the building, and no principal payments are due for 5 years. The partnership agreement provides that GP will be required to restore any * * *.

[FR Doc. 97–55502 Filed 6–26–97; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

27 CFR Part 178

[T.D. ATF–391; Ref: Notice No. 839]

RIN 1512–AB41

Definitions for the Categories of Persons Prohibited From Receiving Firearms (95R–051P)

AGENCY: Bureau of Alcohol, Tobacco and Firearms (ATF), Department of the Treasury.

ACTION: Final rule, Treasury decision.

SUMMARY: The Bureau of Alcohol, Tobacco and Firearms (ATF) is amending the regulations to provide definitions for the categories of persons prohibited from receiving or possessing firearms. The definitions will facilitate the implementation of the national instant criminal background check system (NICS) required under the Brady Handgun Violence Prevention Act.

DATES: The final regulations are effective on August 26, 1997.

FOR FURTHER INFORMATION CONTACT: James P. Ficaretta, Regulations Branch, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue, NW., Washington, DC 20226 (202–927–8230).

SUPPLEMENTARY INFORMATION:

Background

On November 30, 1993, Pub. L. 103–159 (107 Stat. 1536) was enacted, amending the Gun Control Act of 1968 (GCA), as amended (18 U.S.C. Chapter 44). Title I of Pub. L. 103–159, the "Brady Handgun Violence Prevention Act" (hereafter, "Brady"), as an interim measure, imposed a waiting period of 5 days before a licensed importer, licensed manufacturer, or licensed dealer may transfer a handgun to a nonlicensed individual (interim provision). Brady requires that the licensee wait for up to 5 days before making the transfer while the chief law

enforcement officer makes a reasonable effort to determine whether the nonlicensed individual (transferee) is prohibited by law from receiving or possessing the handgun sought to be purchased. The interim provisions of the law became effective on February 28, 1994, and will cease to apply on November 30, 1998.

Brady also provides for the establishment of a national instant criminal background check system (NICS) that a firearms licensee must contact before transferring any firearm to nonlicensed individuals. Brady requires that NICS be established not later than November 30, 1998.

Section 922(g) of the GCA prohibits certain persons from shipping or transporting any firearm in interstate or foreign commerce, or receiving any firearm which has been shipped or transported in interstate or foreign commerce, or possessing any firearm in or affecting commerce. These prohibitions apply to any person who—

(1) Has been convicted in any court of a crime punishable by imprisonment for a term exceeding one year;

(2) Is a fugitive from justice;

(3) Is an unlawful user of or addicted to any controlled substance;

(4) Has been adjudicated as a mental defective or committed to a mental institution;

(5) Is an alien illegally or unlawfully in the United States;

(6) Has been discharged from the Armed Forces under dishonorable conditions;

(7) Having been a citizen of the United States, has renounced U.S. citizenship;

(8) Is subject to a court order that restrains the person from harassing, stalking, or threatening an intimate partner or child of such intimate partner; or

(9) Has been convicted in any court of a misdemeanor crime of domestic violence.

Section 922(n) of the GCA makes it unlawful for any person who is under indictment for a crime punishable by imprisonment for a term exceeding one year to ship or transport any firearm in interstate or foreign commerce, or receive any firearm which has been shipped or transported in interstate or foreign commerce.

To implement NICS, Brady authorizes the development of hardware and software systems to link State criminal history check systems into the national system. It also authorizes the Attorney General to obtain official information from any U.S. department or agency about persons for whom receipt of a firearm would be in violation of the law.

In order to establish NICS in such a way that it incorporates the information needed for all the categories of prohibited persons mentioned above, records systems from both Federal and State agencies will be included in the national system. For example, records on fugitives are needed from State and Federal law enforcement agencies. To ensure that the information provided to the national system is accurate, the categories of prohibited persons must be defined in the regulations as clearly as possible.

Notice of Proposed Rulemaking

On September 6, 1996, ATF published in the Federal Register a notice proposing to amend the regulations to provide definitions for the various categories of persons who are prohibited from receiving or possessing firearms (Notice No. 839; 61 FR 47095). In some instances, the proposed definition merely clarified an existing regulation. In other cases, the proposed definitions were new. A definition for "crime punishable by imprisonment for a term exceeding 1 year" was not proposed since that term is already defined in the regulations. A definition for the last category of persons prohibited from receiving or possessing firearms, i.e., persons who have been convicted in any court of a misdemeanor crime of domestic violence, is being addressed in a separate rulemaking proceeding.

The comment period for Notice No. 839 closed on December 5, 1996.

Analysis of Comments

ATF received 11 comments in response to Notice No. 839. Six comments were submitted by Federal agencies including two comments from agencies within the U.S. Department of Justice (DOJ) (the Immigration and Naturalization Service and the Office of Policy Development), the U.S. Department of State (Office of Passport Policy and Advisory Services), the U.S. Department of Veterans Affairs, the U.S. Department of Defense, and the U.S. Department of Health & Human Services (Substance Abuse and Mental Health Services Administration). Five comments were submitted on behalf of State agencies.

A number of commenters expressed concern about the disclosure of personal information to NICS by States and Federal agencies. Commenters also expressed doubt that agencies can retrieve relevant data based upon the definitions in this regulation. For example, one agency noted that the definition of fugitive from justice requires that the person has left the State. While the State system may indicate the person is a "fugitive," the State system may not have any data indicating the person has fled the jurisdiction.

This regulation is limited to defining the various categories of prohibited persons under the Gun Control Act. It does not address, nor can it resolve, issues related to the retrieval of information on persons under firearms disabilities from agencies' records or issues of confidentiality. It is recognized, however, that any disclosure of information to NICS must comply with all applicable Federal and State privacy laws.

In the subsequent paragraphs, ATF will restate the proposed definition for each of the categories of prohibited persons and discuss the comments received concerning the proposed definition.

Persons Who Are Under Indictment for a Crime Punishable by Imprisonment for a Term Exceeding 1 Year

The term "indictment," as proposed in Notice No. 839, is defined as follows:

Indictment. Includes an indictment or any formal accusation of a crime made by a prosecuting attorney, in any court under which a crime punishable by imprisonment for a term exceeding 1 year may be prosecuted or where a case has been referred to court-martial if the person is in the military.

ATF received four comments on the proposed definition, two from Federal agencies and two from State agencies. The U.S. Department of Defense (DOD) states that in the military the proposed definition equates indictment to referral to any court-martial. This would include referral to a special court-martial for an offense which carries a maximum punishment of over 1 year, but for which the maximum punishment that could be imposed could not exceed 6 months. Consequently, DOD recommends that the definition be amended to limit the prohibition as it applies in military cases to any offense punishable by imprisonment for a term exceeding 1 year which has been referred to a general court-martial. ATF finds that DOD's suggested change clarifies the meaning of the term "indictment" with respect to the military and this final rule amends the definition accordingly.

In addition, at the request of the DOJ Office of Policy Development, the definition has been revised to include an information, which is a formal accusation of a crime but differs from an indictment because it is made by a prosecuting attorney rather than a grand jury. The definition would not cover a mere criminal complaint.

One State agency requested clarification whether an indictment for a crime classified as a misdemeanor, but punishable by a term of imprisonment exceeding 1 year, would fall within the definition. Section 921(a)(20) of the GCA provides that the term "crime punishable by imprisonment for a term exceeding one year" does not include any State offense classified by the laws of the State as a misdemeanor and punishable by a term of imprisonment of 2 years or less. The definition of indictment is being clarified in the regulations by adding a reference to the definition of "crime punishable by imprisonment for a term exceeding one year."

Persons Who Are Fugitives From Justice

As proposed in Notice No. 839, the term "fugitive from justice" is defined as follows:

Fugitive from justice. Any person who has fled from any State to avoid prosecution for a felony or a misdemeanor; or any person who leaves the State to avoid giving testimony in any criminal proceeding. The term also includes any person who knows that misdemeanor or felony charges are pending against such person and who leaves the State of prosecution.

Two Federal agencies and three State agencies commented on the proposed definition. One Federal agency stated that the term is defined in the statute (18 U.S.C. 921(a)(15)) and, as such, any expansion of the definition would require legislative action. ATF is not proposing to "expand" the definition of fugitive from justice. Rather, the proposed definition is intended to clarify the meaning of the term. As mentioned in the preamble of Notice No. 839, the legislative history of section 921(a)(15), defining "fugitive," indicates that the term includes both felonies and misdemeanors, but makes no specific reference to misdemeanors. In addition, the statute does not spell out that to be a fugitive from justice it is not necessary that the person left a State with the intent of fleeing the charges. Rather, a person is a fugitive from justice if the individual, knowing that charges are pending, purposefully leaves the State of prosecution and does not appear before the prosecuting tribunal. Accordingly, ATF's proposed regulatory definition merely clarifies the statutory definition by covering these points.

DOD stated that the proposed definition should be tailored to the military setting whereby an individual in the military, without authority, absents himself or herself to avoid a military prosecution. DOD recommends that the following be added to the definition of the term:

The term also includes any member of the Armed Forces who knows that court-martial charges are pending against such member, and without authority, leaves military control; or any member of the Armed Forces who, without authority, leaves military control to avoid giving testimony in any court-martial or any pretrial hearing or deposition conducted under the Uniform Code of Military Justice (10 U.S.C. chap. 47).

ATF is not adopting DOD's proposed amendment into the final regulations. Under military law, a person is considered a fugitive when the person, knowing that charges are pending, leaves military control. Under the GCA, such a person would not be a fugitive unless the person left the State. Because the definition at issue is for purposes of enforcement of the GCA, DOD's proposed definition could not be adopted.

One State agency expressed concern regarding ATF's statement in the preamble of Notice No. 839 that a person is not a fugitive from justice merely because he or she has outstanding traffic citations. The commenter asked whether this includes criminal as well as civil traffic citations. The commenter also believed that the proposed definition should be amended to include individuals with outstanding traffic warrants. To be a fugitive from justice under the statute, a person must have left the State where criminal charges are pending against the person. A person who has an outstanding civil traffic citation or who has not left the State, does not meet the statutory definition. The statute and the final regulation make it clear that "fugitive from justice" does not include a person having only civil traffic citations.

Another State agency expressed the concern that it may have difficulty retrieving information from its records to show that a person with pending charges in a State actually left the State or was aware of the charges. It is recognized that agencies may have difficulty identifying this information. However, the definition in the regulation cannot eliminate elements required by the statute.

Persons Who Are Unlawful Users of or Addicted to Any Controlled Substance

As proposed in Notice No. 839, the terms "controlled substance" and "unlawful user of or addicted to any controlled substance" are defined as follows:

Controlled substance. A drug or other substance, or immediate precursor, as defined in section 102 of the Controlled Substances Act, 21 U.S.C. 802. The term includes, but is not limited to, marijuana, depressants, stimulants, and narcotic drugs. The term does not include distilled spirits, wine, malt beverages, or tobacco, as those terms are defined or used in Subtitle E of the Internal Revenue Code of 1986, as amended.

Unlawful user of or addicted to any controlled substance. A person who uses a controlled substance and has lost the power of self-control with reference to the use of the controlled substance; and any person who is a current user of a controlled substance in a manner other than as prescribed by a licensed physician. Such use is not limited to the use of drugs on a particular day, or within a matter of days or weeks before, but rather that the unlawful use has occurred recently enough to indicate that the individual is actively engaged in such conduct. A person may be an unlawful current user of a controlled substance even though the substance is not being used at the precise time the person seeks to acquire a firearm or receives or possesses a firearm. An inference of current use may be drawn from evidence of a recent use or possession of a controlled substance or a pattern of use or possession that reasonably covers the present time, e.g., a conviction for use or possession of a controlled substance within the past year, or multiple arrests for such offenses within the past five years if the most recent arrest occurred within the past year.

The DOJ Office of Policy Development inquired whether the proposed definition includes persons found through a drug test to use a controlled substance unlawfully, provided the test was administered within the past year. In response, ATF agrees that this information would give rise to an inference of unlawful drug use. Accordingly, the final regulations are being amended to identify these persons in the definition as an example of unlawful drug user.

DOD commented that the examples should be expanded to include illegal drug use as evidenced by nonjudicial or administrative proceedings. DOD believes that it would be helpful to add the following at the end of the proposed definition:

For a current or former member of the Armed Forces, an inference of current use may be drawn from recent disciplinary or other administrative action based on confirmed drug use, e.g., court-martial conviction, nonjudicial punishment, or an administrative discharge based on drug use or drug rehabilitation failure.

ATF finds that the Defense Department's proposed language helps to clarify the definition with respect to the military and is adopting the proposed amendment into the final regulations.

Persons Who Have Been Adjudicated as Mental Defectives or Been Committed to a Mental Institution

The terms "adjudicated as a mental defective," "committed to a mental institution," and "mental institution," as proposed in Notice No. 839, are defined as follows:

Adjudicated as a mental defective. (a) A determination by a court, board, commission, or other lawful authority that a person, as a result of marked subnormal intelligence, or mental illness, incompetency, condition, or disease:

(1) Is a danger to himself or to others; or

(2) Lacks the mental capacity to contract or manage his own affairs.

(b) The term shall include a finding of insanity by a court in a criminal case.

Committed to a mental institution. A formal commitment of a person to a mental institution by a court, board, commission, or other legal authority. The term includes a commitment to a mental institution involuntarily. The term includes a commitment for mental defectiveness or mental illness. It also includes commitments for other reasons, such as for drug use. The term does not include a person in a mental institution for observation or a voluntary admission to a mental institution.

Mental institution. Includes mental health facilities, mental hospitals, sanitariums, psychiatric facilities, and other facilities that provide diagnoses by licensed professionals of mental retardation or mental illness, including a psychiatric ward in a general hospital.

Four Federal agencies and three State agencies commented on ATF's proposed definitions. Two State agencies questioned the meaning of "lawful authority" as used in the proposed regulations. In ATF's view, "lawful authority" as used in the proposed regulations clearly means a government entity having the legal authority to make adjudications or commitments, other than courts, boards, or commissions which are specifically mentioned. Therefore, the final regulations do not further define "lawful authority."

Another State agency asked whether the proposed definition of "adjudicated as a mental defective" must include a court finding of insanity in all cases. The proposed definition includes a determination that a person, as a result of mental illness, is a danger to himself or to others. The term also includes a finding of insanity by a court in a criminal case. These are separate and distinct definitions. Therefore, a determination of mental illness under the first part of the definition would give rise to firearms disabilities and would not require a court finding of insanity.

DOD commented that the Uniform Code of Military Justice was recently amended to include procedures for the commitment of military personnel for reason of a lack of mental responsibility. Consequently, DOD recommends that the following be added to the definition of "adjudicated as a mental defective":

The definition * * * shall also include those persons found incompetent to stand trial or found not guilty by reason of lack of mental responsibility pursuant to articles 50a and 72b of the Uniform Code of Military Justice, 10 U.S.C. 850a, 876b.

DOD's proposed amendment will clarify the meaning of the term "adjudicated as a mental defective" with respect to the military and ATF is adopting the suggested change into the final regulations.

In its comment, the U.S. Department of Veterans Affairs correctly interpreted the proposed definition of "adjudicated as a mental defective" to mean that any person who is found incompetent by the Veterans Administration under 38 CFR 3.353 will be considered to have been adjudicated as a mental defective for purposes of the GCA. Section 3.353 provides that a mentally incompetent person is one who, because of injury or disease, lacks the mental capacity to contract or manage his or her own affairs.

Persons Who Are Aliens and Are Illegally or Unlawfully in the United States

As proposed in Notice No. 839, the term "alien illegally or unlawfully in the United States" is defined as follows:

Alien illegally or unlawfully in the United States. (a) Aliens who are unlawfully in the United States or are not in a valid nonimmigrant or immigrant status. The term includes any alien—

(1) Who has entered the country illegally;

(2) Nonimmigrant whose authorized period of admission has expired;

(3) Student who has failed to maintain status as a student; or

(4) Under an order of deportation, whether or not he or she has left the United States.

(b) The term does not include aliens who are in "immigration parole" status in the United States pursuant to the Immigration and Naturalization Act (INA).

The Immigration and Naturalization Service (INS) suggested that the definition be modified to better reflect the terminology used in the Immigration and Nationality Act (INA). The commenter states that the INA uses specific legal terms to refer to the status of aliens in the United States. Therefore, INS recommends that the proposed definition be amended to read as follows:

Alien illegally or unlawfully in the United States. Aliens who are unlawfully in the United States are not in valid immigrant, nonimmigrant or parole status. The term includes any alien—

(a) Who unlawfully entered the United States without inspection and authorization by an immigration officer and who has not been paroled into the United States under section 212(d)(5) of the Immigration and Nationality Act (INA);

(b) Nonimmigrant whose authorized period of stay has expired or who has violated the terms of the nonimmigrant category in which he or she was admitted;

(c) Paroled under INA section 212(d)(5) whose authorized period of parole has expired or whose parole status has been terminated; or

(d) Under an order of deportation, exclusion, or removal, or under an order to depart the United States voluntarily, whether or not he or she has left the United States.

ATF agrees with the INS that the wording of the definition for this particular category of prohibited persons should reflect the terminology used in the Immigration and Nationality Act. Accordingly, ATF is adopting INS' proposed definition into the final regulations.

The DOJ Office of Policy Development asked whether the proposed definition of illegal aliens would cover asylum applicants. According to the INS, asylum applicants are not lawfully in the United States and would fall within the definition.

Persons Who Have Been Discharged From the Armed Forces Under Dishonorable Conditions

As proposed in Notice No. 839, the term "discharged under dishonorable conditions" is defined as follows:

Discharged under dishonorable conditions. Separation from the U.S. Armed Forces resulting from a Dishonorable Discharge. The term does not include separation from the Armed Forces resulting from any other discharge, e.g., a bad conduct discharge or a dismissal.

Section 922(g)(6) of the GCA makes it unlawful for persons who have been discharged from the Armed Forces under dishonorable conditions to receive or possess firearms. As ATF stated in Notice No. 839, the legislative history of this provision shows that the prohibition originally applied to persons discharged under "other than honorable conditions." The Omnibus Crime and Safe Streets Act of 1968, Pub. L. 90–351, Title VII, sec. 1202(2), 82 Stat. 226 (1968). However, Title VII was amended by the GCA to limit the prohibition to persons discharged under "dishonorable conditions." Therefore, the proposed definition provides that the prohibition applies only to persons discharged under dishonorable conditions, but not to persons separated from the Armed Forces as a result of other types of discharges, such as a bad conduct discharge or a dismissal.

DOD was the only commenter to address ATF's proposed definition. DOD believes that the proposed definition should be expanded to include commissioned officers, cadets, midshipmen, and warrant officers who have been sentenced to dismissal from the service by a general court-martial. DOD states that a dismissal is a punitive discharge to characterize the separation of an officer under conditions of dishonor (see Rules for Courts-Martial, 1003(c)(2)(A)(iv)). DOD also makes reference to the Military Judges Benchbook, DA Pam 27–9 (September 1996) which provides the following instruction for court members concerning the decision on whether to adjudge a dismissal as part of a sentence:

> * * * a sentence to dismissal * * * is, in general, the equivalent of a dishonorable discharge.* * * A dismissal deprives one of substantially all benefits administered by the Veteran's Administration and the Army establishment. It should be reserved for those who, in the opinion of the court, should be separated under conditions of dishonor after conviction of serious offenses of a civil or military nature warranting such severe punishment* * *

In addition, DOD advises that Federal law construes a dismissal as equivalent to a dishonorable discharge for purposes of eligibility for veteran's benefits. (See 38 U.S.C. 530(a)). Finally, DOD believes that defining the term "under dishonorable conditions" to include only dishonorable discharges could lead to an unfair application of the statute between officers and enlisted service members convicted of the same offenses.

Based on the DOD's comments, ATF reexamined the legislative history of the GCA and has determined that the term "under dishonorable conditions" can be interpreted to include a dismissal. Accordingly, this final rule amends the definition of "under dishonorable conditions" to include a "dismissal adjudged by a general court-martial."

Persons Who Have Renounced Their United States Citizenship

As proposed in Notice No. 839, the term "renounced U.S. citizenship" is defined as follows:

> Renounced U.S. citizenship. A person has renounced his U.S. citizenship if the person, having been a citizen of the United States, has renounced citizenship either—
>
> (a) Before a diplomatic or consular officer of the United States in a foreign state pursuant to 8 U.S.C. 1481(a) (5) and (6); or
>
> (b) Before an officer designated by the Attorney General when the United States is in a state of war.

Two Federal agencies commented on ATF's proposed definition, the Office of Passport Policy and Advisory Services (Department of State) and the Office of Policy Development (DOJ). The Office of Passport Policy and Advisory Services commented that the definition should be written to exclude renunciations that have been reversed on administrative or judicial appeals and renunciations by persons who subsequently regain citizenship through naturalization. ATF agrees that a reversal of a renunciation would remove the person's Federal firearms disabilities. This is consistent with the removal of disabilities resulting from a felony conviction that has been reversed on appeal. Therefore, the definition will include an exception for reversed renunciations.

On the other hand, a person who has renounced his or her citizenship and has subsequently regained citizenship through naturalization would remain under firearms disabilities. Section 922(g)(7) of the Act makes it unlawful for any person "who * * * has renounced his citizenship" to possess firearms and there is no exception for subsequent naturalization. A similarly worded disability was addressed by the Supreme Court in Dickerson v. New Banner, 460 U.S. 103, 116 (1983), where the Supreme Court held that a person who "has been" committed to a mental institution, but later cured and released, continues to have firearms disabilities.

The DOJ Office of Policy Development suggests that the statutory citation which appears at the end of paragraph (a), 8 U.S.C. 1481(a) (5) and (6), be moved to the end of paragraph (b). ATF is amending paragraph (b) of the proposed definition by moving the statutory cite, 8 U.S.C. 1481(a)(6), to paragraph (b).

Persons Who Are Subject to a Court Order Restraining Them From Committing Domestic Violence

ATF did not receive any comments addressing the proposed definition of "actual notice." Therefore, the definition is included in the final regulations without change.

Executive Order 12866

It has been determined that this final rule is not a significant regulatory action as defined in E.O. 12866. Therefore, a Regulatory Assessment is not required.

Regulatory Flexibility Act

It is hereby certified that this final rule will not have a significant economic impact on a substantial number of small entities. This final rule prescribes definitions for the categories of persons prohibited from receiving or possessing firearms. The definitions are necessary to implement the national instant criminal background check system required under the Brady law. No new reporting, recordkeeping or other administrative requirements are imposed on firearms licensees by this final rule. Accordingly, a regulatory flexibility analysis is not required.

Paperwork Reduction Act

The provisions of the Paperwork Reduction Act of 1995, Public Law 104–13, 44 U.S.C. Chapter 35, and its implementing regulations, 5 CFR part 1320, do not apply to this final rule because no requirement to collect information is imposed.

Disclosure

Copies of the notice of proposed rulemaking, the written comments, and this final rule will be available for public inspection during normal business hours at: ATF Public Reading Room, Room 6480, 650 Massachusetts Avenue, NW., Washington, DC.

Drafting Information

The author of this document is James P. Ficaretta, Regulations Branch, Bureau of Alcohol, Tobacco and Firearms.

List of Subjects in 27 CFR Part 178

Administrative practice and procedure, Arms and ammunition, Authority delegations, Customs duties and inspection, Exports, Imports, Military personnel, Penalties, Reporting requirements, Research, Seizures and forfeitures, and Transportation.

Authority and Issuance

Accordingly, 27 CFR PART 178—COMMERCE IN FIREARMS AND AMMUNITION is amended as follows:

Paragraph 1. The authority citation for 27 CFR part 178 continues to read as follows:

> Authority: 5 U.S.C. 552(a); 18 U.S.C. 847, 921–930; 44 U.S.C. 3504(h).

Par. 2. Section 178.11 is amended by revising the definitions for "discharged under dishonorable conditions," "fugitive from justice," and "indictment," and by adding definitions for "adjudicated as a mental defective," "alien illegally or unlawfully in the United States," "committed to a mental institution," "controlled substance," "mental institution," "renounced U.S. citizenship," and "unlawful user of or addicted to any controlled substance" to read as follows:

§ 178.11 Meaning of terms.

* * * * *

Adjudicated as a mental defective. (a) A determination by a court, board,

commission, or other lawful authority that a person, as a result of marked subnormal intelligence, or mental illness, incompetency, condition, or disease:

(1) Is a danger to himself or to others; or

(2) Lacks the mental capacity to contract or manage his own affairs.

(b) The term shall include—

(1) A finding of insanity by a court in a criminal case; and

(2) Those persons found incompetent to stand trial or found not guilty by reason of lack of mental responsibility pursuant to articles 50a and 72b of the Uniform Code of Military Justice, 10 U.S.C. 850a, 876b.

Alien illegally or unlawfully in the United States. Aliens who are unlawfully in the United States are not in valid immigrant, nonimmigrant or parole status. The term includes any alien—

(a) Who unlawfully entered the United States without inspection and authorization by an immigration officer and who has not been paroled into the United States under section 212(d)(5) of the Immigration and Nationality Act (INA);

(b) Who is a nonimmigrant and whose authorized period of stay has expired or who has violated the terms of the nonimmigrant category in which he or she was admitted;

(c) Paroled under INA section 212(d)(5) whose authorized period of parole has expired or whose parole status has been terminated; or

(d) Under an order of deportation, exclusion, or removal, or under an order to depart the United States voluntarily, whether or not he or she has left the United States.

* * * * *

Committed to a mental institution. A formal commitment of a person to a mental institution by a court, board, commission, or other lawful authority. The term includes a commitment to a mental institution involuntarily. The term includes a commitment for mental defectiveness or mental illness. It also includes commitments for other reasons, such as for drug use. The term does not include a person in a mental institution for observation or a voluntary admission to a mental institution.

Controlled substance. A drug or other substance, or immediate precursor, as defined in section 102 of the Controlled Substances Act, 21 U.S.C. 802. The term includes, but is not limited to, marijuana, depressants, stimulants, and narcotic drugs. The term does not include distilled spirits, wine, malt beverages, or tobacco, as those terms are defined or used in Subtitle E of the Internal Revenue Code of 1986, as amended.

* * * * *

Discharged under dishonorable conditions. Separation from the U.S. Armed Forces resulting from a dishonorable discharge or dismissal adjudged by a general court-martial. The term does not include separation from the Armed Forces resulting from any other discharge, e.g., a bad conduct discharge.

* * * * *

Fugitive from justice. Any person who has fled from any State to avoid prosecution for a felony or a misdemeanor; or any person who leaves the State to avoid giving testimony in any criminal proceeding. The term also includes any person who knows that misdemeanor or felony charges are pending against such person and who leaves the State of prosecution.

* * * * *

Indictment. Includes an indictment or information in any court, under which a crime punishable by imprisonment for a term exceeding 1 year (as defined in this section) may be prosecuted, or in military cases to any offense punishable by imprisonment for a term exceeding 1 year which has been referred to a general court-martial. An information is a formal accusation of a crime, differing from an indictment in that it is made by a prosecuting attorney and not a grand jury.

* * * * *

Mental institution. Includes mental health facilities, mental hospitals, sanitariums, psychiatric facilities, and other facilities that provide diagnoses by licensed professionals of mental retardation or mental illness, including a psychiatric ward in a general hospital.

* * * * *

Renounced U.S. citizenship. (a) A person has renounced his U.S. citizenship if the person, having been a citizen of the United States, has renounced citizenship either—

(1) Before a diplomatic or consular officer of the United States in a foreign state pursuant to 8 U.S.C. 1481(a)(5); or

(2) Before an officer designated by the Attorney General when the United States is in a state of war pursuant to 8 U.S.C. 1481(a)(6).

(b) The term shall not include any renunciation of citizenship that has been reversed as a result of administrative or judicial appeal.

* * * * *

Unlawful user of or addicted to any controlled substance. A person who uses a controlled substance and has lost the power of self-control with reference to the use of the controlled substance; and any person who is a current user of a controlled substance in a manner other than as prescribed by a licensed physician. Such use is not limited to the use of drugs on a particular day, or within a matter of days or weeks before, but rather that the unlawful use has occurred recently enough to indicate that the individual is actively engaged in such conduct. A person may be an unlawful current user of a controlled substance even though the substance is not being used at the precise time the person seeks to acquire a firearm or receives or possesses a firearm. An inference of current use may be drawn from evidence of a recent use or possession of a controlled substance or a pattern of use or possession that reasonably covers the present time, e.g., a conviction for use or possession of a controlled substance within the past year; multiple arrests for such offenses within the past 5 years if the most recent arrest occurred within the past year; or persons found through a drug test to use a controlled substance unlawfully, provided that the test was administered within the past year. For a current or former member of the Armed Forces, an inference of current use may be drawn from recent disciplinary or other administrative action based on confirmed drug use, e.g., court-martial conviction, nonjudicial punishment, or an administrative discharge based on drug use or drug rehabilitation failure.

* * * * *

Par. 3. Section 178.32(e) is added to read as follows:

§ 178.32 Prohibited shipment, transportation, possession, or receipt of firearms and ammunition by certain persons.

* * * * *

(e) The actual notice required by paragraphs (a)(8)(i) and (d)(8)(i) of this section is notice expressly and actually given, and brought home to the party directly, including service of process personally served on the party and service by mail. Actual notice also includes proof of facts and circumstances that raise the inference that the party received notice including, but not limited to, proof that notice was left at the party's dwelling house or usual place of abode with some person of suitable age and discretion residing therein; or proof that the party signed a return receipt for a hearing notice which had been mailed to the party. It does not include notice published in a newspaper.

34640 Federal Register / Vol. 62, No. 124 / Friday, June 27, 1997 / Rules and Regulations

Signed: April 21, 1997.
John W. Magaw,
Director.

Approved: May 5, 1997.
John P. Simpson,
Deputy Assistant Secretary, (Regulatory, Tariff and Trade Enforcement).
[FR Doc. 97–16900 Filed 6–26–97; 8:45 am]
BILLING CODE 4810–31–P

DEPARTMENT OF LABOR

Mine Safety and Health Administration

30 CFR Parts 7, 31, 32, 36, 70, and 75

RIN 1219–AA27

Approval, Exhaust Gas Monitoring, and Safety Requirements for the Use of Diesel-Powered Equipment in Underground Coal Mines

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Final rule; corrections.

SUMMARY: This document corrects errors in the final rule for the approval, exhaust gas monitoring, and safety requirements for the use of diesel-powered equipment in underground coal mines which appeared in the Federal Register on October 25, 1996.

DATES: Effective June 27, 1997.

FOR FURTHER INFORMATION CONTACT: Patricia W. Silvey, Director, Office of Standards, Regulations, and Variances; 703–235–1910 (voice); psilvey@msha.gov (internet e-mail); or 703–235–5551 (facsimile).

SUPPLEMENTARY INFORMATION: On October 25, 1996, MSHA published a final rule on the approval, exhaust gas monitoring, and safety requirements for the use of diesel-powered equipment in underground coal mines (61 FR 55412). This document corrects errors that appeared in the final rule.

This notice corrects the effective date section to include that the removal of part 32 is also effective November 25, 1996; and editorial errors in the numbers and mathematical symbols in § 7.88, § 7.89, § 7.98(q)(7) Table F–1, and § 7.100.

This notice corrects the preamble language for § 75.1906 by deleting language inadvertently included that would have imposed an earlier compliance deadline for the requirements of § 75.1903(c) and (d). In the final rule, MSHA did not adopt a different compliance date in § 75.1906(l) for § 75.1903(c) and (d). Instead, the compliance date for these paragraphs is the same 12-month deadline as that for the rest of §§ 75.1902 through 75.1906. Removing reference to the earlier compliance date conforms the preamble language to that of the final rule and eliminates conflicting information.

This notice also corrects the rule and corresponding preamble language for § 75.1909 to reflect existing § 75.523–3 requirements which govern automatic emergency-parking brakes on electric-powered haulage equipment. Section 75.523–3 provided the basis for § 75.1909 requirements for supplemental brake systems on heavy duty diesel-powered equipment. MSHA's intent is that § 75.1909(c)(5) specify essentially the same requirements as existing § 75.523–3(c).

The provision for supplemental brake systems was included in § 75.523–3 to eliminate accidents occurring when the machine was in operation without an operator in the operator's compartment. The preamble to the March 24, 1989 final rule for § 75.523–3 (54 FR 12410) states in part that:

> * * * at least five fatalities have occurred since 1978 when equipment operators were repositioning themselves or were not at the controls of an energized machine when it rolled away.

The preamble discussion in the October 25, 1996 diesel equipment final rule (61 FR 555468) states in part that § 75.1909(c)(1) through (c)(5):

> * * * closely track the brake system requirements for electric haulage equipment in existing § 75.523–3 with the exception of the requirement that the brake system be engaged by an emergency deenergization device or panic bar.

The emergency deenergization device is the only difference intended between the technical requirements for the braking systems required by existing § 75.523–3 and the braking systems required for diesel equipment in the final rule. It is an editorial oversight that the two requirements differ.

Existing § 75.523–3 requires a means to "apply the brakes manually without deenergizing the equipment;" whereas, the current language in § 75.1909(c)(5) of the final rule requires a means to "apply the brakes manually without the engine operating." This notice corrects the final rule and preamble language for § 75.1909(c)(5) by replacing the phrase "without the engine operating" with the phrase "without shutting down the engine." Without this change to the rule and the preamble, the two parts of § 75.1909(c)(5) partially repeat rather than complement each other.

List of Subjects

30 CFR Part 7

Diesel-powered equipment, Mine safety and health, Reporting and recordkeeping requirements.

30 CFR Part 75

Diesel-powered equipment, Mine safety and health, Underground coal mines, Reporting and recordkeeping requirements.

Dated: June 19, 1997.
J. Davitt McAteer,
Assistant Secretary for Mine Safety and Health.

Accordingly, the final rule published on October 25, 1996 (61 FR 55412) is corrected as follows:

1. The **DATES** section of the preamble on page 55412, column one, is corrected to add the words "and part 32" after the words "the removal of part 31".

PART 7—TESTING BY APPLICANT OR THIRD PARTY

2. The authority citation for part 7 continues to read as follows:

Authority: 30 U.S.C. 957.

§ 7.88 [Corrected]

3. Section 7.88(a)(9)(vi), on page 55516, column one, line six, is corrected by deleting a "5" in the number "(0.00552)" to read "(0.0052)".

4. Section 7.88(a)(9)(xi), on page 55516, column two, line one is corrected by adding a slash after "K=13,913.4" to read "K=13,913.4/".

§ 7.89 [Corrected]

5. Section 7.89(a)(9)(i) and (ii), on page 55517, is corrected by changing the abbreviation "P_I" to read "P_i" in column two, line eight, and in column three, line one.

6. Section 7.89(a)(9)(iv)(A), on page 55517, is corrected by changing the abbreviation "P_{Fcorr}" to read "P_{fcorr}" in line one of the equation section.

§ 7.98 [Corrected]

7. Section 7.98(q)(7), Table F–1, on page 55520, second column, is corrected in the fifth entry by changing the subscript number 3 following "0.008"' to a superscript footnote number 3.

8. Section 7.98(q)(7), Table F–1 is further corrected on page 55521 as follows:

a. In the second column, second entry by changing "1/16"" to read "3/8"";

b. In the first column, by adding a dot leader after the third entry and a corresponding entry in the second column to read "1/16""; and

c. In the second column, by reducing the size of the footnote numbers for

Chairman SANDERS. Thank you, Senator Boozman.

Senator Begich.

Senator BEGICH. Thank you very much, Mr. Chairman.

Actually, I want to follow-up. It was not my intent to follow-up on your question but I know, Senator Boozman, you and I have done several pieces of legislation together including this one. I have a piece of legislation pending with Senator Pryor, Flake, and Graham on this specific issue because there has been no proven correlation between financial affairs and someone committing or could potentially commit an act of violence.

There is no evidence, unless you have some; and I get what you are saying. I feel some uncomfortable conversation coming at me because you are kind of responding to the Justice Department's decision.

If I can, I would like to get from you whatever the public safety authority, Justice Department, issued this as an added item, whatever documentation they created this, because there is no connection.

And, there are many veterans that are denied their Second Amendment rights because they are unable to manage their financial affairs but they are not violent, they are not potentially violent, they are not at risk to themselves or others.

And so, could you provide us that? You do not have to answer this, but I sense some uncomfortable positioning in your responses to Senator Boozman and I get where this came from, that you are responding to that.

Mr. HIPOLIT. Yes, Senator, there were Justice Department regulations that set that up and we would be pleased to provide you with background information on that.

Senator BEGICH. We would like that. Again, our bill is to try to rectify this problem because it just seems unfair. We have to take and weigh someone's constitutional right, whatever that right is, is something we need to be very careful about.

At the same time, we need to recognize there are individuals that are at risk and we need to balance that.

Mr. Murphy, you had some information regarding how many have been accepted into that system, how many are appealing, and then also what the timetable is from their initial appeal, or relief I guess is the word to use. And then what the outcome of that was.

Would you mind giving us something on that also?

Mr. MURPHY. We would be happy to, Senator.

[The information requested during the hearing follows:]

RESPONSE TO REQUEST ARISING DURING THE HEARING BY HON. MARK BEGICH TO U.S. DEPARTMENT OF VETERANS AFFAIRS

Response. As of April 17, 2013, the cumulative total of VA incompetent beneficiaries is 143,580. A demographic breakdown is shown below:

Veterans	83,764
Surviving Spouses	42,636
Helpless Adult Children	14,291
Minor Children	2,733
Dependent Parents	86
Other Adults	70
TOTAL	143,580

Senator Begich asked for data on the special NICS appeals process: how many have asked for a review, the time it takes for the appeal process, and the number of requests for relief granted/denied/not yet decided.

Response. Please note that NICS relief is not an appeal, it is a separate process. As of April 17, 2013, VA received 236 requests for relief from the NICS reporting requirements. Breakdown is as follows:

Granted	7
Denied	153
Pending	53
Competency Restored	23
TOTAL	236

Senator BEGICH. OK. Thank you.

Let me move on to another subject matter. Again actually Senator Boozman and I have a bill entitled Putting Veterans Funding First Act, S. 932. We gave advance appropriations for part of the VA but not all of it, so this bill would complete fully giving advanced appropriations to the VA.

Tell me what you think of this and would you be supportive of this legislation. Again, it just seems logical from a standpoint of saving money, saving time, and creating opportunity for the VA to do their work rather than processing paper all the time.

Who would like to?

Mr. COY. I will take that, Senator.

Unfortunately, the short answer is we are still putting together our cleared views on this.

Senator BEGICH. Can I interrupt you for just 1 second.

Mr. COY. Yes.

Senator BEGICH. And I do not mean to be negative, only because of our time here. But, are you putting that together? Is OMB influencing that outcome of what you are putting together?

The reason I ask is that OMB will always sanitize the heck out of everything. So, I am looking for what you all think as the department that has to run an agency of the magnitude that you have to run.

So, you do not have to answer. I do not mean to be—I just get frustrated with OMB sanitizing everything before coming in front of a Committee.

Mr. COY. I will take your advice and not insert that, Sir.

[Laughter.]

Senator BEGICH. OK. Your answer is an answer but go ahead. I did not mean to——

Mr. COY. We have seen where it has been very useful for our colleagues at VHA.

Senator BEGICH. Right.

Mr. COY. But again we do not have our cleared position to put forth yet.

Senator BEGICH. Understood. OK.

Mr. COY. We are looking at it very vigorously and it is within VA at this point to put together those cleared views.

Senator BEGICH. Fantastic. I would look forward and maybe we can ask the other side of VA at one point what they saw as their savings and opportunity. That might help us convince, and I say "us," meaning OMB to think about the right decision here.

Mr. COY. Aye, aye.

Senator BEGICH. I'll leave it at that.

Let me go on to one last quick thing. There is a bill that I cosponsored with Senator Burr but I do not see it, though I may be

wrong. You did not supply a view on it, which is about issuing cards to veterans that identify themselves as veterans so then they can benefit from community benefits that are available.

It would not be used to determine their—it would not be used to go into the VA as it were but it would be their card to say, I am a veteran and therefore I might get certain benefits out in the community.

You did not have a view on that. So, I am wondering if you are reviewing that or you are just going to keep neutral on it or help me out there.

Mr. COY. Right now, again my short answer is we do not have cleared views on that yet.

Senator BEGICH. OK.

Mr. COY. What we have seen is about 50 percent of the States now have a driver's license where they have identified veterans on there as well.

Senator BEGICH. Right.

Mr. COY. And we have seen that as a pretty useful tool. We are also looking at a number of things through our eBenefits portal where veterans can quickly get the information necessary to identify them as a veteran.

But with respect to physically issuing ID cards, we are putting together those costs and views to be able to figure out what our official position is on that and we will get that to you, sir, as soon as we can.

Senator BEGICH. Very good. Thank you very much.

Thank you, Mr. Chairman for the time.

Chairman SANDERS. Thank you, Senator Begich.

We are going to hear from the VSOs in 1 second but before we do I want to go back to Mr. Murphy because you are dealing with what is the most contentious issue facing the VA right now.

What I want you to do in a very brief period of time is to tell this Committee how we got to where we are today in terms of the backlog, what the VA is doing to transform the system, where you think we are today, and where we are going to be by the end of 2015. You got all of a minute to do that.

Mr. MURPHY. A minute. Well, let us start at the end. The Secretary has put out a rather aggressive goal: 2015; 98 percent; 125 days. You asked me previously are we going to hit that goal. The answer is yes.

Chairman SANDERS. So, let me stop here. What you are saying again for the public record is that you believe by the end of 2015 every benefit filed by a veteran will be processed within 125 days with 98 percent accuracy.

Am I hearing you correctly?

Mr. MURPHY. You are hearing me correctly.

Chairman SANDERS. OK.

Mr. MURPHY. It gives me chills. It is a very aggressive goal.

Chairman SANDERS. It is an aggressive goal.

Mr. MURPHY. But, I honestly believe we are going to hit that number and I am not saying that as an uneducated individual. You are asking me what are the things that we are doing, and you have heard Under Secretary Hickey many times talk about people processing technology.

That truly is the thing that all together are going to solve this. There is no single system that is going to come in that is going to be a silver bullet, VBMS, and make everything work. VBMS if left alone without other changes will just make a bad system worse.

So, there are other things that have to go on here in terms of training, education, the quality of hiring, the processes that we are doing, the legislative proposals that you are bringing before us now and have done so over the last couple of years are bearing fruit and helping us develop this as well.

You asked how did we get here? We are at the end of in excess of 10 years of war and still going. There is a very large number of veterans returning from conflict and they are filing claims when they do. These veterans have had injuries and conditions and it is having its effect on VA.

If you look at the number of claims that we are getting, you look at not just the number of claims but the complexity and the number of issues that are in those claims, just to say that we have got 25, 50, 100 percent more claims does not begin to address the workload that has really increased.

A claim that formerly came in with three contentions it is now coming in with 12 to 15. That is three to four to five times the work to complete that same claim. But, we have not seen the same level of increase in resources in terms of personnel in order to do that.

On top of that, there are presumptive conditions that were right decisions on the part of the Secretary that were put in place to take care of veterans from previous conflicts.

Chairman SANDERS. Agent Orange.

Mr. MURPHY. Agent Orange, specifically. There is a peripheral neuropathy presumption that we are going to see here shortly. Several other areas in there that have been right decisions, right things to do for veterans that did not stop us from making those decisions and we are seeing the consequences of those today.

On the other side of that, we are at a turning point where we are starting to see the work go the opposite direction in terms of volume and the work coming through the door faster than the number of resources that we have.

When you take all of those and put them in place, I think that adds to success at the end of 2015.

Chairman SANDERS. OK. Thanks very much.

Gentlemen, thank you very, very much.

Now, we would like to hear from the veterans service organizations.

[Pause.]

I want to thank the service organizations, all of them, including those that are not here this morning for the help that they have given us in trying to assess the problems they have seen in the veterans community as well as their very specific thoughts on legislation and how we can address some of those problems.

We are delighted this morning to have with us Jeffrey Hall, who is the Assistant National Legislative Director for the Disabled American Veterans.

Ian de Planque, who is the Deputy Legislative Director for The American Legion.

Colonel Robert F. Norton, who is the Deputy Director, Government Relations, Military Officers Association of America.

And, Ryan Gallucci, who is the Deputy Director, National Legislative Service for the Veterans of Foreign Wars.

We thank you all for being here this morning.

Mr. Hall.

STATEMENT OF JEFFREY HALL, ASSISTANT NATIONAL LEGISLATIVE DIRECTOR, DISABLED AMERICAN VETERANS

Mr. HALL. Thank you, Mr. Chairman. Good morning to you and Members of the Committee.

On behalf of the DAV and our membership of 1.2 million wartime service-disabled veterans, we appreciate the opportunity to offer our views regarding the legislation being considered by this Committee. My full written statement has been submitted for the record so I will limit my oral remarks today to only just a few of those bills.

Mr. Chairman, as you and the Members of the Committee are well aware, the VA is currently in the process of comprehensively transforming its claims processing system to address the unacceptably large backlog of claims.

DAV has and will continue to urge that the focus of all claims process reform efforts be centered on quality and accuracy to ensure that every veteran's claim is done right the first time.

Regarding S. 928, the Claims Processing Improvement Act of 2013, it contains numerous provisions to help reform the current system but I am just going to highlight a few seconds here.

With respect to Section 101, DAV has long supported calls for scientifically studying how VBA determines its resource needs which must be based on a true measure of how much work can be done accurately by its employees.

While we support the general intent of the working group proposed by this section, we offer the following recommendations, Mr. Chairman.

First, the working group must expand its focus beyond just a work credit system to developing a data driven model for determining VBA's total resource needs now and into the future.

Second, the working group should not study the VBA's work management system at a time when VBA is in the middle of changing it. Doing so would be premature in light of the VBA's new organizational model and the VBMS system being implemented.

We suggest waiting until a time after the new system has been working and in place for a while in order to determine whether these changes are or will be successful.

Finally, because Section 101 mandates that the Secretary shall implement the recommendations of this working group, DAV is concerned about the lack of details on the membership of the working group, operating rules of the group, how decisions will be made and votes taken, and how recommendations will be presented by the working group.

Section 201 would reduce the filing period of a notice of disagreement from the current 1-year period to 180 days from the date of the decision. The DAV is opposed to this measure as we do not see

any positive effect resulting from this change toward the backlog of claims.

DAV supports Section 202 to improve the appeals process by allowing the Board of Veterans Appeals to use videoconferencing hearings as a default hearing while allowing the claimant to retain the absolute right to appear in person before the board.

We do, however, recommend that this is clearly explained and outlined in the notice of appeal rights and appeals form which the veteran receives.

Regarding S. 819, the Veterans Mental Health Treatment First Act of 2013, this creates a new early intervention and treatment program for veterans suffering from PTSD, depression, anxiety disorder, or related substance abuse disorder.

The DAV strongly supports early intervention and mental health treatment, prevention of chronic disability, and promotion of recovery. Likewise, we are generally supportive of providing financial support such as a wellness stipend to veterans who are willing to commit to this program of treatment as it would provide a means of income while undergoing treatment itself.

However, we cannot support the bill in its current form because it constrains disabled veterans from applying for service-connected disability compensation or an increased rating for these covered conditions simply in order to gain the full amount of the wellness stipend.

We believe that early treatment provisions and wellness stipend payments must be decoupled from any proposal which would have any adverse impact on a veteran applying for disability compensation or claim for an increased rating.

Furthermore, such programs should begin as a pilot program to help determine the level of interest and whether or not it is likely to achieve its intended purpose. However, we would be pleased to work with the Committee to possibly find a workable solution on this matter.

DAV strongly supports S. 893, the Veterans Compensation Cost of Living Adjustment Act of 2013, to increase compensation and DIC rates effective December 1 of 2013.

Mr. Chairman, the DAV applauds you and Ranking Member Burr for not mandating that the COLA be rounded down to the next low whole dollar amount. DAV has a long-standing resolution to discontinue this unfair practice and we are very pleased that it was not included in the bill.

The DAV also applauds you, Mr. Chairman, for your stalwart leadership and efforts opposing the chained consumer price index, which we, too, oppose.

Finally, the DAV strongly supports S. 932, the Putting Veterans Funding First Act of 2013. In the same way that advance appropriations for VA health care have helped insulate and protect VHA from the disruptive budget fights each year, we believe that expanding advance appropriations to the VA's remaining discretionary programs, including VBA, could have similar positive affects on helping to address the backlog of pending claims.

Mr. Chairman, the DAV thanks the Committee for their tireless efforts toward improving the lives of service-disabled veterans and their families.

This concludes my remarks. I will be happy to answer any questions.

[The prepared statement of Mr. Hall follows:]

STATEMENT OF JEFFREY C. HALL, ASSISTANT NATIONAL LEGISLATIVE DIRECTOR, DISABLED AMERICAN VETERANS (DAV)

Chairman Sanders, Ranking Member Burr and Members of the Committee: Thank you for inviting the DAV (Disabled American Veterans) to testify at this legislative hearing of the Senate Veterans' Affairs Committee. As you know, DAV is a non-profit veterans service organization comprised of 1.2 million wartime service-disabled veterans dedicated to a single purpose: empowering veterans to lead high-quality lives with respect and dignity. DAV is pleased to be here today to present our views on the bills under consideration by the Committee.

S. 6

S. 6, the Putting Our Veterans Back to Work Act of 2013, would reauthorize the VOW to Hire Heroes Act of 2011, to provide assistance to small businesses owned by veterans, to improve enforcement of employment and reemployment rights of members of uniformed services. This legislation would expand the VOW to Hire Heroes Act of 2011 by reauthorizing the Veterans Retraining Assistance Program (VRAP) allowing an additional 100,000 participants through April 2016.

Other matters highlighted in S. 6 include extending through December 2016, the allowance for VA vocational rehabilitation & employment services to members of the Armed Forces with severe injuries or illnesses, and would also extend through March 2016, additional rehabilitation programs for those who have exhausted rights to unemployment benefits under state law, as well as the creation of a unified web-based employment portal identifying Federal employment, unemployment and training. S. 6 would also afford grants to the Department of Homeland Security and the Attorney General for the purpose of hiring firefighters and law enforcement officers.

Finally, this legislation would require employment of veterans as an evaluation factor in solicitations for contracts by certain prospective contractors, while also improving employment and reemployment rights of members of the uniformed services with respect to states and private employers and suspension, termination, or debarment of contractors for repeated violations of such rights.

In accordance with several DAV resolutions, we support enactment of this comprehensive legislation as it would improve the employment, training, and rights of service-disabled veterans and improve their transition from military service into civilian employment.

S. 200

S. 200 would amend title 38, United States Code, to authorize the interment in national cemeteries under the control of the National Cemetery Administration of individuals who served in combat support of the Armed Forces in the Kingdom of Laos between February 28, 1961, and May 15, 1975.

DAV has no resolution or position on this matter.

S. 257

S. 257, the GI Bill Tuition Fairness Act of 2013, would require courses of education provided by public institutions of higher education that are approved for purposes of the educational assistance programs administered by the Secretary of Veterans Affairs to charge veterans tuition and fees at the in-state tuition rate.

DAV has no resolution or position on this matter.

S. 262

S. 262, the Veterans Education Equity Act of 2013, would provide equity for tuition and fees for individuals entitled to educational assistance under the Post-9/11 Educational Assistance Program of the Department of Veterans Affairs (VA) who are pursuing programs of education at the institutions of higher learning.

DAV has no resolution or position on this matter.

S. 294

S. 294, the Ruth Moore Act of 2013, would improve the disability compensation evaluation procedure of the Secretary of Veterans Affairs for veterans with mental

health conditions related to military sexual trauma. In accordance with DAV Resolution Nos. 030 and 204, we support enactment of this legislation.

This bill would change the standard of proof required to establish service connection for veterans suffering from certain mental health conditions, including Post Traumatic Stress Disorder (PTSD), resulting from military sexual trauma that occurred in service.

In November 2010, VA modified its prior standard of proof for PTSD related to combat veterans by relaxing the evidentiary standards for establishing in-service stressors if related to a veteran's "fear of hostile military or terroristic activity." Under this change, VA is now able to award entitlement to service connection for PTSD even when there is no official record of such incurrence or aggravation in service, provided there is a confirmed diagnosis of PTSD coupled with the veteran's written testimony that the PTSD is the result of an incident that occurred during military service, and a medical opinion supporting a nexus between the two.

S. 294 would buildupon that same concept and allow VA to award entitlement to service connection for certain mental health conditions, including PTSD, anxiety and depression, or other mental health diagnosis described in the current version of the Diagnostic and Statistical Manual for Mental Disorders (DSM), which a veteran claims was incurred or aggravated by military sexual trauma experienced in service, even in the absence of any official record of the claimed trauma. Similar to the evidentiary standard above for PTSD, the veteran must have a diagnosis of the covered mental health condition together with satisfactory lay or other evidence of such trauma and an opinion by the mental health professional that such covered mental health condition is related to such military sexual trauma, if consistent with the circumstances, conditions, or hardships of such service even in the absence of official record of such incurrence or aggravation in such service and if so all reasonable doubt will be resolved in favor of the claimant.

DAV Resolution No. 204 states that, "[e]stablishing a causal relationship between injury and later disability can be daunting due to lack of records or certain human factors that obscure or prevent documentation of even basic investigation of such incidents after they occur * * *" and that, "[a]n absence of documentation of military sexual trauma in the personnel or military unit records of injured individuals prevents or obstructs adjudication of claims for disabilities for this deserving group of veterans injured during their service, and may prevent their care by VA once they become veterans * * *." Further, DAV Resolution No. 030 states that, "[p]roof of a causal relationship may often be difficult or impossible * * *" and that, "* * * current law equitably alleviates the onerous burden of establishing performance of duty or other causal connection as a prerequisite for service connection * * *."

Correspondingly, in accordance with DAV Resolution Nos. 030 and 204, we support enactment of S. 294 as it would provide a more equitable standard of proof for service-disabled veterans who suffer from serious mental and physical traumas in environments that make it difficult to establish exact causal connections.

We would also note that the House Veterans' Affairs Committee recently adopted an amendment to a companion bill that replaced the language of this legislation with a "Sense of Congress" resolution, thereby significantly weakening the intent of this legislation. We would urge this Committee to retain the statutory language in S. 294 as it moves through the legislative process.

S. 373

S. 373, the Charlie Morgan Military Spouses Equal Treatment Act of 2013, would amend titles 10, 32, 37, and 38 of the United States Code, to add a definition of spouse for purposes of military personnel policies and military and veteran benefits that recognizes new state definitions of spouse.

DAV has no resolution or position on this matter.

S. 430

S. 430, the Veterans Small Business Opportunity and Protection Act of 2013, would amend title 38, United States Code, to enhance treatment of certain small business concerns for purposes of VA contracting goals and preferences. Specifically, this bill would improve the treatment of a service-disabled veteran-owned small business (SDVOSB) after the death of the disabled veteran. Current law allows 10 years to transfer a SDVOSB from a surviving spouse if the disabled veteran was rated 100 percent at time of death or who died as a result of a service-connected condition. This measure would allow for a transition period of three years for veterans rated less than 100 percent at time of death or whose death is not a result of a service-connected condition.

In accordance with DAV Resolution No. 168, we support enactment of this legislation.

S. 492

S. 492 would amend title 38, United States Code, to require states to recognize the military experience of veterans when issuing licenses and credentials to veterans. Essentially this measure would improve employment for veterans by removing particular restrictions or unnecessary requirements for certain veterans. Specifically, as a condition of a grant or contract under which funds are made available to a state, the state must establish a program for a state-administered examination for each veteran seeking a license or credential issued by such state.

Additionally, the state will issue a license or credential to such veteran without requiring training or apprenticeship, provided the veteran receives a satisfactory examination score and has 10 years or more of experience in a military occupational specialty that, as determined by a state, is similar to a civilian occupation for which such license or credential is required by the state.

In accordance with DAV Resolution No. 194, we support enactment of S. 492 as it would improve transition from military service and the employment of service-disabled veterans.

S. 495

S. 495, the Careers for Veterans Act of 2013, would amend title 38, United States Code, to require Federal agencies to hire veterans and require states to recognize the military experience of veterans when issuing licenses and credentials to veterans.

This legislation is supported by a number of DAV resolutions; accordingly, DAV supports enactment of this measure.

S. 514

S. 514 would amend title 38, United States Code, to provide additional educational assistance under Post-9/11 Educational Assistance to veterans pursuing a degree in science, technology, engineering, math, or an area that leads to employment in a high-demand occupation.

DAV has no resolution or position on this matter.

S. 515

S. 515 would amend title 38, United States Code, to extend the Yellow Ribbon G.I. Education Enhancement Program to cover recipients of Marine Gunnery Sergeant John David Fry scholarship.

DAV has no resolution or position on this matter.

S. 572

S. 572, the Veterans Second Amendment Protection Act, would clarify the conditions under which certain persons may be treated as adjudicated mentally incompetent for certain purposes.

DAV has no resolution or position on this matter.

S. 629

S. 629, the Honor America's Guard-Reserve Retirees Act of 2013, would amend title 38, United States Code, to recognize the service in the reserve components of the Armed Forces of certain persons by honoring them with the status only as veterans under law.

DAV has no resolution or position on this matter.

S. 674

S. 674, the Accountability for Veterans Act of 2013, would require prompt responses from the heads of covered Federal agencies when the Secretary of Veterans Affairs requests information necessary to adjudicate claims for benefits under laws administered by the Secretary. Specifically, this legislation would require the Department of Defense (DOD), Social Security Administration (SSA), and National Archives and Records Administration (NARA), to respond to VA's request for information not later than 30 days from such request by providing the requested information or an explanation why the requested information could not be provided within the 30-day time period, and an estimate as to when the requested information will be furnished. If the VA's request for information has not been satisfied, additional

requests shall be made in the same manner as the initial request and the claimant will be notified.

When a claim is submitted to VA, the largest delay in the overall process resides within the development stage and usually involves VA not receiving requested information from private and Federal sources, which is necessary for VA to properly adjudicate a claim for benefits. While unanswered requests from private sources, such as treating physicians, are unacceptably burdensome, it is even more troublesome when requests for information go unanswered by the Federal Government. When this occurs, the claim spends months, even years, in a vortex of delay in processing and providing earned benefits to veterans and their families. When a covered agency is the custodial source of the information requested by VA then that agency is responsible to promptly furnish the information or a reasonable explanation as to why the information cannot be furnished. It is simply unconscionable that veterans and their families wait as long as they do for an answer to their claim, but to have this compounded by complacency or blatant disregard by a covered agency to furnish the requested information in a timely manner is beyond reproach.

While this legislation may not solve this problem in every case, DAV agrees with the purpose of S. 674, which is to hold DOD, SSA and NARA accountable in furnishing the information requested by VA so a claim for benefits can be properly adjudicated in a timely manner.

For the foregoing reasons and in accordance with DAV Resolution No. 205, we support the enactment of S. 674 as it would improve the VA claims process for service-disabled veterans.

S. 690

S. 690, the Filipino Veterans Fairness Act of 2013, would amend title 38, Untied States Code, to deem certain service in the organized military forces of the Government of the Commonwealth of the Philippines and the Philippine Scouts to have been active service for the purpose of obtaining benefits under programs administered by the Secretary of Veterans Affairs.

DAV has no resolution or position on this matter.

S. 695

S. 695, the Veterans Paralympic Act of 2013, would amend title 38, United States Code, to extend the authorization of appropriations for the Secretary of Veterans Affairs to pay a monthly assistance allowance to disabled veterans who are training or competing for the Paralympic Team and authorization of appropriations for the Secretary of Veterans Affairs to provide assistance to United States Paralympics, Inc.

While DAV does not have a resolution specific to this issue, we do support the intent of the legislation as it empowers disabled veterans to live high quality lives with respect and dignity.

S. 705

S. 705, the War Memorial Protection Act of 2013, would amend title 36, United States Code to ensure that memorials commemorating the service of the United States Armed Forces may contain religious symbols.

DAV has no resolution or position on this matter.

S. 735

S. 735, the Survivor Benefits Improvement Act of 2013, would amend title 38, United States Code, to improve benefits and assistance provided to surviving spouses of veterans under laws administered by the Secretary of Veterans Affairs. DAV supports Section 2 of the bill, which would extend from two years to five years, for the initial period for increased DIC for surviving spouses with children. DAV also supports Section 3 of the bill as it would expand the eligibility to DIC, health care, and housing loans for surviving spouses by lowering the age from 57 to 55 for those spouses who remarry.

Section 4 of the bill would allow benefits for children of certain Thailand service veterans born with spina bifida in the same manner as children of Vietnam service veterans who were exposed to an herbicide agent. DAV has no resolution or position regarding this matter.

Finally, Section 5 of S. 735 would initiate a pilot program to provide grief counseling in retreat settings for surviving spouses of veterans who die while serving on active duty in the United States Armed Forces. DAV supports the principle of Sec-

tion 5 of the bill as it would provide support and counseling to grieving spouses and children who are coping with the death and loss of the veteran.

S. 748

S. 748, the Veterans Pension Protection Act, would amend title 38, United States Code, to require the Secretary of Veterans Affairs to consider the resources of individuals applying for nonservice-related pension that were recently disposed of by the individuals for less than fair market value when determining the eligibility of such individuals for such nonservice-related pension.

DAV has no resolution or position on this matter.

S. 778

S. 778 would authorize the Secretary of Veterans Affairs to issue cards to veterans that identify them as veterans, including name and photo, whether or not the veteran is enrolled the VA health care system or in receipt of benefits such as education, compensation or non-service related pension.

While DAV has no resolution or position on this matter we recommend this be a collaborative effort between the two principle agencies; DOD issuing this type of identification card to those eligible at time of discharge, and VA issuing this type of identification card to those already separated from military service.

S. 819

S. 819, the Veterans Mental Health Treatment First Act of 2013, creates a new program for provision of mental health care and rehabilitation for veterans suffering from service-related Post Traumatic Stress Disorder (PTSD), depression, anxiety disorder, or a related substance abuse disorder. DAV supports the provisions of this bill that promote early intervention in mental health treatment, prevention of chronic disability, and promotion of recovery. However, we cannot support the bill in its current form because it restricts the rights of disabled veterans to apply for service-connected disability compensation for those disabilities under VA care. We believe that early treatment provisions and wellness stipend payments must be decoupled from any proposal to deny veterans the ability to apply for disability compensation during the treatment phase.

S. 819 would establish a new approach to dealing with veterans who are diagnosed with PTSD, depression, anxiety disorder or substance abuse disorder that, in the judgment of a VA physician, is related to military service. Financial support, known as a "wellness stipend," would be provided to veterans who are willing to commit to a VA treatment plan with substantial adherence to that plan for a specified period of care. In order to be eligible for the wellness stipend, the veteran would be required to agree not to file a VA disability compensation claim for the covered conditions for one year or the duration of the treatment program, whichever time period would be shorter. Duration of treatment would be individualized and determined by the attending VA clinician. Under the program, there would be two proposed levels of wellness stipends. Receipt of the full wellness stipend would depend on the veteran having no service-related rating for PTSD, depression, anxiety disorder, or related substance abuse, and having no claim pending for one of the conditions mentioned.

Veterans with no service-connected rating or claim pending for the conditions mentioned who agreed not to file a new or an increased disability claim for one of the conditions and in addition agreed to "substantial compliance" with a prescribed treatment plan for those conditions for the duration of the prescribed program (or 12 months, whichever is sooner), would receive $2,000 immediately payable upon diagnosis; $1,500 payable every 90 days while in the treatment program upon clinician certification of substantial compliance with the treatment regimen; and $3,000 payable at the conclusion of the time-limited treatment program. Under this proposal, the gross stipend for these veterans would be $11,000.

This bill also would propose that any veteran, with a new or increased disability claim pending for PTSD, depression, anxiety disorder or related substance abuse, would receive only a partial wellness payment at identical intervals but totaling only up to 33% of the rates discussed above. Any participating veteran who failed to comply with the conditions of the program would be removed from the program, resulting in cessation of the stipends. The program would limit a veteran's participation to a single enrollment unless VA determined that extended participation would provide the veteran additional assistance in recovery.

As we have stated, we support efforts to increase early intervention in order to increase the chances for recovery. Multiple independent reports and scientific studies provide ample evidence for pursuing early intervention for PTSD and other serv-

ice-related mental health problems, for promoting recovery, and for providing adequate financial support so that veterans have the resources to engage fully in necessary treatment. Participation in treatment and counseling is often an intensive and time consuming process and so financial stipends, such as those proposed by this bill, would give veterans at least a modicum of support to concentrate on participating as full partners in their therapy.

However, DAV strongly opposes any provision that attempts to link wellness stipend payments to a veteran's right to file a disability claim. While progression in science has enhanced our ability to recognize and treat the mental health consequences of service in combat including PTSD, the treatments are not universally effective. PTSD and major depression tend to remit and recur. There is no justification for the view that participation in evidence-based therapy will eradicate the illness or eliminate the need for a claim for disability.

In addition to the above concerns, we recognize the challenges that VA faces in establishing the administrative systems and management of mental health treatment programs. In order to increase the chances for success, DAV recommends that VA incorporate the following components into any new early intervention mental health treatment program design:

- VHA has struggled to provide timely access to mental health services to all veterans seeking care. In order to carry out any new programs, such as those outlined in this bill, while continuing to meet current demand for mental health services, VA will need to recruit and retain additional highly skilled, dedicated mental health providers.
- Every veteran enrolled in such programs should be assigned to a care manager to coordinate care and jointly track personal treatment and recovery plans.
- VA mental health providers should receive ongoing continuing medical education, intensive training and clinical supervision to ensure that they have the skills and capability to deliver the latest evidence-based treatments.
- VA should offer certifications to professionals for PTSD treatment, competency in veterans' occupational health, and cultural competency in veterans and military life.

Most of the military members who serve in combat will return home without injuries and readjust in a manner that promotes good health. However, it is the responsibility of our Nation to treat veterans who return with war wounds, both visible and invisible, and to fully support their mental health recoveries. Moreover, we believe that while wellness stipend payments could facilitate their recovery, they are not an adequate or acceptable substitute for fair and equitable disability compensation for service-related conditions.

In summary, DAV supports the provisions of this bill that promote early intervention in mental health treatment, prevention of chronic disability, and promotion of recovery. However, we cannot support the bill in its current form because it restricts the rights of disabled veterans to apply for service-connected disability compensation. We suggest that the health care provisions and wellness stipend payments be decoupled from the proposal to deny veterans the ability to apply for disability compensation during the treatment phase.

While DAV cannot offer our full support to S. 819, we would be happy to work with the Committee to see if there are additional ways to create incentives for veterans to seek early treatment for mental health conditions without forcing them to surrender their earned right to seek other VA benefits.

S. 863

S. 863, the Veterans Back to School Act of 2013, would amend title 38, United States Code, to repeal time limitations on the eligibility for use of educational assistance under All-Volunteer Force Educational Assistance Program and to improve veterans' education outreach.

DAV has no resolution or position on this matter.

S. 868

S. 868 would require the Secretary of Defense to establish a process to determine whether individuals claiming certain service in the Philippines during World War II are eligible for certain benefits despite not being on the Missouri List.

DAV has no resolution or position on this matter.

S. 889

S. 889 would amend title 10, United States Code, to improve the Transition Assistance Program (TAP) of the DOD. Specifically, this legislation would expand the

current TAP for those who plan to use educational assistance by codifying the instruction and overview of such educational assistance, testing to determine academic readiness, instruction on how to finance post-secondary education, and instruction in the benefits and other programs administered by the Secretary of Veterans Affairs.

In light of the difficulty faced by many transitioning servicemembers, especially those with service-related disabilities, S. 889 will provide certain expansion and improvement to the current TAP program within each respective branch of the military. Allowing these individuals the maximum assistance in obtaining their benefits, education, and employment as they exit military service is absolutely imperative.

In accordance with DAV Resolution No. 199, we support the enactment of S. 889.

S. 893

S. 893, the Veterans' Compensation Cost-of-Living Adjustment Act of 2013, would provide for an increase, effective December 1, 2013, in the rates of compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation (DIC) for the survivors of certain disabled veterans.

Although a cost-of-living adjustment (COLA) was passed last year at the modest increase of 1.7%, each of the prior two years, there was no increase in the rates for compensation and DIC because the Social Security index used to measure the COLA did not increase. Many disabled veterans and their families rely heavily or solely on VA disability compensation or DIC as their only means of financial support and have struggled during these difficult times. While the economy has faltered, their personal economic circumstances have been negatively affected by rising costs of many essential items, including food, medicines and gasoline. As inflation becomes a greater factor, it is imperative that veterans and their dependents receive a COLA and DAV supports enactment of this legislation.

Mr. Chairman, DAV applauds you and Ranking Member Burr for not mandating that the COLA be rounded down to the next lowest whole dollar amount. DAV has a longstanding resolution to discontinue this unfair practice. The "round down" practice was initially enacted to be a temporary cost savings measure, but has now been in effect for nearly 20 years. This temporary cost saving measure has resulted in the loss of millions of dollars to veterans and their families since its inception and long overdue to be discontinued. As such DAV thanks you for your forward thinking to remove the "round down" provision.

DAV also applauds your leadership and efforts with respect to opposing the "chained" consumer price index (CPI). DAV joins your opposition to this or any similar attempt at progressively eroding annual COLAs by replacing the current CPI formula used for calculating the annual Social Security COLA with the Bureau of Labor Statistics' new formula, commonly termed the "chained CPI." The conversion to using the "chained CPI" is intended to significantly reduce the rates paid to Social Security recipients in the future, thereby lowering the overall Federal deficit, which would come at great cost to disabled veterans; a group, as you know, that has already demonstrated great sacrifice to this Nation. Balancing the budget on the backs of disabled veterans is simply unacceptable and we thank you for your stalwart opposition the "chained CPI."

S. 894

S. 894 would amend title 38, United States Code, to extend expiring authority for work-study allowances for individuals who are pursuing programs of rehabilitation, education, or training under laws administered by the Secretary of Veterans Affairs, and to expand such authority to certain outreach services provided through congressional offices.

DAV has no specific resolution on this matter; however, the purpose of this legislation is to provide economic assistance to veterans and disabled veterans in VA programs. DAV supports the principle intent of the bill, because it would help empower disabled veterans.

S. 922

S. 922, the Veterans Equipped for Success During Transition Act of 2013, would provide in-state tuition to transitioning veterans. Essentially this legislation would create a pilot program to provide subsidies to employers of certain veterans and members of the Armed Forces, as well as a pilot program to provide career transition services to veterans.

Employment for service-disabled veterans is a priority for DAV and we support the principle of the legislation, which is to improve transition from military service by encouraging employers to hire veterans. We are, however, unclear why Section

2 of the bill excludes veterans between the ages of 35 and 54, and why Section 3 of the bill excludes veterans over the age of 30. Finding employment can be extremely difficult for veterans following military service, and even more challenging for veterans with service-related disabilities. Limiting these pilot programs to veterans of a particular age would increase the already difficult employment process for service-disabled veterans. While DAV supports the principle of this legislation, we believe S. 922 should be expanded to include all veterans, regardless of age, and should include more incentives for hiring disabled veterans.

S. 927

S. 927, the Veterans' Outreach Act of 2013, would authorize a demonstration project to assess the feasibility and advisability of improving VA's outreach efforts by awarding grants to state and local government agencies, as well as private nonprofit organizations. The purpose of these demonstration grants would be to measure whether such partnerships are successful and should be continued and expanded in order to increase veterans awareness of the benefits and services that VA offers to them, their families and survivors.

Mr. Chairman, like you, DAV is strongly committed to educating veterans about all of the services, benefits and programs provided by the Federal Government as a result of their service. Working through a core of more than 300 National Service Officers and Transition Service Officers, DAV reaches out to hundreds of thousands of veterans every year in order to educate and assist them in availing themselves of their earned benefits. Dozens of other veterans services organizations are also engaged in continual outreach to veterans across the country.

In addition, DAV strongly supports chapter 63 of title 38, United States Code, which currently requires VA to engage in outreach activities and to report on them to Congress on a regular basis. We are also aware of the efforts that states and local government agencies have undertaken, particularly in recent years, to ensure that veterans are aware of the full range of benefits and services available to them and their families.

However, although S. 927 would authorize new grants from VA to states, local governments and nonprofits, the legislation does not specifically authorize any additional funding for these purposes, nor does it require that additional appropriations be provided to fund such grants. As such, funding for such outreach activities might have to be taken from existing health care or benefit programs, both of which are already hard pressed to meet current demand. Too often new programs are funded by taking resources away from existing health care programs serving veterans, especially disabled veterans, and we would not be supportive of expanding outreach programs at the expense of existing programs for disabled veterans.

Further, in conducting any such demonstration projects or any similar studies about expanded outreach, VA must carefully examine the additional costs that would accrue as a result of such outreach. A critical part of any such studies must be the cost of providing additional services and benefits to those veterans, family members and survivors who are brought into VA as a result of expanded outreach activities. DAV would not be supportive of an outreach program if it resulted in existing services and benefits being reduced for current recipients in order to provide benefits and services to new veterans, particularly if resources were cut for disabled veterans. Congress must ensure that any new outreach activities of the VA have sufficient funding, not just for the outreach activities themselves, but also for the resultant increased cost of veterans benefits and services by the those veterans who would be brought into the VA system.

Mr. Chairman, DAV believes the Federal Government has a moral obligation to provide veterans, their families and survivors with all of the benefits and services they have earned through their sacrifice to this Nation, and that includes an obligation to make them aware of these benefits and services. But without a guarantee of sufficient funding, expanded outreach would end up being a hollow promise and could result in a decrease of benefits and services to those veterans who currently rely on VA.

S. 928

S. 928, the Claims Processing Improvement Act of 2013, contains numerous provisions intended to improve the processing of claims for disability compensation under laws administered by the Secretary of Veterans Affairs. As this Committee is well aware, VA is currently in the process of comprehensively transforming its claims processing system in order to address the unacceptably large backlog of pending claims. DAV has and will continue to urge that the focus of all claims process re-

form efforts must be first and foremost on quality and accuracy in order to ensure that every veteran's claim is done right the first time.

Section 101 of the bill would establish a working group to study and make recommendations to improve the employee work credit and work management systems of the Veterans Benefits Administration (VBA). DAV has long supported calls for scientifically studying how VBA determines its resource needs, which must be based on an accurate measure of how much work can be done accurately by its employees. While we support the general intent of the working group proposed by this Section, we would make several recommendations to better focus the efforts in the context of the current transformation.

First, we believe that the focus of the working group should be on developing a scientific, data-driven model for determining the resources needed to accurately process the volume of work now and in the future, as well as how to allocate those resources amongst VBA's regional offices. The core of this resource needs model must be an accurate determination of how much work VBA employees can accurately produce at each position and experience level. Importantly, this model must be sufficiently dynamic to quickly adjust to changes in the laws and regulations governing disability compensation.

Second, we would recommend that the working group not study VBA's work management system at this time. As this Committee is aware, VBA has just completed implementing a brand new organization model for processing claims, and has not yet completed rolling out its new Veterans Benefits Management System (VBMS) to all regional offices, both of which make comprehensive changes to VBA's work management systems. As such, it would be premature to study whether or not these new systems are or will be successful, much less recommend comprehensive changes to them, for the next couple of years.

Finally, the language of Section 101 mandates that the Secretary "shall" implement the recommendations of this working group. As such it is imperative that the membership and operating rules of the working group are clearly delineated, including the total number of voting members, how decisions are made and votes taken, and how recommendations will be presented.

Section 102 of the bill would establish a task force on the retention and training of VBA claims processors and adjudicators. DAV has been a longtime advocate for improvements to be made in the training of VBA employees in order to improve quality and accuracy. As such, DAV supports enactment of this section of the bill.

Section 103 would streamline the requests for Federal records other than VA records. DAV agrees that the VA is burdened greatly in the development stage of a claim by not being able to retrieve records, or receive them in a timely manner, especially from a Federal agency. An even greater burden is shouldered by the veteran claimant who must endure unacceptable delay in processing the claim or a denial simply because the records weren't provided to VA at its request.

As part of VA's duty to assist a claimant in obtaining evidence necessary to substantiate a claim, title 38, United States Code, section 5103A states the Secretary will make reasonable efforts to do so, including private records. While it is not defined in the law how many attempts to obtain records must be made, we do not believe the claim should languish or the VA left in an endless cycle of requests simply because a private entity does not or will not respond to such requests.

However, when the records identified by the claimant are in custody of a Federal agency, we do not believe VA should be allowed to limit its requests. Section 103 of this legislation states the Secretary shall not make fewer than two attempts to obtain Federal records, which essentially means VA will make no more than two requests. DAV believes the claimant would be gravely penalized by limiting the requests made by VA simply because of the lack of cooperation between Federal agencies.

Additionally, we believe this section should require the Federal agency the records are requested from to provide the records to the VA, or a response as to why the records cannot be provided, within 30 days of VA's request.

Although we appreciate the intent of this legislation to provide quicker decisions for veterans whose claims are pending because Federal agencies do not respond to VA requests for records, we are concerned that this legislation removes rather than increases pressure on those Federal agencies. Instead, we believe that the provisions in S. 674 requiring greater accountability for Federal agencies through stricter reporting is a better approach and more likely to lead to more accurate decisions for veterans.

DAV is not opposed to Sections 104, 105 and 106 of this bill.

Section 201 would modify the filing period of a Notice of Disagreement (NOD) to decisions from the VA by reducing the currently allowed one year period to 180 days from the date of the decision. Currently the vast majority of claimants who file an

NOD already do so within 180 days. As such, one can reasonably ascertain claimants who don't file within 180 days need the additional time to obtain and submit additional evidence in support of their claim. As such, DAV is opposed to Section 201 of the bill, as we do not see any positive effect resulting from this change at this time.

Section 202 would allow the Board of Veterans' Appeals (Board) to automatically select videoconference hearings to be scheduled for claimants desiring a hearing before the Board, unless the claimant specifically requests to appear in person before the Board. With the large number of claimants DAV represents, especially before the Board, we understand the benefits of the videoconference hearing process, specifically a claimant being able to be heard by the Board in a much faster and cost efficient manner. In fact, DAV encourages claimants desiring to have a hearing before the Board to do so by way of videoconference. As such, DAV supports this section of the bill as it would improve the timeliness of the appeal process; however, a veteran must always retain the right to have an in-person hearing if so desired. Further, we recommend the notice of appeal rights sent to a claimant include the automatic scheduling for a videoconference hearing before the Board along with the right to appear in person before the Board.

DAV is not opposed to sections 203, 301, 302, 303 and 304 of the bill.

Section 305 of the bill would provide an extension of temporary authority for disability medical examinations to be performed by contract physicians. If enacted, this section of the bill would extend this authority through December 31, 2014. The results from contracted examinations have been positive in the way of faster scheduling, more thorough, and better interaction with the physician providing the examination. As such, DAV supports this section of the bill, although we would like to see the authority extended further due to the positive feedback we have received from claimants and our National Service Officers, as well as employees in the VBA who review these examinations. With respect to the reporting requirement in this section of the bill, DAV is not clear of its actual purpose or what is hoped to be gained. While we have no reservation about requiring VA to provide a report about this process, we do question the requirement that VA do so at a time when the backlog of claims continues to grow.

S. 930

S. 930 would require the Secretary of Veterans Affairs, when there is an overpayment of benefits under Post-9/11 Educational Assistance, to deduct amounts for repayment from the last months of educational assistance entitlement.

DAV has no resolution or position in this matter.

S. 932

S. 932, the Putting Veterans Funding First Act of 2013, would authorize advance appropriations for all discretionary accounts within the VA, effective in the first and subsequent budgets submitted by the President following the date of enactment. While DAV does not have a resolution supporting the precise idea of advance appropriations for these purposes, DAV Resolution No. 216 seeks to ensure full implementation of legislation to guarantee sufficient, timely and predictable funding for VA health care. As this Committee is aware, DAV and the entire veterans' service organization community strongly supported reformed appropriations legislation for VA health care, finally enacted as Public Law 111–81, the Veterans Health Care Budget Reform and Transparency Act of 2009. In the same vein as Public Law 111–81 and the positive impact it has had on VA health care, S. 932 seeks to provide the same support to veterans, their families and dependents, through all VA discretionary accounts.

As this Committee also knows well, Federal programs, including the VA, have often been stymied in their responsibilities because they are forced to operate on flat or reduced spending plans constrained by continuing resolutions. If every VA program were funded in advance of need, VA decisionmakers and staff would gain confidence that funds were available long before the beginning of each budget year. This certainty would enable them to plan in more rational ways to ensure that veterans, their survivors and dependents, receive the benefits and services they have earned without delay or disruption, and would ensure VA's myriad programs would be able to operate more efficiently; from a business perspective, and without the distraction of being managed in an irrational, continuing resolution environment.

For each operative year of advance appropriations for VA health care, the Committees on the Budget have provided budget waivers to protect against points of order that would have prevented legislation containing advance appropriations due to restrictions under the governing Congressional Budget and Impoundment Act of

1974. Mr. Chairman, we believe advance appropriations for all VA accounts should be permanently insulated from points of order, not by uncertain and individual waivers to be given; the necessity for waivers to block points of order should be eliminated as this bill is considered by Congress. DAV requests these actions be taken, either in amending S. 932 itself, or in conjunction with the jurisdiction of the Committee on the Budget.

Additionally, Mr. Chairman, Public Law 111–81 contained language requiring the Comptroller General to evaluate and report on the accuracy and sufficiency of VA's formulation of its health care budgets covering fiscal years 2011, 2012 and 2013. We believe this monitoring and reporting function has provided a meaningful and effective source of oversight of VA's internal budgeting processes, and leads to more accurate and sufficient budgeting over time. This authorizing language requiring GAO reviews was not included as a permanent part of the Code, so it has reached its sunset effective at the end of this fiscal year. We ask that consideration be given to making this mandate a permanent part of title 38, United States Code, and extending a new multi-year mandate to the GAO as an amendment to this bill.

Based upon DAV's practical observation, Public Law 111–81 has positively changed behavior in VA health care. This legislation would bring more stability, predictability and timely appropriations to all of VA. As such, in accordance with DAV Resolution No. 216, we support enactment of S. 932 and urge Congress to move this legislation forward as a high priority.

S. 935

S. 935, the Quicker Veterans Benefits Delivery Act of 2013, would improve the VA disability claims process by prohibiting the Secretary of Veterans Affairs from requesting unnecessary medical examinations for veterans who have submitted sufficient medical evidence from non-VA medical professionals, which is competent, credible, probative and otherwise adequate for rating purposes.

Additionally, S. 935 would expand the pre-stabilization rating criteria under section 4.28 of title 38, Code of Federal Regulations, by adding a 30 percent level to the already established 50 percent and 100 percent level of disability for separating servicemembers suffering from wounds, injuries or illnesses that are not completely healed. Similarly, this bill would allow for a temporary minimum rating to be assigned to a veteran with one or more disabilities and sufficient evidence to support a minimum rating.

While we are certainly supportive of providing a temporary minimum rating, which may dramatically improve the timeliness of the disability claims process for many veterans and VA alike, we believe the language of section 3 of the bill is too broad. First, expanding the pre-stabilization rating process to include a 30 percent level of disability would only serve to allow VA to use this percentage as the automatic base level for incompletely or unhealed conditions versus the already capable percentage of 50 percent, which would undoubtedly become obsolete. We believe the 30 percent rating level would be more appropriate under the temporary minimum rating portion of section 3, which would allow a VA rater to, upon initial review of the evidence, establish that service connection is warranted for at least one disability, provide a temporary rating of at least 30 percent while the overall claim is being processed. This would allow veterans and their families to begin receiving compensation and provide eligibility for a plethora of other Federal and state benefits while the full claim is being processed.

Last, S. 935 would provide for benefit payments to be made at the first of a month for the coming month instead of the current practice of benefit payments being made at the end of the month for the immediately passing month.

As such, in accordance with DAV Resolution No. 205, we support enactment of S. 935.

S. 938

S. 938, the Franchise Education for Veterans Act of 2013, would amend title 38, United States Code, to allow certain veterans to use educational assistance provided by the VA for franchise training. Specifically, this legislation would expand education and training opportunities under the All-Volunteer Force Educational Assistance Program by allowing veterans to utilize a portion of their educational benefit toward franchise training. DAV recognizes not every veteran or service-disabled veteran learns in the same manner or has the same goal of achieving an educational degree; however, we believe there are many veterans and service-disabled veterans who, unfortunately, allow their education benefit entitlement to expire unused as they do not want to pursue an education degree type program.

In accordance with DAV Resolution No. 001, we support enactment of S. 938, as it would expand the use of the VA provided education benefit and empower service-disabled veterans to use their education benefit in a manner conducive to their own employment interests and goals.

S. 939

S. 939 would amend title 38, United States Code, to treat certain misfiled documents as motions for reconsideration of decisions by the Board of Veterans' Appeals (Board). Under current law, when a veteran claimant receives an adverse decision from the Board, he or she has 120 days to file a Notice of Appeal with the United States Court of Appeals for Veterans Claims (Court). Many veteran claimants, especially those without representation, do not distinguish the Court tribunal as being separate from the VA, specifically the Board or the agency of original jurisdiction (AOJ), primarily the VA Regional Office where the claim originated.

When a veteran claimant receives a final, adverse decision from the Board he or she may inadvertently file their Notice of Appeal directly with the Board or the AOJ within the 120-day period rather than the Court. If the Board or AOJ does not forward the Notice of Appeal to the Court on behalf of the veteran claimant within the 120-day appeal period, the veteran claimant may forfeit their appeal rights and the Board's decision would become final and binding.

S. 939 would afford certain protection to a veteran claimant who submits to the Board or AOJ a document expressing disagreement with the Board's decision within 120 days of such decision. This legislation would require VA to treat such documents as a motion for reconsideration to the Board's decision; unless the document clearly expresses the intent of a veteran claimant to appeal the Board's decision to the Court.

As such, in accordance with DAV Resolution No. 205, we support enactment of S. 939.

S. 944

S. 944, the Veterans' Educational Transition Act of 2013, would require courses of education provided by public institutions of higher education that are approved for purposes of the All-Volunteer Force Educational Assistance Program and Post-9/11 Educational Assistance to charge veterans tuition and fees at the in-State tuition rate.

DAV has no resolution or position on this matter.

S. 1039

S. 1039, the Spouses of Heroes Education Act, would expand the Marine Gunnery Sergeant John David Fry scholarship to include spouses of members of the Armed Forces who die in the line of duty.

DAV has no resolution or position on this matter.

S. 1042

S. 1042, the Veterans Legal Support Act of 2013, would authorize the Secretary of Veterans Affairs to provide support to university law school programs that are designed to provide legal assistance to veterans. Specifically, this bill would authorize financial support of $1,000,000 total derived from VA Medical Services account to fund this program, which is intended to provide financial support to university law school programs that provide legal assistance to veterans; assistance including filing and appealing VA claims in addition to other civil, criminal and family legal matters.

S. 1042 does not provide details about the purpose of the funding nor the activities of the individuals involved in providing legal assistance. It is not clear whether these individuals would be accredited representatives; what if any training in this process will be required; what type of accessibility to VA systems and records will be afforded; what level of representation will be provided, etc. We believe there are many questions contained within this bill that are unanswered in its broad language and more specific information is necessary to fully understand the goal of this bill.

While DAV does not have a resolution on this matter, we are concerned about the funding for this bill being taken from the VA Medical Services account, or any other VA account. Too often, new programs are funded by taking resources away from existing health care programs serving veterans, especially disabled veterans. DAV opposes funding any program at the expense of existing programs for disabled veterans, especially to fund a program to afford representation, which may or may not

have a cost to the veteran, when organizations like DAV and other veteran service organizations have a rich history and provide professional advocacy services and representation with no government funding and no cost to the veteran.

S. 1058

S. 1058, the Creating a Reliable Environment for Veterans' Dependents Act, would expand section 2012 of title 38, United States Code, to authorize per diem payments for the purpose of furnishing care to dependents of homeless veterans to grant recipient entities who provide comprehensive service programs for homeless veterans as covered under section 2011 of the same title.

DAV has no resolution or position on this matter.

Mr. Chairman, this concludes my testimony and I would be happy to answer any questions from you or Members of the Committee.

Chairman SANDERS. Thank you very much, Mr. Hall.

Mr. de Planque.

STATEMENT OF IAN DE PLANQUE, DEPUTY LEGISLATIVE DIRECTOR, THE AMERICAN LEGION

Mr. DE PLANQUE. Good morning, Mr. Chairman and other Members of the Committee. I want to thank you on behalf of The American Legion for having us here, and I want to thank you especially for the large slate of bills that are being considered and the dedicated and tireless work of your staffs and the Members to bring such an ambitious slate to the forefront.

I just want to touch on a couple of those things, one of which deals with the in-state tuition rates for veterans using the GI Bill benefits.

As you know, The American Legion has a long-standing history with the GI Bill. We helped craft of the original GI Bill. We have been working tirelessly on this issue for a long time.

We have strong support for S. 257 because it supports the widest number of veterans getting access to in-state tuition, and this is very important. We feel it is the one that puts the veterans first, not the States necessarily, not the schools necessarily. It is the one that has the interest of the veterans at heart.

It is a difficult issue. There has been a lot of criticism of a variety of things regarding it. Using military tuition assistance at public schools has already been recognized at the Higher Education Opportunity Act of 2008. This is something that has already been agreed to.

If you look at veterans, if you look at the servicemembers, they are a very small group of people, the only group of people who really have trouble maintaining the residency requirements to get these in-state tuition rates.

We have already recognized that for active-duty servicemembers it needs to apply across all the veterans. When they stood there, when they took that oath, when they went to serve, they did not serve to defend Virginia, they did not serve to defend North Carolina, they served to defend the entire country.

The entire country owes that back. All Americans in every State owe a debt of gratitude to the men and women who served in the Armed Forces.

In addition, public universities are nonprofit institutions that get special privileges such as massive Federal and State government subsidies and tax exemptions based on the assumption that they are good stewards of the public trust.

Granting in-state rates should be seen as part of that exercise of trust. Student veterans face many challenges in pursuing higher education. There is no reason why obtaining in-state tuition rates should be one of them.

We have seen with the original GI Bill what the dividend paid back to the country was. That is why we passed the new GI Bill for the veterans of the current wars; and to get that dividend, to get the maximum return on that dividend, we need to make sure that we are extending this benefit and making sure there is fairness there.

Regarding fairness, I also want to talk about the Ruth Moore Act, S. 294, because it is essentially an issue of fairness. We have recognized already within the disability claims system that there are difficulties for combat veterans proving Post Traumatic Stress Disorder, stressors, issues of that nature. The reason they recognize it was because they knew in combat it is hard to keep records.

There are very incomplete records. There are very inaccurate records. When you are sitting there engaging, fixing, destroying the enemy, you do not stop to take notes of every single thing that goes on. There was a recognition of this and so they came up with relaxed evidence standards.

Well, we heard Senator Tester talking this morning about how as many as 85 percent of military sexual trauma crimes can go unreported. We know that in the past records of these incidents have been thrown out after a year or 3 years by mandatory regulations. We know this is something where the same condition exists.

There is poor recordkeeping and victims of these terrible, terrible crimes that happen in the service are having to suffer again because we will not relax the evidence standards.

The Ruth Moore Act would fix that. It will help bring them to the same standard that we treat the heroes of combat. We need to treat all of our heroes in the same way, and this is very important to us.

I also want to take a moment to thank you especially, but the Committee as a whole, for working to help fight chained CPI for veterans with the cost of living increase. This is something that we cannot afford: to take these most vulnerable people, our disabled veterans and elderly veterans, and make them bear the brunt.

Everybody always talks about how we are not going to balance the budget on the backs of our veterans. Well, that is what the chained CPI is doing. So, we want to thank you for continuing your flight on that, and The American Legion is happy to answer any questions that you have. Thank you.

[The prepared statement of Ian de Planque follows:]

PREPARED STATEMENT OF IAN DE PLANQUE, DEPUTY DIRECTOR, NATIONAL LEGISLATIVE COMMISSION, THE AMERICAN LEGION

Chairman Sanders, Ranking Member Burr and distinguished Members of the Committee, On behalf of Commander Koutz and the 2.4 million members of The American Legion, we thank you and your colleagues for the work you do in support of our servicemembers and veterans as well as their families. The hard work of this Committee in creating significant legislation has left a positive impact on our military and veterans' community.

Nationwide, The American Legion has over 2,600 accredited service officers to ensure veterans receive the benefits to which they are entitled at no cost to those veterans. Not only do we advocate for the 2.4 million members in our organization, but

also the millions of veterans who do not hold membership; in short, we live by the motto "a veteran is a veteran" and is deserving of representation when seeking VA benefits. We recognize the necessity to adequately compensate veterans and veterans' families for disabilities incurred during service to our Nation.

As a grassroots organization, The American Legion draws upon the strength of its membership to provide guidance on policies in the form of resolutions passed during annual national conventions or at meetings of the National Executive Committee. The will of the membership of the Legion is expressed through these resolutions, which support or oppose policy decisions on topics of concern, whether for veterans, the children and youth of America, a strong national defense, or the principles of Americanism. The support and positions of The American Legion on any legislation is derived from the guidance of these resolutions and the founding documents of our organization.

S. 6: PUTTING OUR VETERANS BACK TO WORK ACT OF 2013

To reauthorize the VOW to Hire Heroes Act of 2011, to provide assistance to small businesses owned by veterans, to improve enforcement of employment and reemployment rights of members of the uniformed services, and for other purposes.

This expansive bill renews many provisions of the VOW to Hire Heroes Act, supported by The American Legion in 2011, and expands on many of the provisions of that law, as well as offering other solutions to continue to address veterans' employment concerns.

The American Legion has been the leading veterans' voice in getting veterans back to work as those who have served this Nation have suffered from unemployment rates fully two thirds or more higher than their comparative civilian cohort. Annually, The American Legion has worked with the Chamber of Commerce on hundreds of hiring fairs and put countless thousands of veterans back to work. Ensuring that the Nation's protectors are matched up with the jobs their military service has prepared them for is a top priority of The American Legion.

As an organization, we were deeply involved in the creation of the unified employment portal for online government hiring through development stages with the Department of Labor and the Office of Personnel Management. As the Nation's largest wartime veterans organization, The American Legion is certainly cognizant of the many benefits to hiring veterans and supports increases to the weight of influence in determining an overall score, when considering the hiring veterans, as an evaluation factor in solicitations for contracts.

At every stage of this Nation's history, veterans of the Armed Forces have been vital to building the infrastructure of progress and the backbone of the labor force. This bill contains many important improvements to the employment environment for veterans to ensure they continue to provide the key role in America's workforce they have always enjoyed.

The American Legion supports this legislation.

S. 200

A bill to amend Title 38, United States Code, to authorize the interment in national cemeteries under the control of the National Cemetery Administration of individuals who served in combat support of the Armed Forces in the Kingdom of Laos between February 28, 1961 and May 15, 1975, and for other purposes.

The American Legion has no position on this legislation.

S. 257: GI BILL TUITION FAIRNESS ACT OF 2013

Directs the Secretary of Veterans Affairs (VA), for purposes of the educational assistance programs administered by the Secretary, to disapprove courses of education provided by public institutions of higher education that do not charge tuition and fees for veterans at the same rate that is charged for in-state residents, regardless of the veteran's state of residence.

The American Legion is synonymous with veterans' education, and was instrumental in the first, and most recent GI Bills' passage designed to help the modern-day veteran navigate the confusing world of education benefits. The main reason for the Post-9/11 GI Bill was that VA education benefits were no longer sufficiently keeping pace with fast-rising tuition costs. Working with Congress, The American Legion stressed the need for a "21st Century GI Bill" that would provide benefits worthy of today's veterans, while offering similar opportunities afforded to those who fought in World War II.

Critics have said that S. 257 sets a dangerous precedent for other non-resident students utilizing Federal aid programs. The American Legion strongly disagrees because military servicemembers and military veterans are the only cohort of Amer-

icans who cannot satisfy residency requirements for in-state tuition because of circumstances beyond their control. Recognizing these unique circumstances, servicemembers are already offered this reasonable accommodation when using military Tuition Assistance at public schools through the Higher Education Authorization Act; however, once a servicemember leaves the military this protection goes away.

The Post-9/11 GI Bill only pays in-state tuition and eligible fees. Veterans who settle in states other than their state of residence upon separating from the service are initially charged "out-of-state" tuition, which means they must pay the difference between the resident and non-resident charges of that state's tuition. Servicemembers are not given the option to move to any state and establish residency prior to their separation from the Armed Forces, which can lead to financial burdens.

State policies have adjusted in the last decade to allow active and reserve members to access in-state tuition rates, but separating servicemembers (future veterans) must fulfill established residency time requirements to establish state residency and access in-state tuition rates beginning the day they are discharged, and receive no credit for living in that state while they were serving there during their active duty commitment. The Yellow Ribbon Program, included in the Post-9/11 GI Bill, supplements costs above the "in-state" tuition rate by matching contributions made by an institution of higher learning (IHL) toward veterans' education; however, cuts to education scholarship programs have hindered effective implementation of this program.

Over the last couple of years, we have heard from countless veterans who, because of the nature of military service, have had a difficult time establishing residency for purposes of obtaining in-state tuition rates. Under current rules, 40,000 student-veterans have to pay the difference between in-state tuition, which is covered by the Post-9/11 GI Bill, and out-of-state tuition if they are attending school as a nonresident. Because of this, many of our student-veterans are unable to use their GI Bill benefits at an institution of higher education of their choice or are required to pay thousands of dollars in out-of-pocket expenses in nonresidential tuition rates. This added financial burden undermines the original intent of the program.

Additionally, public colleges and universities have significantly raised the costs of out-of-state tuition to offset decreasing revenues due to state budget cuts. Circumstances such as these pose significant challenges to using this important benefit. Because of this, and through resolution,[1] The American Legion is working hard to ensure the Post-9/11 GI Bill receives appropriate enhancements to continually improve how this vital benefit functions for the servicemembers who utilize the benefits.

The American Legion is addressing this issue on several fronts, and in addition to supporting Federal legislation, continues to lead a state-by-state initiative to introduce, advocate for, and support state legislation that would waive the residency requirements for separating veterans, which would grant them access to in-state tuition at public colleges and universities, regardless of their residency status.

Veterans shouldn't be penalized just because their residence of enlistment was in another state, or be made to assume tremendous financial burdens due to the recent change in law which often caps GI Bill benefits far short of the high out-of-state rates. Therefore, this legislation is absolutely essential to thousands of veterans who were promised this assistance for their college education when the Post-9/11 GI Bill was originally passed, and is vital to giving veterans an equal opportunity to afford the school of their choice.

We were pleased to support this bipartisan effort, S. 257, which would require public colleges and universities to give veterans in-state tuition rates even though they may not be considered residents. The requirement would apply to state schools which have programs that are eligible to receive funding under the GI Bill.

The American Legion supports this bill.

S. 262: VETERANS EDUCATION EQUITY ACT OF 2013

To amend title 38, United States Code, to provide equity for tuition and fees for individuals entitled to educational assistance under the Post-9/11 Educational Assistance Program of the Department of Veterans Affairs who are pursuing programs of education at institutions of higher learning, and for other purposes.

The American Legion understands that the goal of this bill is similar to that of S. 257. We thank Senator Durbin for taking this issue seriously and introducing legislation in an effort to ensure more equitable reimbursement for student-veterans

[1] Resolution No. 327: Support Legislation to Improve the Post-9/11 GI Bill, AUG 2012.

attending public schools. The American Legion supported this initiative in the last Congress, but we must explain why we have refined our position on this issue.

Public colleges and universities have significantly raised the costs of out-of-state tuition to offset decreasing revenues due to state budget cuts, making any tuition discount all the more costly. Circumstances such as these pose significant challenges to using this important benefit. Because of this, many of America's student-veterans are unable to use their GI Bill benefits at a school of their choice or are required to pay thousands of dollars in out-of-pocket expenses in nonresidential tuition rates.

Since 1862, with the passage of the Morrill Act, institutions of higher education have always received some form of education subsidies. However, it was not until 1944 with the passage of the Servicemen's Readjustment Act of 1944—the original GI Bill—which allowed World War II veterans to attend college at no cost, that those institutions of higher education began receiving their first major subsidy for students in higher education. The GI Bill is widely admired legislation, but like many subsidy programs it led to substantial wasteful spending and abuse. Some colleges and universities used Federal funds for extraneous purposes, such as swimming pools and stadiums, while others increased tuition rates charged to veterans. There were also cases of outright fraud by schools aimed at garnering extra Federal funds.

Interestingly, the rise in student subsides coupled with the rise of tuition and other college expenses over the last several decades, has brought a significant spotlight on institutions of higher education. This, added to the current reality of education spending cuts, has lead institutions of higher education to view the Post-9/11 GI Bill funding as nothing more than another source of subsidy to fill the void these cuts have created.

The American Legion believes that increasing GI Bill funding to higher educational institutions is potentially harmful on many fronts; it encourages bloat and inefficiency, and is an unfair burden on taxpayers. It also poses a threat to the core strengths of American higher education, including institutional autonomy, competition, and innovation. While we cannot support S. 262, we sincerely appreciate Senator Durbin's interest in this issue and we look forward to working with him on a fair solution for our current and future student-veterans.

The American Legion does not support this bill.

S. 294: RUTH MOORE ACT OF 2013

To amend title 38, United States Code, to improve the disability compensation evaluation procedure of the Secretary of Veterans Affairs for veterans with mental health conditions related to military sexual trauma, and for other purposes.

The American Legion's accredited representatives at county service offices, regional offices, and the Board of Veterans' Appeals have acknowledged that a unique situation exists for victims of military sexual trauma (MST). MST is often an unreported crime, or even in the best cases poorly documented, and when MST is reported as the result of sexual assault or rape it is not uncommon for a lackluster investigation to occur resulting in the perpetrator of the crime never to be brought to justice.

On March 26, 2013, the Institute of Medicine (IOM) released a study: Returning Home from Iraq and Afghanistan: Assessment of Readjustment Needs of Veterans, Servicemembers, and Their Families. According to the study, "[M]ilitary sexual trauma has been occurring in high rates throughout the U.S. Armed Forces, including the Iraq and Afghanistan theaters. Sexual harassment and assaults disproportionately affect women; they have both mental and physical ramifications, and in many cases these victims have a difficult time readjusting." As evidenced by this study, a staggering number of veterans reported suffering MST; over 48,000 women and 43,000 men have reported experiencing military sexual trauma.

S. 294 addresses concerns raised repeatedly by The American Legion regarding MST. In testimony provided by The American Legion before the House Veterans' Affairs Subcommittee on Disability Assistance and Memorial Affairs on July 18, 2012, Lori Perkio, Assistant Director for The American Legion Veterans Affairs and Rehabilitation Division, pointed to changes by VA in 2010 regarding combat zones and Post Traumatic Stress Disorder, and stated The American Legion's position that the same consideration should be applied to MST victims as well. Both combat zones and MST related injuries are similar, and both types of claims reflect situations where there is a known and acknowledged culture of inadequate record keeping. Regulations allow for extra latitude on behalf of combat veterans to reflect the lack of record keeping, but the same consideration is not extended to rape and assault survivors, though their trauma is no less devastating.

The American Legion believes that VA should review "military personnel files in all MST claims and apply reduced criteria to MST-related PTSD to match that of combat-related PTSD."[2] S. 294 adequately meets the criteria of American Legion resolution 295 by setting up similar criteria for MST victims as those in effect for combat victims.

The American Legion supports this bill.

S. 373: CHARLIE MORGAN MILITARY SPOUSES EQUAL TREATMENT ACT OF 2013

A bill to amend titles 10, 32, 37, and 38 of the United States Code, to add a definition of spouse for purposes of military personnel policies and military and veteran benefits that recognizes new State definitions of spouse.

The American Legion has no position on this legislation.

S. 430: VETERANS SMALL BUSINESS OPPORTUNITY AND PROTECTION ACT OF 2013

A bill to amend title 38, United States Code, to enhance treatment of certain small business concerns for purposes of Department of Veterans Affairs contracting goals and preferences, and for other purposes.

The American Legion has long been an advocate for amending the law to protect the Service Disabled Veteran Owned Business (SDVOB) status and has stated so through resolution.[3] The American Legion works with veteran business owners all over the world, and has seen first-hand how the death of a veteran business owner creates an immediate and prejudicial hardship on the surviving spouse and family of the deceased veteran. The American Legion strongly supports the changes proposed in this legislation as they will properly improve and increase the benefits bequeathed to the veterans' spouses or dependents who inherit a veteran owned business. The bill would increase the time period for a 100 percent disabled veteran's spouse who has died as a result of a service-connected condition, to ten years, and would establish a benefit of three years for a 100 percent disabled veteran who dies as a result of a non-service-connected condition.

The American Legion supports this legislation.

S. 492

To amend title 38, United States Code, to require States to recognize the military experience of veterans when issuing licenses and credentials to veterans, and for other purposes.

The American Legion applauds Senator Burr and his colleagues for their work in support of America's servicemembers, veterans, and their families, as well as for the introduction of this legislation. Since 1996, The American Legion has worked tirelessly; first to bring this issue to the forefront of national attention, and second to work on a comprehensive solution to this issue.

The American Legion believes that legislation designed to withhold funding could seriously slow, or stall the positive momentum The American Legion and Department of Defense have made, and continue to make at both national and state levels.

At present, some states accept national certifications for licensure purposes, and will award a license when presented with a certification certificate. The American Legion believes that states should administer an examination or accept a nationally recognized certification as an equivalent for licensure purposes, as opposed to completion of a passing score that is based on national accepted practices.

It is the opinion of The American Legion that the success of improving accessibility to state licensing and certification for veterans who possess equivalent skillsets will require the full cooperation of the state boards. We believe that in order for that to happen, the Federal Government must do its part to develop new regulations, and make changes to existing programs, policies and practices to support and reinforce what is happening in many states and across the credentialing industry. If Congress withholds funding from states, this will not be possible.

As currently written, The American Legion cannot support S. 492. We appreciate Senator Burr's efforts in this issue and we look forward to working with him on a solution for our current and future servicemembers, veterans, and their spouses that will advance the efforts to provide a uniformed and seamless transition for our Nation's military trained professionals.

The American Legion does not support this bill.

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[2] Resolution No. 295: Military Sexual Trauma (MST), AUG 2012.

[3] Resolution No. 323: The Status of Service-Disabled Veteran-Owned Business After the Death of the Veteran Owner, AUG 2012.

S. 495: CAREERS FOR VETERANS ACT OF 2013

To amend title 38, United States Code, to require Federal agencies to hire veterans, to require States to recognize the military experience of veterans when issuing licenses and credentials to veterans, and for other purposes.

This broad reaching legislation takes a multifaceted approach to improving career prospects for veterans by addressing not only hiring of veterans, but also through improvements in the Federal Government's acceptance of military experience and certifications and improvements in contracting goals and preferences for veteran owned small businesses.

The bill would require the heads of Federal agencies to develop plans and work in conjunction with the Office of Personnel Management (OPM) to increase Federal hiring of veterans to include 10,000 covered veterans over the next five years. The American Legion recognizes better than anyone the unique contributions and strengths veterans bring to employers and is a devoted advocate for increasing Federal hiring of veterans. The American Legion urges all executives in government to enforce veterans' preference in their respective agencies [4], and strongly supports veterans' preference hiring and efforts to support such.

Other provisions of the bill supported by The American Legion include support for improvements to state One-Stop Centers,[5] the modification of treatment under contracting goals and preferences for small business owners after the death of disabled veteran owners,[6] as well as the expansion of the contracting goals and preferences of the VA regarding veteran owned businesses.

The American Legion supports this bill

S. 514

A bill to amend Title 38, United States Code, to require states to provide additional Educational Assistance under Post-9/11 Educational Assistance to Veterans pursuing a degree in science, technology, engineering, math or an area that leads to employment in a high demand occupation, and for other purposes

The American Legion supports Senator Brown's pending legislation, S. 514, which seeks to provide additional educational assistance under the Post-9/11 GI Bill to better assist veterans pursuing a degree in science, technology, engineering, math or an area that leads to employment in a high-demand occupation.

Based on our research, The American Legion believes that the United States, in the face of increasing competition, needs to maintain its hard won status as the world leader in science, technology, engineering, and math. Currently, there is high demand for jobs in these areas and our servicemembers, who have been screened, tested, and highly trained in a great number of highly technical military specialties, stand ready to significantly contribute to these sectors through innovation and ingenuity. Unfortunately, degrees in these kinds of programs can often cost more or last longer than other programs of education, making them a less desirable option for transitioning servicemembers who are concerned with starting new careers and supporting their families.

This legislation provides additional funding for individuals in these types of educational programs that will assist the United States in maintaining its technological leadership in the international community, while supporting our continued national commitment to education in these fields of study. The Secretary of Veterans Affairs should be given the discretion to allocate additional funds for students participating in such programs as deemed appropriate. In August 2012, The American Legion passed resolution 153, because our members believe that it is imperative to the Nation's continued world leadership and economic prosperity as well as aerospace and military superiority [7] to ensure that these skills remain a top priority throughout our American system of education.

The American Legion supports this bill.

S. 515

A bill to amend title 38, United States Code, to extend the Yellow Ribbon G.I. Education Enhancement Program to cover recipients of Marine Gunnery Sergeant John David Fry scholarship, and for other purposes.

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[4] Resolution No. 330: Support Veterans' Preference in Public Employment, AUG 2012.

[5] Resolution No. 295: Support Priority of Service for Veterans in All State Employment Services Agencies' (SESA) One-Stop Centers, AUG 2004.

[6] Resolution No. 323: The Status of Service-Disabled Veteran-Owned Business after the Death of the Veteran Owner, AUG 2012.

[7] Resolution 153: Support for NASA and Advancements in Aeronautical and Space Research, AUG 2012.

The John David Fry Scholarship was created by Public Law 111–32 in honor of Marine Gunnery Sergeant John David Fry, and amends the Post-9/11 GI Bill to include the children of servicemembers who die in the line of duty after September 10, 2001.

The American Legion is deeply committed to the plight of the children whose parents die on active duty in service to this Nation. The American Legion established the Legacy Scholarship Fund to help meet the shortfalls these children experience, in an attempt to make up for significant shortfalls in government money allotted to these children—the Federal Government gives these children a college education stipend worth about $37,000. Taking into account living expenses, textbooks and rising tuitions; this benefit covers little more than half of the basic college costs in the most affordable situations, and the price tag of higher learning will only continue to rise. The most conservative estimates predict a 5-percent annual increase, meaning that in 16 years the most affordable college education will rise to a staggering $132,800.

The American Legion has long been a champion in the passage and improvement of the GI Bill; from the passage of the original GI Bill in World War II, through the passage of the Post-9/11 GI Bill—and through several iterations of Post-9/11 GI Bill Improvement Acts. The American Legion supports the full transferability of GI Bill benefits through resolution 296,[8] and to leave the children of those who have made the ultimate sacrifice behind in Yellow Ribbon benefits seems contrary to the spirit of the laws enacted to provide education as a reward for service and sacrifice. This promise is the heart of the GI Bill.

The American Legion supports this legislation.

S. 572: VETERANS SECOND AMENDMENT ACT

A bill to amend title 38, United States Code, to clarify the conditions under which certain persons may be treated as adjudicated mentally incompetent for certain purposes.

It is both sad and ironic that the veterans' community, a community in which each and every member swore to uphold the Constitution of the United States, to include the 2nd Amendment, requires advocacy to maintain its constitutional right to bear arms. Unless deemed unfit to possess weapons by a judicial authority with the full benefit of due process, The American Legion believes that each veteran, regardless of disability, should maintain the right to possess a firearm. Any constitutional right should be protected with this same expectation of careful scrutiny to ensure no right is removed without due process.

On December 2, 2012, NBC News published an article regarding veteran hunting trips as a form of therapy for combat veterans.[9] Throughout the Nation, numerous organizations organize hunting trips for veterans; and even the Department of Veterans Affairs (VA) has acknowledged the positive effects of shooting firearms for some veterans. Jose Llamas, community and public affairs officer for VA's National Veterans Sports Program stated that hunting is included in a veteran's health-life plan, and at various adaptive sports summits throughout the Nation, veterans can enjoy target shooting as well as competitive marksmanship competitions. Additionally, a recent $25,000 grant was made to the Grand Junction, Colorado, VA Medical Center, to purchase the necessary equipment for veterans to hunt.

Furthermore, there are concerns that the threat of being placed on a list that might deny them their 2nd Amendment rights could act as a deterrent for veterans who might otherwise seek treatment. When the positive effects of therapy for conditions such as Posttraumatic Stress Disorder (PTSD) are so important, driving veterans away for fear of repercussions such as confiscation of firearms could only exacerbate existing stigmas.

During the 94th National Convention of The American Legion, Resolution 68 was passed. According to the resolution, "The American Legion reaffirms its recognition that the Second Amendment to the Constitution of the United States guarantees each law-abiding American citizen the right to keep and bear arms; and, be it finally resolved, that the membership of The American Legion urges our Nation's lawmakers to recognize, as part of their oaths of office, that the Second Amendment guarantees law-abiding citizens the right to keep and bear arms of their choice, as do the millions of American veterans who have fought, and continue to fight, to preserve those rights, hereby advise the Congress of the United States and the Execu-

[8] Resolution 296: Amending the Eligibility for the Transfer of the Post-9/11 GI Bill Educational benefits, AUG 2012.

[9] http://usnews.nbcnews.com/_news/2012/12/02/15575983-florida-guide-uses-hunting-as-rustic-therapy-for-combat-veterans?lite.

tive Department to cease and desist any and all efforts to restrict these right by any legislation or order."

The American Legion supports this bill.

S. 629: HONOR AMERICA'S GUARD-RESERVES ACT OF 2013

A bill to amend title 38, United States Code to recognize the service in the reserve components of certain persons by honoring them with status as veterans under law.

This legislation honors, as a veteran, any person entitled to retired pay for non-regular (reserve) service or, but for age, would be so entitled. The bill provides that such person shall not be entitled to any benefit by reason of such recognition.

Since the inception of the all-volunteer force, members of the National Guard and reserve have stood side-by-side with their active duty counterparts, ready to answer the call to protect the Nation. As embodied in the recently adopted Resolution No. 10,[10] The American Legion believes those who have taken that solemn oath and stepped forward to serve their country, the Armed Forces of the United States; whether active duty, reserve, or National Guard, deserve the title "Veteran."

The American Legion supports this legislation.

S. 674: ACCOUNTABILITY FOR VETERANS ACT OF 2013

To require prompt responses from the heads of covered Federal agencies when the Secretary of Veterans Affairs requests information necessary to adjudicate claims for benefits under laws administered by the Secretary, and for other purposes.

The American Legion processes thousands of veteran disability claims each year, and is acutely aware of the vital need for the interagency cooperation necessary to develop a Fully Developed Claim (FDC). Historically, VA has called upon Federal agencies such as Department of Defense, Social Security Administration (SSA), and Internal Revenue Service (IRS) to provide necessary documents to support various claims submitted by veterans. In December 2012, Allison Hickey, VA Under Secretary for Benefits, announced a program created between VA, SSA, and IRS eliminating the need for veterans receiving pension benefits to complete the Eligibility Verification Report (EVR). This serves as the example of a positive relationship between VA and other Federal entities.

The American Legion has called upon Congress to "to pass legislation that requires VA be held accountable for achieving the VA Secretary's stated goal to achieve an operational state for VA in which no claim is pending over 125 days and all claims have an accuracy rate of 98 percent or higher, which is detailed in American Resolution 99."[11] As we are calling upon VA to adjudicate claims in a timely and accurate manner, accordingly, it is only appropriate that we also allow for VA to have the all available tools to accomplish the stated objectives. If a separate government entity holds a veteran's records that are pertinent to a VA claim, then that entity should comply with VA's request in a timely manner and provide the necessary required documentation.

The American Legion supports this bill.

S. 690: FILIPINO VETERANS FAIRNESS ACT OF 2013

To amend title 38, United States Code, to deem certain service in the organized military forces of the Government of the Commonwealth of the Philippines and the Philippine Scouts to have been active service for purposes of benefits under programs administered by the Secretary of Veterans Affairs.

In brief, this bill will strike the word "not" in two subsections in section 107 of title 38, U.S.C.. By striking this word and the remainder of the subsections the U.S.C. will read:

> (a) Service before July 1, 1946, in the organized military forces of the Government of the Commonwealth of the Philippines, while such forces were in the service of the Armed Forces of the United States pursuant to the military order of the President dated July 26, 1941, including among such military forces organized guerrilla forces under commanders appointed, designated, or subsequently recognized by the Commander in Chief, Southwest Pacific Area, or other competent authority in the Army of the United States, shall be deemed to have been active military, naval, or air service for the purposes of any law of the United States conferring rights, privileges, or benefits upon any person by rea-

[10] Resolution No. 10: Support Veteran Status for National Guard and Reserve Servicemembers MAY 2013.

[11] Resolution No. 99: Increase the Transparency of the Veterans Benefits Administration's (VBA) Claims Processing.

son of the service of such person or the service of any other person in the Armed Forces.

(b) Service in the Philippine Scouts under section 14 of the Armed Forces Voluntary Recruitment Act of 1945 shall be deemed to have been active military, naval, or air service for the purposes of any of the laws administered by the Secretary.

Also, this bill introduces additional wording for determination of eligibility. It charges the Secretary shall take into account any alternative documentation regarding such service, including documentation other than the Missouri List, that the Secretary determines relevant.

This bill adds a report the Secretary shall submit to the Committee on Veterans' Affairs of the Senate and House of Representative that includes:

(a) The number of such individuals applying for benefits pursuant to this section during the previous year; and

(b) The number of such individuals that the Secretary approved for benefits.

The American Legion has no position on this legislation.

S. 695: VETERANS PARALYMPICS ACT OF 2013

A bill to amend Title 38, United States Code, to extend the Authorization of appropriations for the Secretary of Veterans Affairs to pay a monthly assistance allowance to Disabled Veterans training or competing for the Paralympics team, and the authorization of appropriations for the Secretary of Veterans Affairs to provide assistance to United States Paralympics, Inc., and for other purposes.

The American Legion has no position on this legislation.

S. 705: WAR MEMORIAL PROTECTION ACT OF 2013

A bill to amend Title 36, United States Code, to ensure Memorials commemorating the service of the United States Armed Forces may contain religious symbols, and for other purposes.

As an organization whose motto reads "For God and Country" the notion that memorializing those who have served and sacrificed on behalf of this Nation could be rendered devoid of recognition of their faith is alien and abhorrent. The American Legion was a leading voice in the fight to protect the Mojave Cross in the California desert to honor the sacrifices of the fallen. The American Legion was a leading voice ensuring families of veterans in National Cemeteries have their religious faith recognized as a part of funeral services. While faith is an intensely personal matter to a great majority of our veterans, The American Legion believes that a veteran's choice to recognize his or her particular faith on his or her own personal memorial is in keeping with the protections of all personal choices guaranteed to any American citizen under any other circumstance.

That such a bill would even be considered necessary is disheartening, but The American Legion will always protect the rights of those who serve to enjoy their First Amendment protection to freely express their religious affiliation on their grave markers. We thank Ranking Member Burr for taking up this fight.

The American Legion supports this legislation.

S. 735: SURVIVOR BENEFITS IMPROVEMENT ACT OF 2013

To amend title 38, United States Code, to improve benefits and assistance provided to surviving spouses of veterans under laws administered by the Secretary of Veterans Affairs, and for other purposes.

S. 735 addresses several areas that would improve the quality of life for dependents receiving VA benefits, to include Dependency and Indemnity Compensation (DIC). The American Legion family has hundreds of thousands of members that are directly affected by this provision, and has previously called upon Congress to eliminate the age criteria for a surviving spouse to remarry and continue to receive DIC benefits.[12]

Thailand and herbicide exposure has been a continual concern for The American Legion. As the regulations currently read, a veteran who served in Thailand during the Vietnam Era has to prove exposure to Agent Orange and other herbicides; this process has proven to be burdensome for both veterans and surviving spouses. As a result, a veteran who may have been exposed to herbicides while serving in Thailand may not have received the entitled benefits associated with herbicide exposure. Equally as important, widows of veterans exposed to herbicides that may have met their demise due to a condition associated with herbicide exposure are ineligible for

[12] Resolution No. 44: Dependency and Indemnity Compensation.

benefits, such as DIC. Additionally, children of veterans who have served in Thailand that may have been born with conditions associated with the veteran's herbicide exposure have also been identified as ineligible for benefits.

The American Legion has repeatedly called for a full recognition of veterans that served in Thailand between January 9, 1962, and May 7, 1975, to be recognized as presumptively exposed to herbicides and "seek legislation to amend title 38, United States Code, section 1116, to provide entitlement to these presumptions for those veterans who were exposed to Agent Orange while serving in areas other than the Republic of Vietnam where Agent Orange was tested, sprayed, or stored and has called for this recognition through resolution number 199."[13] Ultimately, it is our belief that a veteran, no matter where the herbicide exposure occurred, should be entitled to the same benefit as veterans that were exposed to herbicides in Vietnam.

The American Legion supports this bill.

S. 748: VETERANS PENSION PROTECTION ACT

To amend title 38, United States Code, to require the Secretary of Veterans Affairs to consider the resources of individuals applying for pension that were recently disposed of by the individuals for less than fair market value when determining the eligibility of such individuals for such pension, and for other purposes.

The American Legion and our network of over 2,600 service officers regularly work with veterans and their families to ensure they receive the benefits they deserve. Over the last several years, it has become more apparent that predatory actors are moving in and taking advantage of elderly veterans in a vulnerable position, by engaging in questionable business practices which can fleece a veteran of their money while offering false promises of pension programs to pay for elder care facilities.

While The American Legion is tremendously appreciative of Senator Wyden's attention to this issue, and this legislation's aim is admirable—seeking to protect veterans from these predatory practices by increasing the look back period when examining veterans' assets, The American Legion has reservations as to whether or not this is the most appropriate measure to provide relief to veterans and their families. Research conducted through The American Legion's network of service providers shows, that this new look back period would affect surviving spouses of veterans who need benefits, as well as questions how VA would be able to address the increased workload of the look back period when pension centers struggle to address their existing workload.

However, as this is a matter of concern, The American Legion continues to work with the expertise of our service officers, membership and staff to determine a course of action which would provide remedy in this situation. When such a remedy is determined, then by our own resolution process our membership, will The American Legion be able to ratify a plan for taking action. Due to the complexity of the situation, there is no consensus and therefore we can neither support nor oppose this course of action.

The American Legion has no position on this legislation.

S. 778

To authorize the Secretary of Veterans Affairs to issue cards to veterans that identify them as veterans, and for other purposes.

The American Legion recognizes that many states currently provide driver's licenses indicating a licensed driver is a veteran. For veterans residing in these states, a veteran can proudly prove service to this Nation. Additionally, for retail outlets that may offer discounts for veterans, a government sanctioned identification card would require the necessary proof of military, naval, or air service. Some outlets no longer accept as proof of service a copy of a DD–214 as the document does not provide a photograph of the veteran.

Beyond the lack of photograph provided on a DD–214 is the form itself and how it could cause harm to the veteran through repeatedly showing the form in public. Public review of a DD–214 would reveal the veteran's Social Security number and other personal privacy information. In this age of widespread identity theft, it is possible a veteran's identity could be stolen simply through proving veteran's status at a retail outlet by displaying their DD–214; so in short, it could be a heavy price to pay due to trying to receive a discount at a retail outlet.

The American Legion has passed resolution number 43 that encourages state governments to include a veteran identifier on drivers' licenses.[14] A nationwide vet-

[13] Resolution No. 199: Agent Orange.
[14] Resolution No. 43: Veteran Coding on Driver's Licenses.

eran's card could accomplish the same goal of having identification indicating veteran status without including the veteran's Social Security number.

The American Legion supports this bill.

S. 819: VETERANS MENTAL HEALTH TREATMENT FIRST ACT OF 2013

A bill to amend title 38, United States Code, to require a program of mental health care and rehabilitation for veterans for service-related Post Traumatic Stress Disorder, depression, anxiety disorder, or a related substance use disorder, and for other purposes.

This bill calls for VA to start mental health treatment for veterans regardless of whether or not they have been service-connected for a mental health condition. The bill would prohibit veterans from seeking service connection during that period, but would provide alternative forms of compensation to the veteran during the treatment period.

The American Legion is deeply concerned about the mental health care received by America's veterans. Mental health care is one of the components examined by the System Worth Saving Task Force through our annual visits to VHA medical facilities. The American Legion maintains an Ad Hoc Committee on PTSD and TBI to continually research new information on these concerns facing American veterans.

While The American Legion applauds efforts to get veterans into treatment, and through resolution number 109 works to monitor the ongoing effectiveness [15] of the Mental Health Strategic Plan of VHA, we are concerned about the lack of ability for veterans to apply for service connection during this period. The longer a veteran waits from discharge from service, the more difficult it can be to find appropriate records and ultimately obtain service connection for injuries incurred or aggravated by military service. It would be troubling to realize that a veteran could lose out on lifetime service connection and health care for a mental health condition in the interest of short term obtaining mental health care.

The American Legion is willing to work with Ranking Member Burr to find a way to make this program effective without reducing a veteran's rights to service connection, but cannot support the bill at this time.

The American Legion does not support this legislation.

S. 863: VETERANS BACK TO SCHOOL ACT OF 2013

To amend title 38, United States Code, to repeal time limitations on the eligibility for use of educational assistance under All-Volunteer Force Educational Assistance Program, to improve veterans education outreach, and for other purposes.

The Montgomery GI Bill for active duty servicemembers and veterans requires each enrolled servicemember to make a non-refundable contribution up front. In return, they can use their entitlement—up to 36 months—to help pay for education, apprenticeship, and job training. However, the entitlement automatically expires 10 years after the veteran leaves active duty service. According to the Department of Veterans Affairs, nearly 30 percent of eligible veterans are unable to use any of their Montgomery GI Bill education benefits and most eligible veterans are only able to access a portion of them before the 10-year limit is reached.

This legislation would change the expiration from 10 years after the veteran leaves active duty service to 10 years after the veteran begins using the benefit. The American Legion, by resolution,[16] supports changes to the delimiting dates for the Montgomery GI Bill. In addition, the provisions to support and extend offices of veterans' affairs to more campuses are especially timely and relevant given the increasing number of student-veterans on campuses and their unique needs.

The American Legion supports this bill.

S. 868: FILIPINO VETERANS PROMISE ACT OF 2013

A bill to require the Secretary of Defense to establish a process to determine whether individuals claiming certain service in the Philippines during World War II are eligible for certain benefits despite not being on the Missouri List, and for other purposes.

This bill is aligned in purpose with S. 690, the Filipino Veterans Fairness Act.

The American Legion has no position on this legislation.

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[15] Resolution 109: The Department of Veterans Affairs Mental Health Services, AUG 2012.

[16] Resolution 301: Eliminate delimiting dates for the Montgomery GI Bill and Post-9/11 GI Bill, AUG 2012.

S. 893: VETERANS COMPENSATION COST OF LIVING ACT OF 2013

A bill to amend title 38, United States Code, to provide for annual cost-of-living adjustments to be made automatically by law each year in the rates of disability compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for survivors of certain service-connected disabled veterans.

The American Legion strongly supports a periodic cost-of-living adjustment (COLA) for veterans reflective of increased expenses due to inflation and other factors. However, there are many factors currently being considered regarding the calculation of COLA that merit discussion.

Within The American Legion's Code of Procedures, accredited representatives are advised under no circumstances should they cause harm to veterans' claims for benefits. Current provisions contained in the President's 2014 proposed budget, as well as in amendments to other bills that have been introduced from time to time, would replace the current Consumer Price Index (CPI) used to calculate increases to Social Security COLA with a so-called Chained CPI (C-CPI). Through chaining VA benefits to the new C-CPI and COLA for Social Security benefits, the veteran community would indeed be harmed. On December 19, 2012, Dean Stoline, Deputy Director of The American Legion Legislative Division, stated that a chained CPI is misguided policy and "would have significant deleterious effect on the benefits of millions of veterans."

Chairman Sanders has provided evidence that displays the long term negative effect upon the veteran community should Congress mandate a C-CPI approach to determining COLA increases. According to a press release from Sen. Sanders' office, the proposal would cut VA disability benefits for a 30-year-old veteran by more than $13,000 a year by age 45, $1,800 a year by age 55, and $2,260 a year by age 65. Senior citizens who retire by age 65 would see their Social Security benefits reduced by about $650 a year by the time they reach 75, and more than $1,000 a year when they turn 85. These cuts would certainly place many veterans and their families' economic security in peril.

By resolution[17] "The American Legion support[s] legislation to amend title 38, United States Code, section 1114, to provide a periodic COLA increase and to increase the monthly rates of disability compensation; and * * * oppose[s] any legislative effort to automatically index such [COLA] adjustments to the [COLA] adjustment for Social Security recipients, non-service-connected disability recipients and death pension beneficiaries." The opposition to direct and automatic connection to the Social Security policies reflects the understanding that veterans and specifically disabled veterans represent a unique subsection of the American community, and their unique concerns should receive individual consideration when determining the need for periodic increases for cost of living.

The American Legion encourages Congress to seriously examine the disastrous long term negative consequences of C-CPI for veterans. The long-term negative effects created through permitting C-CPI for VA benefits could cause serious financial harm to millions of veterans.

The American Legion supports an increased Cost-of-Living Adjustment for veterans, but would like to see the legislation amended to ensure veterans' COLA is protected from being changed to reflect a C-CPI model to the detriment of disabled veterans.

S. 894

A bill to amend Title 38, United States Code, to extend expiring authority for work-study allowances for individuals who are pursuing programs of rehabilitation, education, or training under the laws administered by the Secretary of Veterans Affairs, to expand such authority to certain outreach services provided through congressional offices, and for other purposes

This bill is an extension of the Department of Veterans Affairs authority to offer certain work-study allowances for student-veterans due to expire mid-year. The American Legion has long supported the Department of Veterans Affairs work-study program as defined through resolution number 296[18] and supports this initiative to maintain as many of these work-study opportunities as possible.

This program provides a valuable benefit to student-veterans and that benefit is often multiplied many times over when, for example, they are allowed to perform

[17] Resolution No. 178: Department of Veterans Affairs (VA) Disability Compensation, AUG 2012.

[18] Resolution No. 296: Support the Development of Veterans On-The-Job Training Opportunities, AUG 2004.

outreach services to servicemembers and veterans furnished under the supervision of a State Approving Agency employee. This is just one instance of the important work that is accomplished by these student-veterans.

The American Legion supports this bill.

S. 922 VETERANS EQUIPPED FOR SUCCESS ACT OF 2013

A bill to require the Secretary of Labor to carry out a pilot program on providing wage subsidies to employers who employ certain veterans and members of the Armed Forces and require the Secretary of Veterans Affairs to carry out a pilot program on providing career transition services to young veterans, and for other purposes.

When veterans return to the workforce either right off of active duty service or after obtaining a college degree, they still face challenges in obtaining gainful employment. One of the barriers is the lack of experience in the private sector, which is why The American Legion has passed resolutions [19] that support programs that encourage employers to create on-the-job training (OJT) opportunities for veterans and programs that provide financial incentives for employers who hire and provide training for veterans. The American Legion believes that the two pilot programs called for in this bill are complimentary to the OJT program already in place in the Department of Veterans Affairs. The range of veterans eligible for an OJT opportunity in the private sector is increased to those that have exhausted their GI Bill benefits and older veterans whose GI Bill benefits have expired. Further, on top of incentivizing employers to participate, the eligibility parameters of the pilot programs allows for more corporate employers to participate.

The American Legion supports this bill.

S. 927: VETERANS OUTREACH ACT OF 2013

A bill to require the Secretary of Veterans Affairs to carry out a demonstration project to assess the feasibility and advisability of using State and local government agencies and nonprofit organizations to increase awareness of benefits and services for veterans and to improve coordination of outreach activities relating to such benefits and services, and for other purposes.

This legislation calls upon VA to increase outreach to the veterans of America to utilize the services available to them. With over 22 million veterans in America, surprisingly The American Legion has found that only a fraction of those veterans utilize the services provided to them.

The American Legion is deeply committed to getting the word out to veterans about the benefits they have earned through their hard service and sacrifice on behalf of this great Nation. With over 2.4 million members, and thousands of Posts located in every town nationwide, our organization is uniquely positioned within the veterans' community to spread the word, but such efforts work best when in partnership with the VA. The American Legion has over a dozen resolutions calling on greater efforts in outreach from VA in every field, from women's health care to volunteer work, and to benefits related to exposure to Agent Orange. The American Legion is committed to working with VA to reach every corner of the veterans' community.

While state and local authorities are an important component of outreach, it is our hope VA recognizes the most important partnership for reaching veterans is with The American Legion and with other non-profit Veteran's Service Organizations.

The American Legion supports this legislation.

S. 928: CLAIMS PROCESSING IMPROVEMENT ACT OF 2013

A bill to improve the processing of claims for compensation under laws administered by the Secretary of Veterans Affairs, and for other purposes.

The purpose of this legislation is to provide a multi-faceted approach to dealing with the claims backlog. The rising claims backlog has increasingly become a problem with the Veterans Benefits Administration (VBA), and the past three years have seen the backlog leap from approximately 37 percent of all claims pending past the target goal of 125 days to nearly 70 percent of all claims now pending over 125

[19] Resolution No. 18: Authorization to Seek Grants for Training and Job Placement for Veterans.
Resolution No. 296: Support The Development of Veterans On-the-Job Training Opportunities.
Resolution No. 313: Support for the Military Transition Program.
Resolution No. 313: Support for the Military Transition Program.

days. All of this is occurring while VA struggles to increase the accuracy of processing.

The American Legion, with over 2,600 accredited service officers nationwide, is deep in the trenches of the war against the backlog. On a daily basis, American Legion service officers help thousands of veterans navigate the complex and convoluted system to receive benefits they have earned by becoming disabled while serving their country, and has recently partnered with The White House and the VA to spearhead the Fully Developed Claim (FDC) initiative The American Legion is an industry recognized expert in this area and has decades of experience in this area.

This bill is broad in its reach and scope, and is best addressed by breaking it down into its component sections.

Section 101—

This section directs the establishment of a working group to improve employee work credit and work management systems. The American Legion has already submitted to Congress and the VA proposals on how the work credit system must be fixed to include better accounting for accuracy as a measurable quantity. As it stands now, employees receive the same credit whether work is done properly or inaccurately, and such a system must be amended to take credit away for inaccurate work, but also to reward workers who take the necessary time to get the job done right the first time. The American Legion has tried to work with all parties to get a better system implemented, rather than waiting upon the work of a study group. The sooner VA can amend their work credit system, the sooner the system can better serve veterans.

Section 102—

This section directs the establishment of a task force on retention and training at VA. Certainly VA employees have problems with retention, and the work is complicated enough that continually retraining the work force is counterproductive. The American Legion reiterates the concern that simply appointing another task force or study commission only further delays actual progress on remedying the issue.

Section 103—

This section addresses efforts to obtain information from other Federal agencies. The American Legion has been vocal in their concerns about the breakdown of communication between VA and DOD in combining efforts on a Virtual Lifetime Electronic Record. Rather than work on a single system which would vastly improve communication between agencies, VA and DOD continue to walk down separate and individual paths. Improvements in communications between VA and all Federal agencies is an important part of the disability claims process and The American Legion supports improvements in this area.

Section 104—

This section deals with recognition of the phrase "Indian tribes" with respect to subsection 5902(a)(1) of Title 38 of the United States Code. The American Legion has no position on this section.

Section 105—

This section deals with creating pilot programs with tribal and local governments to improve the claims quality of disability compensation claims. The American Legion has no position on this section.

Section 106—

This section requires quarterly progress reports on the progress of VA in eliminating the backlog. The American Legion is concerned about the lack of intermediary benchmarks from VA regarding reaching their goal of 98 percent accuracy and no claim pending longer than 125 days. Certainly some level of reporting to show clear progress would help with what has often been a lack of transparency in this area.

Section 201—

This section would reduce the filing deadline for an appeal from one year to 180 days. The American Legion opposes any reduction in a veteran's appellate rights.

Section 202—

This section calls for all hearings to be conducted before the Board of Veterans Appeals through video hearings. Although it allows for a process for a veteran to request a personal hearing, it is unclear what the appellate rights are in this case. The American Legion retains concerns that whatever process is in place must be in the best interest of the veteran, and not simply a more expedient measure for

the Board to alleviate the burden of communicating with the veteran. While there may be some improvement in the schedule to hear from veterans, it is important that veteran's concerns must be held paramount in these decisions.

Section 301—

This section extends operational authority for the Manila Regional Office. The American Legion agrees with the importance of maintaining operations to serve veterans in the Philippines.

Section 302—

This section extends the period for scheduling medical exams for veterans receiving temporary disability ratings for severe mental disorders from six months to 540 days. The American Legion has no position on this extension.

Section 303—

This section extends the marriage delimiting date for surviving spouses of Persian Gulf War veterans to qualify for death pension to a date ten years after the Persian Gulf War ends. As long as the war remains open, this benefit and all associated benefits must be extended to reflect the ongoing nature of the conflict.

Section 304—

This section adjusts effective dates for benefits eligibility based on veterans' children. The American Legion has no position on this section.

Section 305—

This section extends temporary authority for performing medical examinations by contract physicians. The American Legion recognizes the importance of these contract examinations in fulfilling examinations for disability and compensation purposes, especially in the midst of the backlog. Renewal of the contracting authority is important at this critical juncture.

The American Legion supports portions of this bill and holds no position on other portions. The American Legion opposes reducing the appellate rights of veterans, especially as concerned in sections 201 and 202.

S. 932: PUTTING VETERANS FUNDING FIRST ACT OF 2013

A bill to amend title 38, United States Code, to provide for advance appropriations for certain discretionary accounts of the Department of Veterans Affairs.

This bill, as is the case with the companion legislation H.R. 813 in the House of Representatives, recognizes the importance of providing timely, predictable funding for the Department of Veterans Affairs and would, as is the case with medical funding because of advanced appropriations, require Congress to fully fund the VA discretionary budgets a year ahead of schedule. The American Legion helped lead the way in the fight for advance appropriations for medical funding. In the current political climate, with sequestration and budget battles lurking around every corner, it is important to help set aside veterans' funding as separate and distinct from these battles. This is a bipartisan notion, as all Americans agree that those who have sacrificed through their service should not bear the brunt of squabbles and political infighting.

The current budgets of VA must grapple with ongoing efforts to address infrastructure insufficiencies in construction, IT and other projects, and advance funding would make the planning necessary to avoid undue waste possible.

The arbitrary budget axe has become a very real fear in the current political landscape. Politicians from both sides repeat the oft cited pledge "not to balance the budget on the backs of our veterans." This legislation would help protect veterans from just such uncertainties. Resolutions of The American Legion advocate protections for advance funding for medical budgets[20] and for protecting VA from PAY-GO provisions.[21] It is time to ensure all of VA's budgets are protected.

The American Legion supports this legislation.

S. 939

A bill to amend Title 38, United States Code, to treat certain misfiled documents as motions for reconsideration of decisions by the Board of Veterans Appeals, and for other purposes.

The American has seen first-hand how misfiled documents can severely harm a veteran pursuing assistance or service-connected disability recognition from the De-

[20] Resolution 180: Assured Funding for VA Medical Care, AUG 2012.
[21] Resolution 200: Exempt VA Benefits and Services from PAY-GO Provisions, AUG 2012.

partment of Veteran Affairs. This bill attempts to help address issues of confusion, wherein a veteran mistakenly files documents intended for the Court of Appeals for Veterans Claims (CAVC) to the Board of Veterans Appeals (BVA). Many veterans are unaware that their appellate rights transfer between branches of government, moving from the Executive to the Judicial branch. The American Legion is intimately familiar with the appeals process, and the confusing notification letters sent to veterans by VA, and that these documents are extremely difficult for the average person to make sense of. Certainly for unrepresented veterans, the legal options available to them are confusing, and may subsequently file their notice of "dissatisfaction with the determination of the BVA" to the incorrect entity.

The veterans' disability claims process has long been recognized as "uniquely pro-claimant" by the courts, and in this spirit, The American Legion wants the benefit of the doubt extended to veterans at every step of the process. While more must be done to help direct veterans to accredited representation to help make sense of these processes, veterans should not be penalized unduly for a failure to understand every complexity of the arduous appeals process when there is a reasonable chance to view their claim in a favorable light.

The American Legion supports this legislation.

S. 944: VETERANS' EDUCATIONAL TRANSITION ACT OF 2013

To amend title 38, United States Code, to require courses of education provided by public institutions of higher education that are approved for purposes of the All-Volunteer Force Educational Assistance Program and Post-9/11 Educational Assistance to charge veterans tuition and fees at the in-State tuition rate, and for other purposes.

The American Legion applauds Chairman Sanders and Ranking Member Burr for joining the push to prevent public colleges and universities from charging student veterans out-of-state tuition with the introduction of this legislation. However, we believe S. 257, which has a companion bill that has cleared committee in the House, should be the vehicle through which we offer our veterans reasonable in-state tuition protections while using their Post-9/11 GI Bill benefits.

S. 944 has limitations not included in the S. 257 or the House bill which are very disconcerting. In-state tuition would be required only for veterans who are within two years of separation from active duty when they enroll. They would have to live in the state while attending school. The bill would exclude those servicemembers who served less than 180 days and qualify for 40% of Post-9/11 GI Bill funding. Finally, it would allow VA to waive in-state tuition to institutions of higher learning if the Secretary determines such a waiver is appropriate.

These provisions concede too much to states and their public colleges and universities to the detriment of America's veterans. Opponents of legislation to require in-state rates claim that it can potentially discourage the veteran from pursuing post-secondary education altogether if states or schools choose to opt out; however, accruing huge financial burdens is more detrimental to these veterans in our view. As public colleges and universities seek ways to recoup decreasing revenues, many have significantly raised the costs of out-of-state tuition. The cap for GI Bill benefits often falls short of that high out-of-state rate. Furthermore, because of the nature of military service, veterans, and beneficiaries, often have a difficult time establishing residency for purposes of obtaining in-state tuition rates. Circumstances such as these, which oftentimes require them to live in certain areas, especially during the time when they are separated from the uniformed services, pose significant challenges when they wish to use this important benefit.

Critics have also said that legislation of this type sets a dangerous precedent for other non-resident students utilizing Federal aid programs. The American Legion strongly disagrees because military servicemembers and military veterans are the only cohort of Americans who cannot satisfy residency requirements for in-state tuition because of circumstances beyond their control. Recognizing these unique circumstances, servicemembers are already offered this reasonable accommodation when using military Tuition Assistance at public schools through the Higher Education Authorization Act of 2008; however, once a servicemember leaves the military this protection goes away. Therefore, states have already conceded the point that educating those who serve is not only a Federal financial obligation and have agreed to make this reasonable accommodation for those currently serving. They should do the same for our veterans for the same reasons. That states have already made arrangements to do so before also demonstrates that complaints about the obstacles to amending state tuition laws are overblown and, in fact, disingenuous.

After all, all Americans, in every state, owe a debt of gratitude to the men and women who served in the Armed Forces of the United States. In addition, public

universities are nonprofit institutions that get special privileges, such as massive Federal and state government subsidies and tax exemptions, based on the assumption that they are good stewards of the public trust. Granting in-state rates should be seen as part of the exercise of this trust. Student-veterans face many challenges pursuing higher education, there is no reason why obtaining in-state tuition should be one of them. By requiring public colleges and universities that receive GI Bill benefit payments to offer all veterans in-state tuition, Congress stays true to the intent of the GI Bill by enabling our veterans to pursue a higher education and jobs skills through the benefits they have earned.

We thank Chairman Sanders and Ranking Member Burr for their leadership on this issue and look forward to working with all stakeholders to ensure we can pass reasonable in-state tuition protections for currently-enrolled GI Bill beneficiaries and future student-veterans.

The American Legion cannot support this bill as written.

Chairman SANDERS. Thank you very much, Mr. de Planque.

Colonel Norton.

STATEMENT OF COLONEL ROBERT F. NORTON, USA (RET.), DEPUTY DIRECTOR, GOVERNMENT RELATIONS, MILITARY OFFICERS ASSOCIATION OF AMERICA

Colonel NORTON. Thank you, Mr. Chairman. Good morning.

First, I want to join with my colleagues in thanking you and all the Members of the Committee and your staffs for the great work that went into putting together this very ambitious slate of bills, most of which we strongly support.

Mr. Chairman, on behalf of the 380,000 members of the Military Officers Association of America, it is an honor for me to be here today to present our views on some of the bills before you. My statement addresses almost all of them, and I will limit my remarks to just a few of these measures.

First, S. 6, Putting Our Veterans Back to Work Act, would extend transition services deadlines under the VOW to Hire Heroes Act and for other purposes. We strongly support the bill.

As of May 1, almost 45,000 older veterans were being trained in a career field under the VRAP program of the VOW Act. We commend the Committee and the VA for launching the program and strongly support extending the deadlines in the legislation.

We also recommend a grandfathering provision to allow veterans who cannot finish a licensing requirement within the 1-year period required to be allowed to complete that licensure or certification program, and we also suggest that 4-year colleges that offer licensing and certification programs be allowed to participate in the VRAP.

MOAA supports S. 430, the Veteran Small Business Opportunity and Protection Act. It would allow a surviving spouse of a service-disabled veteran to acquire the ownership interest in a small business of the deceased veteran for purposes of eligibility for VA service-disabled, small business contracting goals and preferences.

The Careers for Veterans Act, S. 495, helps our transitioning veterans by requiring States to recognize the exceptional training and experience provided in military service toward the award of a civilian license or certification in a comparable field. MOAA strongly supports S. 495.

S. 629, the Honor America's Guard and Reserve Retirees Act. Its sole purpose is honor, to honor certain career reservists who have

served their Nation faithfully for more than 20 years but during that service did not perform any duty on formal active duty orders.

On Veterans' Day, Memorial Day, and other days celebrating our national heritage and honoring all those who served and sacrificed on behalf of our country, there are tens of thousands of career National Guard and Reserve members who cannot stand up to be recognized as veterans of the Armed Forces alongside their colleagues.

S. 629 specifically prohibits the award of any veterans benefits. Its only and exclusive purpose is honor. I think the best way to sum up this bill is from the letter of a retired New York Army National Guard master sergeant who wrote recently, "I served for 2 weeks at Ground Zero in Manhattan after the attacks on our homeland on September 11, 2001. Later I served in Germany supporting the deployment of our forces for operations in Iraq but I am not a veteran of the Armed Forces of the United States."

On his behalf and on the behalf of tens of thousands of other career reservists MOAA strongly supports S. 629.

S. 735, the Survivor Benefits Improvement Act, addresses a longstanding MOAA goal: to allow surviving military spouses to retain their dependency and indemnity compensation payments if they remarry after age 55, and that would make it consistent with all other Federal survivor programs. Along with the other provisions in this bill, we strongly support your bill, the Survivor Benefits Improvement Act.

We also support S. 928, your bill, Mr. Chairman, the Claims Processing Improvement Act. The bill requires the VA to report on progress toward achieving its goal of eliminating the claims backlog by 2015 and for other purposes.

Finally, I would like to be in the Greek chorus to Senator Merkley and Senator Heller and thank them for their leadership in introducing S. 1039, the Spouses of Heroes Education Act.

S. 1039 would authorize Gunnery Sergeant John David Fry Scholarships to spouses of members of the Armed Forces who died in the line of duty after September 10, 2001.

As Senator Merkley and Senator Heller pointed out, the Fry Scholarships provide post-9/11 GI Bill benefits for the children of fallen members of our Armed Forces who died in the line of duty.

Unfortunately, their parents, the surviving spouses, are not eligible for them. Instead, they are left with an inferior educational assistance benefit, DEA.

Under DEA, a survivor receives only $987 per month for full-time study, but no housing allowance and no book stipend. Without access to the Fry Scholarships, surviving spouses of the Afghanistan and Iraq conflicts will have difficulty paying for the cost of an education and better preparing their small children to use the Fry Scholarship when they are of age. MOAA strongly supports this bill, S. 1039, the Spouses of Heroes Education Act.

Mr. Chairman, thank you again for your leadership on these benefit issues and I look forward to your questions.

[The prepared statement of Colonel Norton follows:]

STATEMENT

of the

MILITARY OFFICERS ASSOCIATION OF AMERICA

on

Pending Legislation

before the

Senate Committee on Veterans Affairs

1st Session, 113th Congress

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Presented by

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One Powerful Voice.®

CHAIRMAN SANDERS, RANKING MEMBER BURR AND DISTINGUISHED MEMBERS OF THE COMMITTEE, on behalf of the over 380,000 members of The Military Officers Association of America (MOAA), I am pleased to present the Association's views on pending legislation under consideration at today's hearing.

MOAA does not receive any grants or contracts from the federal government.

S. 6, Putting Our Veterans Back to Work Act of 2013 (Sen. Reid, D-NV). S. 6 would extend transition services deadlines under the VOW to Hire Heroes Act, provide grants for hiring veterans as first responders, create a single, unified online employment portal for veterans, provide job training benefits for older veterans, and for other purposes.

MOAA is grateful to the Committee for passing the VOW to Hire Heroes Act (P.L. 112-56).

The Veterans Retraining Assistance Program (VRAP) provision in the VOW Act opens Montgomery GI Bill (MGIB) benefits for one year to older, unemployed veterans to train for high demand occupations.

As of 1 May 2013, the VA had approved 99,492 VRAP applications and enrolled 44,839 in training.

A key provision in the VOW Act improves Vocational Rehabilitation and Employment (VR&E) benefits and extends automatic eligibility through 2014 for active duty servicemembers referred by DoD with severe illnesses or injuries. The provision affords VR&E rehabilitative services early in the disability evaluation process.

The law also expands the Special Employer Incentive program to employers who hire veterans participating in VR&E even in cases where the veteran has not completed training.
S. 6 is consistent with recommendations MOAA made before a joint Senate and House Veterans Affairs Committees' hearing on 28 February 2013.

In addition to support for extension of VOW Act deadlines, MOAA recommends S. 6 be further amended to:

- ***Grandfather VRAP participants whose licensing, training, or associate's degree program – leading to employment – won't be completed in the compressed timeframe authorized.***
- ***Authorize VRAP participants to attend 4-year colleges that offer non-degree licensing and certification programs.***

MOAA strongly supports S. 6.

S. 200 (Sen. Murkowski D-AK). S. 200 would authorize interment in a National Cemetery any individual who: the Secretary of Veterans Affairs (VA) determines served in combat support of the Armed Forces in Laos during the period beginning on February 28, 1961, and ending on May 15, 1975; and, at the time of death was a U.S. citizen or lawfully admitted

alien. ***MOAA is supportive of S. 200. We recommend the Committee work closely with the Armed Services Committee to ensure the procedures for validating the service of individuals addressed in the bill are consistent and reliable.***

S. 257, the GI Bill Tuition Fairness Act of 2013 (Sen. Boozman, R-AR). S. 257 would direct the Secretary of Veterans Affairs (VA), for purposes of the educational assistance programs administered by the Secretary, to disapprove courses of education provided by public institutions of higher education that do not charge tuition and fees for veterans at the same rate that is charged for in-state residents, regardless of the veteran's state of residence.

S. 257 is a practical, cost-saving bill that will provide our returning warriors more options to take advantage of the Post-9/11 GI Bill and other GI Bill programs. The legislation comes at a critical time when more service members than average will be leaving active service due to the drawdown of our forces and the withdrawal from Afghanistan. Our volunteers have served and sacrificed for the nation and should be given every consideration when they transition from military service.

As the bill moves through Committee, MOAA respectfully recommends consideration of including eligible family members of veterans with transferred GI Bill benefits for in-state tuition rates if they are enrolled in a public college but not state residents. Many service women and men are married when they separate from service. The transitioning family's economic prospects are enhanced when all eligible members with GI Bill benefits can take advantage of S. 257. ***MOAA strongly supports S. 257.***

S. 262, the Veterans Education Equity Act of 2013 (Sen. Durbin, D-IL). S.262 would allow veterans enrolled in public colleges to receive tuition benefits up to $18,077.50 to help cover the cost of out-of-state tuition. The Post-9/11 GI-Bill caps the amount of education benefits for veterans enrolled in private colleges at $18,077.50 and sets the education benefit for veterans who attend public colleges to the amount charged for in-state tuition and fees.

MOAA appreciates the intent of S. 262 but instead favors enactment of S. 257 (discussed above). The Post-9/11 GI Bill legislation was based on the premise that a returning veteran would be able to attend any post-secondary public institution of higher learning (IHL) at no cost. A cap was set on private institutions to control overall cost. The enabling legislation, however, also included a 'yellow ribbon' provision that would encourage private colleges to put 'skin in the game' by authorizing them to pay up to half the difference of the cost of tuition above the annual cap with the government paying the other half. S. 262 defeats the original intent of the new GI Bill to pay the full cost of tuition at any public college. ***MOAA does not support S. 262.***

S. 294, Ruth Moore Act of 2013 (Sen. Tester, D-MT). S. 294 would revise policy for adjudicating disability claims of veterans with a mental health condition caused or aggravated by military sexual trauma (MST) while serving on active duty. The bill would require the VA to accept as sufficient proof of service-connection a diagnosis by a mental health professional together with satisfactory lay or other evidence of MST and an opinion

by the mental health professional that such condition is related to such trauma, if consistent with the circumstances, conditions, or hardships of the veteran's service, even when there is no official record of such incurrence or aggravation in such service, and for other purposes. ***MOAA strongly supports S. 294.***

S. 373, the Charlie Morgan Military Spouses Equal Treatment Act of 2013 (Sen. Shaheen, D-NH). S. 373 would, for purposes of military personnel policies and military and veterans' benefits, consider a person a spouse, if the marriage of the individual is valid in the state in which the marriage was entered into or, in the case of a marriage entered into outside any state, if the marriage is valid in the place in which the marriage was entered into and the marriage could have been entered into in a state. Includes as a state the District of Columbia, the Commonwealths of Puerto Rico and the Northern Mariana Islands, and U.S. territories and possessions. MOAA has no position on S. 373.

S. 430, Veterans Small Business Opportunity and Protection Act of 2013 (Sen. Heller, R-NV). S. 430 would treat the surviving spouse of a service-disabled veteran who acquires the ownership interest in a small business of the deceased veteran as such veteran, for purposes of eligibility for VA service-disabled small business contracting goals and preferences, for a period of: 10 years after the veteran's death, if such veteran was either 100% disabled or died from a service-connected disability; or 3 years after such death, if the veteran was less than 100% disabled and did not die from a service-connected disability. The legislation would treat small businesses themselves acquired by surviving spouses as a service-disabled veteran owned business. ***MOAA supports S. 430.***

S. 492 (Sen. Burr, R-NC). S. 492 would require states to recognize the military experience of veterans when issuing licenses and credentials to veterans, and for other purposes. This is a common sense bill that recognizes and takes advantage of the exceptional training and experience of members of our Armed Forces in a host of military occupational specialties. The Military Services are undergoing a protracted drawdown of military manpower. Over the next few years there will be a substantially greater number of service members leaving active military service. MOAA has been very supportive of initiatives that will enable our returning warriors to acquire civilian credentials or licenses prior to leaving service. S. 492 is a valuable addition to this trend since it requires states to accept comparable training and experience in a civilian skill requiring a license or certification if a state would wish to continue receiving Dept. of Labor outreach and employment support services for veterans returning to the community. ***MOAA strongly supports S. 492.***

S. 495, the Careers for Veterans Act (Sen. Burr, R-NC). S. 495 includes S. 492 (above) as a provision. S. 495 also supports the hiring of up to 10,000 veterans into the Federal workforce by requiring the Director of Office of Personnel Management (OPM) to coordinate with federal agencies and departments to fill existing vacancies, utilizing the Veterans Recruitment Appointment (VRA) authority over the next five years. OPM would have to report routinely to Congress to describe the types of jobs veterans were hired for, grade and pay level, and the number of veterans converted to career appointment. In addition, the bill includes several small business provisions that will assist veterans who are

attempting to navigate VA's service disabled veterans owned small business (SDVOSB) verification process, as well as providing for better transfer of small businesses to spouses following the death of a service disabled veteran owner or active duty service member. ***MOAA strongly supports S. 495.***

S. 514 (Sen. Sherrod Brown, D-OH). S. 514 would establish additional educational assistance under the Post-9/11 GI Bill for veterans enrolled in an academic program leading to degrees in science, technology, engineering, and math (STEM) or an area leading to employment in a high-demand occupation. MOAA appreciates the intent of the legislation but does not believe it's needed. The new GI Bill (Chapter 33, 38 U.S.C.) pays the full cost of education for veterans enrolled in public colleges or universities. If the Committee agreed to support an added payment for degrees in STEM at private colleges, MOAA would recommend an increase in the government's percentage of yellow ribbon contributions; e.g., from up to 50% of the remaining cost not covered under the private college cap to up to 60% or higher of the difference paid by the private college or university.

S. 515 (Sen. Sherrod Brown, D-OH). S. 515 would extend the Yellow Ribbon G.I. Education Enhancement Program under Chapter 33, 38 U.S.C. to cover recipients of Marine Gunnery Sergeant John David Fry Scholarship, and for other purposes.

MOAA supports this bill in principle. However, we believe strongly that the Surviving spouses themselves have been left behind with respect to educational assistance benefits. Survivors of the current conflicts need the opportunity to gain meaningful careers so that they can raise their children to take advantage of the Fry Scholarship program. The Fry Scholarships make the Post-9/11 GI Bill available to the children of the Fallen, but the Survivors themselves are left with a very modest monthly educational allowance of only $987 per month for full-time study, compared to a tuition free education at any public college or university under the Fry Scholarships. Moreover, Survivors receive no housing allowance while attending college or training and no annual book stipend. Ideally, we would recommend the Committee support S. 515 and the authorization of Post-9/11 benefits to Survivors themselves. If both are infeasible in this resource-constrained environment, ***MOAA would recommend first opening the Fry Scholarships to Survivors and if funds are also available, enacting S. 515.***

S. 572, Veterans 2d Amendment Protection Act (Sen. Burr, R-NC). S. 572 would prohibit the VA from denying the right of a veteran deemed mentally incompetent or incapacitated from receiving or carrying firearms without a court order that such a person is a danger to himself / herself or others. MOAA has no position on S. 572.

S. 629, the Honor America's Guard-Reserve Retirees Act of 2013 (Sen. Pryor, D-AR). S. 629 would honor as a veteran any retired member of the National Guard or Reserves entitled to retired pay for non-regular (reserve) service in the Armed Forces of the United States. The bill prohibits the award of any benefit by reason of the recognition.

National Guard and Reserve members who complete a full Guard or Reserve career and are receiving or entitled to a military pension, government health care and certain earned veterans' benefits under Title 38 are not "veterans of the Armed Forces of the United States," in the absence of a qualifying period of active duty.

This strange situation exists because the definitions in Title 38 limit the term "veteran" only to servicemembers who have performed duty on active duty (Title 10) orders.

National Guard members who served on military duty orders (other than Title 10) at Ground Zero in New York City on Sept. 11, 2001, the Gulf Coast following Hurricane Katrina or Hurricane Sandy, the BP oil spill catastrophe off the Gulf Coast, or conducted security operations on our Southwest border, and subsequently retire from the National Guard or Reserve are not deemed to be veterans under the law unless at some point they had served on Title 10 orders.

Throughout the Cold War and continuing today, Reservists perform operational duty or support operational forces on 29 different sets of orders. Most of these duty order categories reflect Service funding and accounting protocols, but unless the orders purposely are issued under Title 10, they do not count towards recognition of career reservists as veterans of our Armed Forces.

Ironically, these career reservists earn specified veterans' benefits, but they can't claim that they are veterans.

For these career volunteers who have served and sacrificed for decades in uniform, it is deeply embarrassing that they are not authorized to stand and be recognized as veterans during Veterans Day and other patriotic celebrations.

The House of Representatives has twice passed similar legislation on this issue.

S. 629 would establish that National Guard and Reserve members who are entitled to a non-regular retirement under Chapter 1223 of 10 USC and who were never called to active federal service during their careers are veterans of the Armed Forces. The legislation expressly prohibits the award of any new or unearned veterans' benefits and is cost-neutral.

A retired New York Army National Guard Master Sergeant recently responded to an article on this issue in *Military Update*, a syndicated column on military issues by Tom Philpott. The Master Sergeant wrote: "I served 35 years as a Guardsman and am told I am not a veteran. I did two weeks at Ground Zero and many tours in Germany doing logistics for the war in Iraq. Yet I am still not a veteran." On his behalf and on behalf of tens of thousands of other Guard and Reserve service members, ***MOAA strongly supports S. 629 to establish that career Reservists eligible for or in receipt of military retired pay (at age 60), government health care and certain earned veterans benefits, but who never served under active duty orders are "veterans of the Armed Forces of the United States."***

An Addendum to this Statement includes a Letter of support from The Military Coalition and Frequently Asked Questions about the Honor America's Guard-Reserve Retirees Act.

S. 674, the Veterans Accountability Act of 2013 (Sen. Heller, R-NV). S. 674 would require Federal agencies to respond within 30 days to the VA for information necessary to adjudicate a veteran's benefits claim. Agencies would have to either submit the requested information to the VA, or an explanation for not being able to furnish such information, as well as an estimate of when the information will be furnished. The VA would be required to keep records on all such requests and the time it takes to receive responses and to report twice a year to the Committees on Veterans Affairs a summary of the records. ***MOAA supports S. 674.***

S. 690, the Filipino Veterans Fairness Act of 2013 (Sen. Schatz, D-HI). S. 690 would deem certain service performed before July 1, 1946, in the organized military forces of the Philippines and the Philippine Scouts as active military service for purposes of eligibility for veterans' benefits through the Department of Veterans Affairs (VA). ***MOAA is supportive of S. 690. We recommend the Committee work closely with the Armed Services Committee to ensure the procedures for validating the service of individuals addressed in the bill are consistent and reliable.***

S. 695, the Veterans Paralympic Act of 2013 (Sen. Boozman, R-AR). S. 695 would extend, until FY2018, the yearly $2 million appropriations authorization for the Secretary of Veterans Affairs (VA) to pay a monthly assistance allowance to disabled veterans training or competing for the Paralympic Team; and $8 million appropriations authorization, with amounts appropriated remaining available without fiscal year limitation, for grants to U.S. Paralympics, Inc. ***MOAA supports S. 695.***

S. 705, the War Memorial Protection Act of 2013 (Sen. Burr, R-NC). S. 705 would permit the use of religious symbols recognizing the religious background of members of the Armed Forces as part of: a military memorial that is established or acquired by the federal government; or a military memorial not established by the government, but for which the American Battle Monuments Commission cooperated in establishing. MOAA has no position on S. 705.

S. 735, the Survivor Benefits Improvement Act of 2013 (Sen. Sanders, I-VT). S. 735 would enhance benefits for surviving spouses and children of fallen servicemembers and veterans. The bill expands the time frame for the receipt of additional monthly allowance Dependency and Indemnity Compensation (DIC) payments for survivors with children ages 2 to 5 years; permits compensation, care and support for children who suffer from Spina Bifida as a result of their parent's exposure to certain herbicides during the Vietnam war; allows surviving spouses to remarry at a younger age, consistent with all other Federal programs, and still maintain their DIC and other benefits; and creates a pilot program on grief counseling for widows and widowers whose spouses died on active duty in the Armed Services. The pilot program would include child care services.

MOAA has long supported upgrading survivors' compensation and benefits. In particular, the Association has testified for years in support of DIC equity for older widow(er)s who wish to remarry. Legislation was enacted in 2003 to allow eligible military survivors to retain DIC upon remarriage after age 57. At the time, Congressional staff advised that age-57 was selected only because there were insufficient funds to authorize age-55 retention of DIC upon remarriage. ***MOAA strongly supports S. 735 to authorize age-55 for retention of DIC upon remarriage and for the other purposes set out in the legislation.***

Section 4 of the bill states the Secretary "may" pay Spina Bifida benefits to children of Thailand service veterans, vice the provision for Vietnam Veterans "shall". If enacted this may mean that VA could promulgate regulations similar to Agent Orange benefits for veterans themselves: only recognizing Agent Orange exposure in Thailand for those who served long periods of perimeter duty as MPs or dog handlers.

Additionally, the bill only extends benefits to children of male veterans who served in Thailand during the Vietnam War, but does not reference Title 38 sections 1811-1816, which provide benefits for children of female veterans who served in Vietnam. ***MOAA recommends the bill be amended to modify Sections 1811-1816 to include service in Thailand during the Vietnam War as qualifying service, to pay benefits for children born with birth defects after their mother's service in Thailand during the Vietnam War as well as their father's service.***

S. 748, the Veterans Pension Protection Act of 2013 (Sen. Ron Wyden, D-OR). S. 748 would implement a recommendation of the Government Accountability Office (GAO) concerning the veterans' pension program. The GAO shed light on a growing industry aimed at convincing veterans to manipulate assets in order to apply for tax-free, needs-based pensions, which can pay more than $20,000 a year. GAO identified more than 200 organizations across the country that market financial and estate planning services to help potential pension claimants with excess assets qualify for pension benefits. The legislation establishes a three-year "look-back" period that requires veterans to substantiate the disposition of assets. The intent is to protect the pension program for veterans who really need it. ***MOAA supports S. 748.***

S. 778 (Sen. Burr, R-NC) would authorize the Secretary of Veterans Affairs to issue cards to veterans that identify them as veterans, and for other purposes. This legislation would permit the VA to develop and issue an ID card to potentially 20+ million American veterans with honorable service. The cost of administering and maintaining such a system over time could be significant. The card would not be linked to enrollment in the VA health system or to establish entitlement to any benefit. A number of states have enacted bills that permit the identification of veterans on state driver's licenses. MOAA does not believe a VA-issued veterans ID card is needed, nor worth the expense.

S. 819, the Veterans Mental Health Treatment Act of 2013 (Sen. Burr, R-NC). S. 819 would require a program of mental health care and rehabilitation for veterans for service-related post-traumatic stress disorder, depression, anxiety disorder, or a related substance use

disorder. Veterans would enroll in VA health care, participate in and comply with the treatment regimen for their diagnosed condition(s) for one year and agree to forego application for a service connected disability during treatment. Veterans who already had applied for disability may elect to suspend the adjudication of their case during the one-year treatment program. Veterans with a rated disability for PTSD, depression, anxiety disorder, or a related substance use disorder would agree to not submit a claim for an increase in disability compensation until the earlier of the end of the one year period or the conclusion of the treatment regimen and rehabilitation plan. Participating veterans would receive an initial and periodic stipend during the one year treatment plan not to exceed a total of $11,000.

Veterans discharged from active duty on or after January 28, 2003 are eligible to enroll in the VA health care system for five years with "no questions asked" concerning service-related conditions. During the enrollment period, they are assigned to Priority Group 6 pending the adjudication of any service-related claim they may submit. Enrolled OIF-OEF-OND veterans may seek care for any health-related condition.

It's not clear if the intent of S. 819 is to provide a new treatment regimen for the conditions specified in the legislation beyond what the VA currently provides. It's also not clear whether the idea is to create accelerated VA disability payments by another means – the proposed stipend – as a method to take new or pending claims for the specified conditions "off the books" for one year, thereby reducing the backlog.

MOAA refrains from a position on the legislation until more is known about the intent of the bill and potential longer term consequences.

S. 863, the Veterans Back to School Act of 2013 (Sen. Blumenthal, D-CT). S. 863 would remove the 10-year time limitation to use remaining Montgomery GI Bill (MGIB) (Chapter 30, 38 U.S.C.) entitlement of veterans eligible for the benefit, and for other purposes. MOAA appreciates the intent of the legislation. However, we believe it poses coordination and administrative problems with the Veterans Retraining Assistance Program (VRAP) under the VOW to Hire Heroes Act. VRAP enables older veterans to re-gain MGIB eligibility for one-year to pursue training for a license or certification in a career field in demand. Moreover, as noted above in our comment on S. 515, MOAA strongly recommends that priority should be given to awarding Fry Scholarships to the spouses of our fallen warriors if funds are made available to improve educational assistance programs.

S. 868, Filipino Veterans Promise Act (Sen. Heller, R-NV). S. 868 directs the Secretary of Defense (DOD) to establish a process for determining whether individuals who served in the organized military forces of the Government of the Commonwealth of the Philippines or in the Philippine Scouts while in the service of the U.S. Armed Forces during World War II and who are not included in the Missouri List are eligible for certain benefits relating to their service. ***MOAA supports S. 868. We recommend the Committee in coordination with the Armed Services Committee require a report on the process established by DoD to determine the service of individuals addressed in the bill.***

S. 889, the Servicemembers' Choice in Transition Act of 2013 (Sen. Boozman, R-AR). S. 889 would improve the Transition Assistance Program (TAP) of the Dept. of Defense. The bill would require DoD to provide instruction in educational assistance benefits for service members planning to use such benefits and testing to assess readiness for post-secondary education, and for other purposes. ***MOAA supports S. 889.***

S. 893, Veterans' Compensation Cost-of-Living Adjustment Act of 2013 (Sen. Sanders, I-VT). This bill would adjust veterans' compensation, pension, survivors' Dependency and Indemnity compensation and related benefits by the same percentage as the annual adjustment of Social Security benefits. The adjusted rates would become effective on 1 December 2013 and reflected in payouts on 1 January 2014. ***MOAA strongly supports the Veterans Compensation Cost of Living Adjustment Act of 2013.***

S. 894 (Sen. Sanders). S. 894 would extend an authority expiring on 30 June 2013 for work study allowances for veterans who are pursuing education, rehabilitation or training under VA benefit programs. The legislation would extend the VA's Work-Study Program for three additional years; and, allow participants to assist servicemembers, veterans, and their families by allowing them to work in congressional offices across the country. ***MOAA supports extending the VA work-study allowances for veterans and permitting them to work in congressional offices.***

S. 922, the Veterans Equipped for Success Act of 2013 (Sen. Sanders, I-VT). S. 922 is a comprehensive bill to carry out a pilot program that would provide wage subsidies to employers who employ certain veterans and members of the Armed Forces; and, to require the VA to carry out a pilot program on providing career transition services to young veterans, and for other purposes. ***MOAA supports S. 922.***

S. 927, the Veterans Outreach Act of 2013 (Sen. Sanders, I-VT). S. 927 would establish a demonstration project to assess the feasibility and advisability of using state and local government agencies and nonprofit groups to increase awareness of benefits and services available to veterans, and to improve coordination of outreach activities relating to such benefits and services, and for other purposes. ***MOAA supports S. 927.***

S. 928, the Claims Processing Improvement Act (Sen. Sanders, I-VT). S. 928 would address the processing of claims for VA compensation programs and for other purposes. The legislation: requires VA to publicly report information on both VA's projected monthly goals and actual production in order for Congress and stakeholders to know whether or not the Department is meeting its targets in eliminating the claims backlog; establishes a task force to initiate training to support the hiring of veterans in claims processing and adjudication positions, develop tactics for retention of employees, and create and implement a Government-wide plan to support hiring and retention of claims processors and adjudicators; forms a working group to improve VA employee work credit and work management systems; streamlines the process and standardizes the requirements for records requests made by the Secretary during the development of a disability compensation claim; upgrades procedures governing the Board of Veterans Appeals; evaluates the disability

medical examinations furnished by VA physicians and private physicians; and for other purposes.

MOAA believes S. 928 can increase efficiencies and potentially reduce delays in processing claims. We offer the following comment on specific sections for consideration.

Section 201: modification of period to file notice of disagreement. The concept of adjusting the time period is understandable, but the challenge is that reducing the period from 1 year to 6 months disadvantages those who do not have ready access to the electronic claims file. It makes it more difficult for service officers not based at a regional office or with remote access to appeal certain items. It may lead to more "blanket" appeals as a result. MOAA would suggest a provision that extended the time limit to file if a FOIA request were made for a copy of the veterans claim file: perhaps 60 days after the FOIA request is completed, either by copying the file or allowing electronic access.

Section 302: extended period for scheduling of medical exams for veterans receiving temporary disability ratings for severe mental disorder. We question whether it is a good idea to not follow up on veterans with severe mental disorders for a period of nearly 18 months, rather than the current 6 months. We recommend appropriate review on the health care risk to veterans with severe mental illness from the proposed change.

MOAA supports S. 928. We continue to recommend that the long-term solution to the backlog must include a renewed commitment and timelines to create an integrated Electronic Medical Record (iEHR) between DoD and VA. The "long pole in the tent" in completing claims for disability in a timely manner is accessing complete medical records from the Armed Forces to the Dept. of Veterans Affairs.

S. 930 (Sen. Bennet, D-CO) would require the Secretary of Veterans Affairs to recoup any overpayments of educational assistance under the Post-9/11 Educational Assistance program (Chapter 33, 38 USC), from the last months of entitlement, and for other purposes. Veterans who complete the educational program for which overpayments were made would not be subject to the deduction; nor would veterans with overpayments who fail to pursue their studies for two semesters. The law-change would expire nine years after the date of enactment. ***MOAA believes S. 930 is a reasonable approach to resolving overpayments under Chapter 33 provided that adequate mechanisms are in place to protect student veterans whose indebtedness was the fault of the VA, the academic or training institution or both.***

S. 932, Putting Veterans Funding First Act of 2013 (Sen. Begich, D-AK). S. 932 would extend the authority for advance appropriations over two years in the VA to all of the discretionary accounts of the Department. Presently, the authority is limited to certain medical accounts. ***MOAA strongly supports S. 932.***

S. 935, Quicker Veterans Benefits Delivery Act of 2013 (Sen. Franken, D-MN). S. 935 would prohibit the VA from requesting additional medical examinations of veterans who

have submitted sufficient medical evidence provided by non-Department medical professionals and improve the efficiency of processing certain claims for disability compensation, and for other purposes.

MOAA can support Sections 1 (Title), 2 and 4 of the bill. Section 2 would require the VA to accept competent outside medical evidence for the purposes of adjudicating a claim. Section 4 would authorize the VA to make payments before the first day of the calendar month for which such payments are issued.

Section 3 would need revision before MOAA could support the entire bill. Section 3 lowers the temporary stabilization rates from 100% or 50% to 50% or 30%. A temporary stabilization rating is given for servicemembers discharged or retired whose ratings are subject to change as they are usually hospitalized or have severe disabilities. 50% is the threshold for Priority Group 1 VA health care. It's not clear why a 30% rating would be created other than to save money (at least $415/month/veteran). The language also appears to conflict with 38 CFR 4.129, which provides for a minimum 50% rating for servicemembers discharged or retired due to a mental health condition.

Because this is a law-change rather than a regulation, VA may take the position that 38 CFR 4.129 is invalid.

In addition, the bill sets forth new language on temporary minimum disability ratings. VA could assign a 0% or 10% rating and declare that the veteran's claim is now no longer part of the backlog. This seems disingenuous at best, and MOAA would oppose the provision as a back door way to lower the claims backlog.

A 100% or 50% pre-stabilization disability award as in current law can continue to be assigned, and cases where that rating is assigned will not be considered to be part of the backlog.

MOAA recommends ADDING a category of 30% pre-stabilization rating for those that do not otherwise qualify for a 100% or 50% rating. MOAA does not support REMOVING the 100% temporary stabilization rate. At least a 30% rating would qualify a veteran for Priority Group 2 health care, dependent benefits, disabled veterans preference, and vocational rehabilitation.

S. 938, Franchise Education for Veterans Act of 2013 (Sen. Moran, R-KS). S. 938 would authorize educational assistance program benefits up to $15,000 over a 12 month period for training in owning/operating a franchise. MOAA appreciates the intent of this legislation. Our concern, however, is that S. 938 would establish unique rules and program amounts for franchise training only. Other worthy non-academic training, certification, licensing and on-the-job training programs would remain under the current rules. All training programs for which veterans may obtain GI Bill benefits should be governed by similar criteria in our view. A similar bill introduced in the House in the last session had no co-sponsors and was not taken up in Committee. MOAA would recommend supporters of franchise training for

veterans consider working with an academic or training partner to develop a curriculum for franchise training under Title 38 for approval by a State Approving Agency.

S. 939 (Sen. Blumenthal, D-CT) would treat certain veteran misfiled documents as motions for reconsideration of decisions by the Board of Veterans' Appeals, and for other purposes. Filing a motion for reconsideration with respect to a Board of Veterans Appeals decision makes the decision non-final and as a result, freezes or tolls the appeal deadline to appeal to the Court. Therefore, this measure provides a safeguard, where if the veteran misfiles documents with the Veterans Benefits Administration or Board of Veterans Appeals instead of the Court, it will be considered a motion for reconsideration and will freeze or toll the deadline to appeal. This gives the veteran more time to find legal counsel. ***MOAA supports S. 939.***

S. 944, Veterans' Educational Transition Act of 2013 (Sen. Sanders, I-VT). S. 944 is similar to S. 257 (above) with additional requirements. S. 944 would direct the VA to disapprove courses of education under the Montgomery GI Bill (Chapter 30, 38 USC) or Post-9/11 GI Bill (Chapter 33, 38 USC if a public institution of higher education did not charge tuition and fees for veterans at the same rate that is charged for in-state residents, regardless of the veteran's state of residence. The bill would limit the authority to veterans with at least 180 days active duty who were enrolled in school within two years of release or separation from active duty. ***MOAA supports S. 944.***

S. 1039, Spouses of Heroes Education Act (Sen. Merkley, D-OR). The Spouses of Heroes Education Act would authorize the Marine Gunnery Sergeant John David Fry scholarship for spouses of members of the Armed Forces who died in the line of duty after September 10, 2001.

The Gunnery Sergeant John D. Fry Scholarship program (P.L. 111-32) established Post-9/11 GI Bill benefit entitlement for the children of Fallen members of our Armed Forces who died in the line of duty after September 10, 2001.

Unfortunately, surviving spouses are ineligible for "Fry Scholarships." At the time the legislation was under consideration, no one stopped to think that the surviving spouses themselves would need a robust benefit in order to attain the skills and education to provide for their children and prepare them for college.

Survivors and Dependents Educational Assistance (DEA) program (Chapter 35, 38 USC) simply does not afford surviving spouses a realistic opportunity to raise young children, go to school concurrently without shouldering financial debt, while dealing with enormous challenges as Survivors.

DEA translates to "college is unaffordable." Under DEA, a Survivor receives only $987 per month (for full-time study), NO cost-of-living (housing) allowance, and no book stipend.

Today, the total potential DEA benefit is $44,415 (over 45 months as authorized). However, the Fry Scholarships pay the full cost of enrollment at any public college or university, a housing allowance based on a Sergeant's (E-5) "with dependents" housing rate for the zip code of the college, and up to $1000 annually for books.

For example, the tuition and fees at the University of Vermont in Burlington are $15,688 (2013-2014) for in-state resident students. That would be fully paid under the Fry, plus $1818 per month for housing and up to $1000 for books, a total benefit of approximately $33,050 per year. DEA would reimburse only $8883 per year under this example.

The Fry Scholarship pays the full cost of $5368 to attend the University of Las Vegas and a monthly housing allowance of $1188 plus up to $1000 for books, a total benefit of approximately $17,060 per year compared to $8883 per year under DEA.

Without access to the Fry Scholarship, Surviving Spouses of the Afghanistan and Iraq conflicts would have difficulty paying for the cost of an education. The nation can and should do better for those whose spouses made the ultimate sacrifice for our country.

MOAA strongly supports the Spouses of Heroes Education Act, S. 1039.

S. 1042, the Veterans Legal Support Act of 2013 (Sen. Shaheen, D-NH). S. 1042 would permit the Secretary of Veterans Affairs to provide support to university law school programs that are designed to provide legal assistance to veterans, and for other purposes. MOAA is supportive of this bill's objective; however, the use of VA Medical Services account financial support is inappropriate. ***MOAA recommends another means to provide financial assistance under S. 1042.***

S. 1058, Creating a Reliable Environment for Veterans' Dependents Act (Sen. Heller, R-NV). S. 1058 would authorize per diem payments for homeless veterans to furnish care to their dependents, and for other purposes. ***MOAA supports S. 1058.***

CONCLUSION

The Military Officers Association of America is grateful to the leadership and members of the Committee on Veterans Affairs for your commitment to our nation's veterans and their survivors.

Addenda:
1. Letter from The Military Coalition, 26 March 2013, re: S. 629.
2. Frequently Asked Questions re the Honor America's Guard-Reserve Retirees Act.

THE MILITARY COALITION

201 North Washington Street
Alexandria, Virginia 22314
(703) 838-8113

March 26, 2013

The Honorable Mark Pryor
United States Senate
Washington, DC 20510

Dear Senator Pryor:

The Military Coalition, a consortium of uniformed services and veterans associations representing more than 5.5 million current and former service members and their families and survivors, writes to thank you for your leadership in introducing **S. 629, the Honor America's Guard-Reserve Retirees Act** that would grant veteran status to members of the Reserve Components who served a career of 20 years or more and are military retirees, but who through no fault of their own are not recognized by our government as "veterans."

The individuals covered by your legislation have already earned most of the benefits granted to veterans by the Department of Veterans Affairs, and yet they do not have the right to call themselves veterans because their service did not include sufficient duty under Title 10 orders. Because of this they feel dishonored by their government. Your legislation simply authorizes them to be honored as "veterans of the Armed Forces" but prohibits the award of any new benefit.

The "Honor America's Guard-Reserve Retirees Act" is a practical way to honor the vital role members of the Reserve Components have had in defending our nation throughout long careers of service and sacrifice. And it can be done at no-cost to the American taxpayer because of your legislation.

We look forward to the early passage of your bill in the Senate and we are hopeful both chambers of Congress will take favorable action so we can see it signed into law this year.

You have been the champion for this bill in the Senate and we remain grateful. We know you understand the importance of the honor of being recognized as a veteran and we sincerely appreciate your steadfast support and leadership on this issue that is very important to so many members of the National Guard and Reserve.

The Military Coalition
(Signatures enclosed)

Air Force Association

Air Force Sergeants Association (AFSA)

Air Force Women Officers Associated

AMVETS

Army Aviation Assn. of America

AMSUS, the Society of Federal Health Professionals

Assn. of the US Army

Association of the United States Navy

Commissioned Officers Assn. of the US Public Health Service, Inc

CWOA, US Coast Guard

Enlisted Association of the National Guard of the US

Fleet Reserve Assn.

Debra J. Kraus
Gold Star Wives of America, Inc.

Marine Corps Reserve Association

Military Officers Assn. of America

National Guard Assn. of the US

National Military Family Assn.

Naval Enlisted Reserve Assn.

Non Commissioned Officers Assn.

Reserve Enlisted Assn. of the US

Reserve Officers Assn

Society of Medical Consultants to the Armed Forces

The Military Chaplains Assn. of the USA

The Retired Enlisted Assn.

USCG Chief Petty Officers Assn.

US Army Warrant Officers Assn.

Iraq & Afghanistan Veterans of America

Veterans of Foreign Wars of the US

Jewish War Veterans of the USA

Marine Corps League

TMC Letter re S. 629, Honor America's Guard-Reserve Retirees Act. 26 Mar 2013. TMC Signature page.

S. 629, Honor America Guard-Reserve Retirees Act

Frequently Asked Questions

Q. What's the purpose of this legislation? A. To honor certain career Guard and Reserve service men and women as "veterans of the Armed Forces." Extract of the VFW's testimony before the Senate Veterans Affairs Committee on 8 June 2011: *"The VFW strongly supports this legislation, which would give the men and women who choose to serve our nation in the Reserve component the recognition that their service demands. Many who serve in the Guard and Reserve are in positions that support the deployments of their active duty comrades to make sure the unit is fully prepared when called upon. Unfortunately, some of these men and women serve 20 years and are entitled to retirement pay, TRICARE, and other benefits, but are not considered a veteran according to the letter of the law . . . . In recent years, Congress has enhanced material benefits to the members of the Guard and Reserve and this bill does not seek to build upon those provisions;* ***it simply seeks to bestow honor upon the men and women of the Guard and Reserve to whom it is due****."* [emphasis added]

Q. Who will this legislation cover? A. Career National Guard and Reserve service men and women who are entitled to a military retirement (at age 60) but never served on active duty orders during their careers. Under the law, only a member of the Armed Forces who has qualifying active duty service is a "veteran of the Armed Forces" as set out in Title 38.

Q. What qualifies a military member, including Reservists, as a "veteran"? A. A period of qualifying active duty service. In Title 38, a veteran is defined as a "person who served in the active military, naval or air service, and who was discharged or released therefrom under conditions other than dishonorable." (Section 101(2), 38 USC). "Active military, naval, or air service" means "active duty"; or any period of active duty for training (ADT) or inactive duty for training (IDT) – often called "drill duty" -- during which a service person was disabled or died from a disease or injury incurred or aggravated in the line of duty (Section 101(24)(A)(B)(C).

Q. Why is this legislation important?

A. For three reasons. First, honor. Honor is important to those who have volunteered to serve the nation in uniform. Second, for decades Guard and Reserve service men and women have performed military missions at home and overseas but because of accounting technicalities -- funding sources and duty codes – their military missions were not considered valid active duty work; i.e., they performed the mission, but the orders did not credit the work as active duty. Thus, their very real contributions to the national security have been de-valued and dishonored leaving them in a no-man's land of "non-veteran" status. Third, the bill simply provides statutory and public recognition that a full career of service in uniform qualifies a person with recognition as a veteran. Career reservists have earned specific military retirement and veterans' benefits but technically are excluded from being recognized as veterans under the law.

Q. Do National Guard and Reserve service members qualify for any veterans' benefits even if they've never been called up?

A. Yes. Reserve military service opens eligibility to certain benefits provided the member meets the specific criteria established in law. The reality is that reservists already can qualify for certain veterans' benefits, such as:

- Educational benefits under Chapter 1606, 10 USC for an initial enlistment of 6 years in the Selected Reserve
- VA-backed home mortgage loans upon completion of 6 years' reserve service
- Servicemembers Group Life Insurance (SGLI) managed by the Dept. of Veterans Affairs while serving in the National Guard or Reserve
- Burial in a national cemetery if qualified for a reserve retirement at age 60

Ironically, however, career reservists who have earned specified veterans' benefits but never served on active duty orders are not "veterans of the Armed Forces."

Q. Are there any new benefits conferred by this legislation?

A. No. The bill confers no benefits. The Congressional Budget Office has scored the bill as cost-neutral.

Q. Could the bill become a "nose under the tent" to win unearned veterans' benefits?

A. The language of the bill specifically precludes new or unearned veterans' benefits. "Any person who is entitled under chapter 1223 of title 10 to retired pay for nonregular service or, but for age, would be entitled under such chapter to retired pay for nonregular service shall be honored as a veteran but shall not be entitled to any benefit by reason of this section. [emphasis added]

(2) CLERICAL AMENDMENT—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 107 the following new item:

`107A. Honoring as veterans certain persons who performed service in the reserve components.'

(b) Clarification Regarding Benefits—No person may receive any benefit under the laws administered by the Secretary of Veterans Affairs solely by reason of section 107A of title 38, United States Code, as added by subsection (a)". [emphasis added]

Q. Why do military Reservists perform military missions on non-active duty orders?

A. During the Cold War (1945-1989), approximately 29 separate types of orders were created for the Guard and Reserve. These categories reflect funding sources and the types of duty performed, notwithstanding that some of these orders resulted in the performance of "real world" military missions. The DoD *Comprehensive Review of the Future Role of the Reserve Component* (April 2011) recommended a simpler framework of reserve duty orders and active duty orders, boiling down the 29 types of orders to about six. The point is that orders to carry out a military mission or in direct support of a mission should usually be accounted for as an active duty mission and credited accordingly. Unfortunately, some military missions are still conducted on ADT or IDT orders, denying some Reservists recognition as veterans.

Q. How can an individual serve for 20 years in the National Guard or Reserve without having served on active duty?

A. Since World War II, many Guard and Reserve service men and women have performed military missions – above and beyond their training – on military orders that do not specify Title 10 "active duty".

For example, Naval Reserve, Air National Guard and Air Force Reserve members often flew overseas missions on other-than-Title 10 orders. The Air National Guard had full responsibility for flying missions to Howard Air Force Base in Panama, but performed such missions on non-active duty orders.

National Guard units serving along the southern U.S. border performing a homeland security mission do not serve on Title 10 orders. National Guard units who rushed to New York City in response to the Sept. 11, 2001 attacks, or to New Orleans in response to Hurricane Katrina performed military missions on non-active duty orders.

Other Guard and Reserve members prepare Guard and Reserve formations for deployment but do not themselves deploy.

And finally, there are those who have served full careers who were never activated because of the particular military specialty they performed.

Over a 20 or more year career in traditional drill status a member of the Reserve Components serves at least two years and one month on military duty. But the classification of such duty as either ADT or IDT precludes veteran status.

Q. Don't National Guard and Reserve members become veterans after completing their initial active duty service commitment – basic training or "boot camp" – and military skill training?

A. No. National Guard and Reserve initial entry training is performed under active duty training (ADT) orders. Only in the case of a disability incurred on ADT or IDT orders would a Reservist be declared a veteran.

Q. If this issue is so important to career Reservists, why hasn't it come up before?

A. Since World War II, with the exception of the Korean War, substantial numbers of reservists rarely were called up to Federal Active duty until Gulf War I (1990) and later. Most career reserve members were reluctant to challenge accepted wisdom on this issue. With the creation of the "Total Force Policy" (1972), the Guard and Reserve were gradually integrated into the operational force. The first large-scale test was Gulf War I followed by routine activations in that decade for stability operations in Kosovo and Bosnia. Today, Guard and Reserve members are a sustaining element of the operating force and participate in every major military mission at home and overseas. Yet, some of these missions continue to be conducted on non-active duty orders and reservists whose mission is to prepare other troops for deployment can never be credited as veterans. In short, the current policy shortchanges reservists' contribution to the national security and undermines the vision of the Guard and Reserve as an operational force.

Q. How many career Guard-Reserve members are affected by this legislation?

A. Based on DoD data (2011), the Congressional Budget Office estimated that approximately 288,000 career reservists would be honored as "veterans of the Armed Forces" (with no additional benefits) with enactment of the Honor America's Guard-Reserve Retirees Act.

Chairman SANDERS. Colonel, thank you very much.

Mr. Gallucci.

STATEMENT OF RYAN GALLUCCI, DEPUTY DIRECTOR, NATIONAL LEGISLATIVE SERVICE, VETERANS OF FOREIGN WARS

Mr. GALLUCCI. Thank you, Mr. Chairman.

On behalf of the VFW, the Nation's largest and oldest organization of combat veterans, I want to thank you and Members of the Committee for the opportunity to present our thoughts on today's bills.

With the wars drawing down, the active duty force set to contract, and more than one million veterans expected to enter the workforce soon, the VFW believes the Senate must do all it can to ensure our veterans are prepared to compete in an ever-changing civilian marketplace.

We thank the Committee for its efforts last Congress to prepare our veterans through reforms like the VOW to Hire Heroes Act and the Improving Transparency and Education Opportunities for Veterans Act, and we look forward to working with this Committee this session to build on those initiatives.

For the VFW's views on each of the benefits bill on our ambitious agenda, I refer you to my prepared remarks. For the balance of my time, I will focus on several initiatives to protect our student veterans.

First on S. 257, the GI Bill Tuition Fairness Act. The post-9/11 GI Bill was designed to offer a free public education to eligible veterans, allowing them to treat college as a full-time job without worrying about financial stability.

Unfortunately, Student Veterans of America report that only one out of every five veterans attending a public school can attend at the in-state rate.

Currently, the VA can only reimburse veterans at public schools for the cost of an in-state education, meaning veterans who do not qualify as in-state receive meager reimbursement for college.

As a result, veterans either drop out or find other ways to pay for college through Federal financial aid, full-time employment, or student loans even if they make a good faith effort to legally reside in the State and attend a public school.

Recently separated veterans may be legal residents in one State, as my colleague Ian pointed out, but if military duty took them to another State, they will not qualify for in-State tuition because they have not been physically present in their home State long enough.

Furthermore, many States require students to establish in-state eligibility prior to enrollment, meaning current students can never qualify regardless of their legal residency or where they have established domicile.

Critics have said that S. 257 sets a dangerous precedent for other nonresident students utilizing Federal aid programs. The VFW disagrees. Servicemembers and veterans are the only cohort of Americans who cannot satisfy in-state tuition requirements because of circumstances beyond their control.

As a result, servicemembers are already offered in-State tuition when using military tuition assistance at public schools. However, once a servicemember leaves the military, that protection goes away.

Post-9/11 GI Bill recipients should not be penalized for their honorable service when they cannot satisfy in-State tuition requirements. The VFW believes that Congress must allow these veterans to attend at the in-state rate, which is why we proudly support S. 257.

Next, on S. 262, the Veterans Education Equity Act, the VFW understands that the goal of this bill is similar to S. 257, and we thank Senator Durbin for his attention to this issue. The VFW sup-

ported a similar bill last Congress but we have withdrawn our support this term because we believe we have better identified the problem.

The problem is that recently separated veterans cannot meet stringent in-state tuition requirements because of their military service and in many cases can never attend at the in-state rate because they are already enrolled.

S. 262 seeks to increase compensation for nonresidents, but the VFW believes that offering veterans more money only puts a Band-Aid on the problem. In-state tuition fixes it.

The VFW recently learned that higher education interest groups have rallied in support of S. 262 in lieu of offering in-state tuition. To the VFW, these groups only see veterans as dollar signs in uniform.

We believe it would be irresponsible to put the VA and the American taxpayers on the hook for more money when we know that these schools can and should deliver a quality education to our veterans at the in-state rate.

Last Congress this bill was a good stopgap measure that would have lessened the financial burden on out-of-State veterans attending public schools. Unfortunately, this bill does not solve the inherent problem.

While we cannot support S. 262, we sincerely appreciate Senator Durbin's leadership on this issue, and we look forward to working with all stakeholders on a fair solution for student veterans.

Finally, we come to your bill, S. 944, the Veterans Educational Transition Act. As we stated in our written testimony, the VFW consistently hears from veterans who say that financial uncertainty is a critical barrier to finishing college, and we thank you, Mr. Chairman, and Ranking Member Burr for your attention to this issue by seeking to offer in-state tuition to recently separated veterans.

While S. 944 offers some clarification on beneficiaries eligible for in-state tuition, the VFW is concerned about how some of the restrictions will be interpreted by States, and we oppose allowing the Secretary to waive compliance.

This is why the VFW prefers the protections offered by S. 267, though I must clarify. We believe this is a very serious issue that demands attention and we are willing to come to the table with all stakeholders to craft a quality bill that protects our student veterans and offers reasonable compliance standards for schools.

I also wanted to echo my colleagues since I have 20 seconds left and thank you for your support to killing the chained CPI idea. We all agree that this is a reduction in benefits to our veterans and something that we absolutely will not support.

Chairman Sanders, Ranking Member Burr, Members of the Committee, this concludes my testimony and I am happy to answer any questions you may have on any of the bills on consideration.

[The prepared statement of Mr. Gallucci follows:]

PREPARED STATEMENT OF RYAN M. GALLUCCI, DEPUTY DIRECTOR, NATIONAL LEGISLATIVE SERVICE, VETERANS OF FOREIGN WARS OF THE UNITED STATES

Mr. Chairman and Members of the Committee: On behalf of the men and women of the Veterans of Foreign Wars of the U.S. (VFW) and our Auxiliaries, I would like to thank you for the opportunity to testify on today's pending legislation. As the

wars wind down and the military plans to shrink the active duty force, VA anticipates that more than one million veterans will seek to access their earned benefits within the next few years. The VFW applauds this Committee's work to address benefit-access and transitional issues during the last Congress and we are encouraged to see that the Committee continues to take this situation seriously.

The VFW is honored to share our thoughts on today's bills in an effort ensure our veterans have the opportunities they have earned to succeed after leaving military service. Specifically, our testimony will focus on nine veterans' economic opportunity bills, S. 257, S. 262, S. 492, S. 495, S. 514, S. 863, S. 894, S. 922 and S. 944. We will also offer VFW's brief thoughts on the other bills pending before the Committee.

S. 257, GI BILL TUITION FAIRNESS ACT OF 2013

The Post-9/11 GI Bill was intended to offer a free, public education and a modest living stipend to eligible veterans, allowing them to treat college as a full-time job without worrying about financial stability. Unfortunately, Student Veterans of America reports that only one out of every five veterans attending a public school is eligible to attend at the in-state rate.

Current law only allows VA to reimburse veterans attending public schools for the cost of an in-state education, meaning veterans who cannot qualify for in-state tuition will only receive meager reimbursement for college. This oversight forces veterans to either drop out or find other ways to pay for college through Federal financial aid programs, full time employment or amassing student loan debt even when they make a good faith effort to legally reside in a state and attend a public school.

Specifically, recently-separated veterans may be legal residents of a particular state, but if their military duty has taken them to an installation in another state, they will not qualify as residents when they seek to attend a public college or university because they have not been physically present in the state long enough to qualify as a resident for tuition purposes. Furthermore, once a veteran matriculates to the public school of their choice, many states restrict them from establishing residency because of their status as a full-time student.

The VFW believes that Congress must allow Post-9/11 GI Bill-eligible veterans to attend at the in-state rate, which is why we proudly support S. 257.

Critics have said that S. 257 sets a dangerous precedent for other non-resident students utilizing Federal aid programs. The VFW vehemently disagrees with this notion because military servicemembers and military veterans are the only cohort of Americans who cannot reasonably satisfy residency requirements for in-state tuition because of circumstances beyond their control. Recognizing these unique circumstances, servicemembers are already offered this reasonable accommodation when using military Tuition Assistance at public schools through the Higher Education Authorization Act. However, once a servicemember leaves the military, this protection goes away.

Eleven states already offer in-state tuition to veterans, eight states offer conditional waivers for veterans in certain circumstances, and 16 states have legislation pending. Of the states that have passed in-state tuition initiatives for veterans, both Republican and Democrat state leaders have all agreed that the financial benefits for the state far outweigh the illusory financial burdens that some in higher education believe would be detrimental to institutional budgets—particularly since graduates of public colleges and universities traditionally pursue careers close to their alma mater.

When Ohio passed its in-state tuition waiver in 2009, then- Gov. Ted Strickland said of in-state tuition, "It delivers real support to veterans while helping strengthen Ohio's strategic plan for higher education, which calls for attracting and keeping talent in the state. Who better to have as part of Ohio's colleges and universities, workforce and communities than the veterans who have served, led, and protected our country?"

When Virginia passed its law in 2011, Gov. Bob McDonnell said "These men and women have served our country; it is essential that we continue to work to better serve them. Veterans are the kind of citizens we want in the Commonwealth and that we want as part of our workforce."

When Louisiana passed its law in 2012, Gov. Bobby Jindal said, "This new law encourages members of the U.S. military—who are the best trained professionals in the world—to pursue an education in our state, which will be an economic boost, but most importantly, it's yet another means for us to thank these brave men and women for their service."

The Post-9/11 GI Bill is a Federal program designed to help our Nation's heroes acquire the skills necessary to build a successful career after military service. Our veterans served the Nation; not a particular state. They should not be penalized for

their honorable service when they cannot satisfy strict residency requirements for tuition purposes. The VFW regularly hears from student-veterans who confirm that financial uncertainty is the most significant roadblock to persistence and graduation. To combat this, it only makes sense to allow our student-veterans to attend college at a reasonable rate when seeking to use their earned Post-9/11 GI Bill benefits, and we hope the Committee moves quickly to pass this legislation.

S. 262, VETERANS EDUCATION EQUITY ACT OF 2013

The VFW understands that the goal of this bill is similar to that of S. 257. We thank Senator Durbin for taking this issue seriously and introducing legislation that seeks to offer more equitable reimbursement for student-veterans attending public schools. The VFW supported this initiative in the last Congress, but we must explain why we have withdrawn support this term.

This session, we believe we have better identified the problem. The problem is that recently-separated veterans cannot meet stringent residency requirements for in-state tuition because of their military service, and once enrolled, they cannot legally establish residency because of their status as full-time students.

S. 262 seeks to increase the compensation veterans attending a public school as non-residents can receive, but the VFW believes that throwing money at this problem does not solve it.

In the last few weeks, the VFW has learned that many interest groups representing higher education—particularly public colleges and universities—have rallied in support of S. 262 in lieu of offering in-state tuition to recently-separated veterans attending public colleges on the Post-9/11 GI Bill. To the VFW, these groups only see our veterans as dollar signs in uniform. We believe it would be irresponsible to put VA and the American taxpayers on the hook for more money when we know these schools can and should deliver a quality education at the in-state rate.

In the last session, this bill was a good stop-gap measure that would have lessened the financial burden on student-veterans attending public schools at the out-of-state rate. Unfortunately, this bill does not solve the problem. While we cannot support S. 262, we sincerely appreciate Senator Durbin's interest in this issue and we look forward to working with all stakeholders on a fair solution for our student-veterans.

S. 492

A bill to amend title 38, United States Code, to require States to recognize the military experience of veterans when issuing licenses and credentials to veterans, and for other purposes.

The VFW supports S. 492, and we thank Ranking Member Burr for his continued support to closing the civilian/military licensing and credentialing gap. This bill's language is also included as a part of S. 495, but we support this initiative as a stand-along bill as well.

This bill is a reasonable way to ensure that states will allow experienced military professionals to sit for licensing exams, while still ensuring states have the autonomy to issue professional licenses as they see fit. States will not have to relax their standards for professionals operating within their borders, but experienced veterans will not be unnecessarily burdened with satisfying duplicative training requirements.

S. 495, CAREERS FOR VETERANS ACT

The VFW supports S. 495, which is the latest iteration of Ranking Member Burr's veterans' jobs legislation from the end of last Congress.

The VFW continues to believe that this bill leverages existing resources in an effort to ensure our veterans have access to a variety of job opportunities within the Federal Government, and that private industry has quality incentives to hire and retain veterans.

This bill also extends additional protections for surviving spouses of veteran entrepreneurs by offering more time for survivors to continue the business as if it remained veteran-owned. The VFW has called on Congress to offer these kinds of protections for survivors and we encourage the Senate to take swift action on this.

S. 514

A bill to amend title 38, United States Code, to provide additional educational assistance under the Post-9/11 Educational Assistance to veterans pursuing a degrees in science, technology, engineering, math or an area that leads to employment in a high-demand occupation, and for other purposes.

The VFW supports S. 514, which seeks to provide additional educational assistance under the Post-9/11 GI Bill to better assist veterans pursuing a degree in science, technology, engineering, math or an area that leads to employment in a high-demand occupation. Currently there is high demand for jobs in these areas and our servicemembers stand to significantly contribute to these sectors through innovation and ingenuity. Unfortunately degrees in these kinds of programs can often cost more or last longer than other programs of education, which is why we support giving the Secretary the discretion to allocate additional funds for students participating in such programs as deemed appropriate.

S. 863, VETERANS BACK TO SCHOOL ACT OF 2013

The VFW supports Senator Blumenthal's proposal to reinstate the Veterans Education Outreach Program (VEOP). However, we do not support changing the delimiting dates on the Montgomery GI Bill, and cannot support this bill as drafted.

The VFW believes that extending Montgomery GI Bill eligibility to ten years after first use is not a sound policy for veterans. Unlike other veterans' benefits, Montgomery GI Bill beneficiaries signed a contract upon enlistment outlining the specific terms of their GI Bill benefits. While the VFW understands that veterans have paid into the program and that the nature of our economy has changed significantly since the Montgomery GI Bill was signed into law, we believe this sets a bad precedent for beneficiaries and creates unreasonable bureaucratic hurdles and unsustainable financial burdens for those who administer the benefit.

The VFW believes a more responsible solution to close the skills gap for veterans who are no longer entitled to VA education benefits is to extend eligibility for the Veterans Retraining Assistance Program (VRAP), which offers up to 12 months of Montgomery GI Bill-style benefits to unemployed veterans who are ineligible for other VA education programs.

The VFW would support stand-alone legislation to reinstate VEOP, which served as a critical resource for student-veterans transitioning into college life. While VA does offer some support to veterans on college campuses through VetSuccess on Campus, resources for this program are extremely limited and the scope of services provided are narrow. VEOP would ensure the anticipated 1 million veterans entering academic life the in the next few years would have all of the resources necessary to succeed on campus.

S. 894

A bill to amend title 38, United States Code, to extend expiring authority for work-study allowances for individuals who are pursuing programs of rehabilitation, education, or training under laws administered by the Secretary of Veterans Affairs, to expand such authority to certain outreach services provided through congressional offices, and for other purposes.

This bill is an extension and expansion of VA's authority to offer work-study allowances for student-veterans. The VFW has long supported the VA work-study program and we would proudly support this initiative to extend the program. The VFW also appreciates Chairman Sanders' effort to extend the program for the offices of Members of Congress. However, we believe that the draft bill should extend the authority to June 30, 2018, to match the extension offered in H.R. 1453.

S. 922, VETERANS EQUIPPED FOR SUCCESS ACT OF 2013

The VFW understands Chairman Sanders' goal with this legislation, but we have concerns over establishing two new government subsidy programs to hire and train veterans. First, the VFW believes that a new pilot program for on-the-job training (OJT) administered by Department of Labor is duplicative to VA's OJT program—particularly for the cohort of veterans 18–30 outlined in this legislation.

Veterans in this age demographic are already eligible to participate in VA OJT using their earned GI Bill benefits. Such OJT programs already have minimal bureaucratic hurdles for businesses to meet, and even officials involved in veterans' education admit that OJT is underutilized. Creating a new pilot program will only create confusion and additional bureaucratic hurdles for both businesses and veterans that wish to participate.

Next, the VFW is worried that government subsidies to hire young veterans and veterans near retirement age sets a bad precedent for the veterans' community. The VFW understands that these two groups of veterans have faced significant disadvantages in a down economy. However, we also believe that government subsidies will exacerbate misconceptions that such veterans are "charity cases" in need of a government hand-out for the opportunity to work.

Instead, the VFW has leaned heavily on resources that make the business case for hiring veterans by demonstrating how veterans can succeed in the workplace, such as recent reports from the Syracuse University Institute on Veterans and Military Families and the Center for a New American Security.

The VFW understands that these proposals are simply pilot programs, but we believe such new programs would create further confusion for veterans seeking to navigate the complex system of more than 18 Federal programs focusing on career readiness for servicemembers, veterans and dependents, as reported by the Government Accountability Office in 2012.

The VFW believes that the best way to ensure veterans find meaningful careers is to focus on professional development and credentialing while in uniform, bolstering transition services through the military Transition Assistance Program, fostering information-sharing across relevant Federal and state agencies when servicemembers separate, improving access to existing veterans' employment and training resources, and demonstrating to employers how veterans will contribute to their workforce.

The VFW understands that Chairman Sanders is very concerned about the high unemployment numbers facing our veterans. We thank the Chairman for his leadership on this issue and we look forward to helping move initiatives through this Committee that will make our most at-risk unemployed veterans marketable in the civilian workplace.

S. 944, VETERANS' EDUCATIONAL TRANSITION ACT OF 2013

The VFW thanks Chairman Sanders and Ranking Member Burr for their attention to this serious issue and for introducing legislation that seeks to address this major financial burden for many of our recently-separated student-veterans. However, the VFW prefers that S. 257, which has a companion bill that has cleared committee in the House, serve as the vehicle through which we offer our veterans reasonable in-state tuition protections while using their Post-9/11 GI Bill benefits.

The VFW applauds this bill for including protections for military dependents using transferred Post-9/11 GI Bill benefits, since the transience of military life often also precludes them from establishing residency for tuition purposes. We also support limiting the scope of the bill to cover students receiving GI Bill benefits. By adding this caveat, we ensure that schools can reasonably comply with the in-state tuition policy, since they can easily identify enrolled beneficiaries. We hope to see these provisions in any in-state tuition package that advances.

However, as drafted, this bill raises several major issues for the VFW. First, the VFW opposes any proposition that would give the Secretary of Veterans Affairs the discretion to waive compliance with the in-state tuition protection. School systems will have two years to come into compliance with the policy, meaning every state legislature will have an opportunity to address any state-specific issues caused by the change. The VFW believes that among the states that currently say they cannot comply, many will simply wait out the two-year compliance period and insist on an exemption from the Secretary. While the VFW believes that noncompliance would create a public affairs nightmare for these university systems, we can easily avoid this by insisting that public university systems who receive GI Bill compensation must comply with this reasonable protection for their student-veterans, as we outlined in our testimony in support of S. 257.

Next, the VFW is concerned that much of the language in S. 944 could be subject to broad interpretation by states that would allow them to quickly charge veterans as out-of-state students after the first semester. Specifically, Section 2(a)(3) allows schools to require veterans to "demonstrate an intent to establish residency in the State in which the institution is located." While this seems like a reasonable accommodation, the VFW recognizes that many states preclude students living in campus-owned properties from taking steps to demonstrate residency because their housing is considered temporary. In states where this is a factor, students are precluded from establishing domicile, registering to vote, or even changing their driver's license. The VFW can easily see a scenario where student-veterans who are forced to live in campus housing would only receive one semester of in-state tuition before the university deems them ineligible for failing to demonstrate intent to establish residency. The VFW suggests either striking this section or clarifying that a "letter of intent" would prove sufficient for student-veterans who cannot take other legal steps to establish residency.

Next, the VFW worries that language limiting service to 180 continuous days of active duty and two years post-separation excludes many veterans eligible for and currently using Post-9/11 GI Bill benefits. We recommend changing the date to 90 days to cover all Chapter 33-eligible veterans and changing the delimiting date to

cover all years of eligibility for both Chapter 30 and Chapter 33 programs. The VFW understands that the goal of the two-year delimiting date is to offer reasonable accommodation to transitioning servicemembers who cannot satisfy residency requirements due to military service. However, the VFW is also concerned that veterans who currently attend under Chapter 33 will not be covered by the two-year limit, and veterans who experience any lapse in enrollment or who enroll part time will lose their status as in-state for tuition purposes.

We understand that the Chairman and Ranking Member have put significant effort into a comprehensive bill that will protect student-veterans, but not place an unnecessary burden on school systems that seek to serve them. However, the VFW is worried that this legislation as drafted would still leave many student-veterans in a gray area, offering too much flexibility to school systems with no intention to comply.

We thank Chairman Sanders and Ranking Member Burr for their leadership on this issue, and we look forward to working with all stakeholders to ensure we can pass reasonable in-state tuition protections for currently-enrolled GI Bill beneficiaries and future student-veterans.

Additional Bills Under Consideration:

S. 6, PUTTING OUR VETERANS BACK TO WORK ACT OF 2013

The VFW supports this bill, which offers additional employment incentives and opportunities for recently-separated veterans like extension of VRAP and additional protections for veterans from employers who knowingly violate the Uniformed Servicemembers Employment and Reemployment Rights Act (USERRA).

S. 200

A bill to amend title 38, United States Code, to authorize the interment in national cemeteries under the control of the National Cemetery Administration of individuals who served in combat supports of the Armed Forces in the Kingdom of Laos between February 28, 1961 and May 15, 1975, and for other purposes.

The VFW has no official position on this legislation.

S. 294, RUTH MOORE ACT OF 2013

The VFW strongly supports this legislation and believes that it is long overdue. S. 294 would relax evidentiary standards for tying mental health conditions to an assault, making it easier for Military Sexual Assault (MST) survivors to receive VA benefits.

Current regulations put a disproportionate burden on the veteran to produce evidence of MST—often years after the event and in an environment which is often unfriendly—in order to prove service-connection for mental health disorders.

With the extraordinarily high incidence of sexual trauma in the military and the failure of many victims to report the trauma to medical or police authorities, it is time Congress amends this restrictive standard.

This legislation does that by providing equity to those suffering from Post Traumatic Stress Disorder, anxiety, depression and other mental health diagnoses that are often related to MST. It puts MST in line with VA's standard of proof provided to combat veterans who suffer from PTSD.

This bill will allow those who have suffered from sexual violence in the military to get the care and benefits they deserve. The VFW urges Congress to pass this legislation quickly, but we are also disappointed to see the House companion bill, H.R. 671, amended to only "direct" VA to improve its policies on Military Sexual Trauma (MST), weakening the original intent of the bill.

S. 373, CHARLIE MORGAN MILITARY SPOUSES EQUAL TREATMENT ACT OF 2013

The VFW has no official position on this legislation.

S. 430, VETERANS SMALL BUSINESS OPPORTUNITY AND PROTECTION ACT OF 2013

The VFW support S. 430 and the similar language included as part of Ranking Member Burr's S. 495. Survivors of veteran entrepreneurs must have reasonable protections to continue doing business as if the entity remained veteran-owned. The VFW has called on Congress to offer these kinds of protections for survivors and we encourage the Senate to take swift action on this either as stand-alone legislation or through S. 495.

S. 515

A bill to amend title 38, United States Code, to extend the Yellow Ribbon G.I. Education Enhancement Program to cover recipients of Marine Gunnery Sergeant John David Fry scholarship, and for other purposes.

A current statutory loophole excludes eligible dependents of a servicemember killed in action from enhanced tuition reimbursement available through the Yellow Ribbon Program. This simple legislative fix will provide Fry Scholarship recipients with the same benefits as other Chapter 33-eligible beneficiaries. The VFW proudly supports this bill and we encourage the Senate to quickly pass this legislation.

S. 572, VETERANS SECOND AMENDMENT PROTECTION ACT

The VFW supports S. 572, which would provide a layer of protection for veterans who might be seeking or undergoing mental health care for service-related psychological disorders from losing their Second Amendment right. Adding a provision that will require a finding through the legal system that the veteran's condition causes a danger to him or herself or others will prevent a veteran's name from being automatically added to Federal no-sell lists.

S. 629, HONOR AMERICA'S GUARD-RESERVE RETIREES ACT OF 2013

The VFW strongly supports this legislation, which would give the men and women who chose to serve our Nation in the Reserve component the recognition that their service demands. Many who serve in the Guard and Reserve are in positions that support the deployments of their active duty comrades to make sure the unit is fully prepared when called upon. Unfortunately, some of these men and women serve at least 20 years and are entitled to retirement pay, TRICARE, and other benefits, but are not considered a veteran according to the letter of the law. Passing this bill into law will grant Guard and Reserve retirees the recognition their service to our country deserves.

Critics are concerned that this bill will allow Guard and Reserve retirees to legitimize claims for other veterans' benefits like health care or education moving forward. The VFW disagrees because such retirees are already eligible to participate in military health care programs after age 65; they are still entitled to file a disability claim for injuries sustained during military duty; and they already have access to VA education programs like the Montgomery GI Bill Reserve Select or even the Post-9/11 GI Bill contingent on the nature of their military service.

S. 674, ACCOUNTABILITY FOR VETERANS ACT OF 2013

The VFW supports this bill, which will require other Federal agencies to promptly respond to a Secretary of Veterans Affairs request for information that will assist in adjudicating a VA claim for benefits. VA is held under focused scrutiny for the slow processing of claims for benefits. This bill will require agencies to provide VA with requested information within 30 days or provide a rationale and an estimated time of delivery. In passing this legislation, other agencies can be held accountable for any delays that are caused by their slow response for information required to adjudicate a claim.

S. 690, FILIPINO VETERANS ACT OF 2013

The VFW has no official position on this legislation.

S. 695, VETERANS PARALYMPIC ACT OF 2013

The VFW believes that rehabilitation through sports fosters healthy living, physical fitness, and a competitive spirit for our disabled veterans, many of whom have suffered catastrophic injuries in the line of duty. VFW Posts and Departments around the country consistently support rehabilitative sports in their communities, which is why we are proud to support extending VA's collaboration with United States Paralympics, Inc. through 2018.

By supporting responsible rehabilitative sports initiatives like those provided by the U.S. Paralympic Team, the VFW believes that combat-wounded veterans will not simply overcome their injuries, but also discover new personal strengths and abilities.

S. 705, WAR MEMORIAL PROTECTION ACT OF 2013

The VFW has no official position on this legislation.

S. 735, SURVIVOR BENEFITS IMPROVEMENT ACT OF 2013

The VFW is happy to support Chairman Sander's bill to expand Federal assistance to the nearly 350,000 surviving spouses and children receiving benefits from VA. Extending supplemental Disability Indemnity Compensation (DIC) payments to survivors with children from two years to five years gives survivors reasonable time to adjust to what is often a very difficult financial period in their lives.

By allowing those who remarry after age 55 to retain DIC, healthcare, housing and educational assistance, this bill fulfills a longstanding VFW goal to level the playing field for survivors of fallen servicemembers and other survivors who receive Federal benefits. Current law cancels benefits if a surviving spouse remarries before age 57.

The VFW also supports expanding spina bifida care to children whose parents served during the Vietnam era, but would recommend striking "exposure to herbicide agents" and replacing it with "service in Thailand" as the qualifier for benefits. We believe making this small change will lessen the burden of proof and offer timely access to health care, compensation and supportive services for affected children.

Finally, the VFW supports creation of a pilot program to provide grief counseling in retreat settings for surviving spouses. The retreat setting offers a unique and therapeutic environment for peer-to-peer support while helping to provide participants with the necessary tools to manage grief and begin the healing process. VFW has heard positive stories from a similar pilot program involving women veterans, and we are happy to support the same goals for those who lost a loved one on active duty.

S. 748, VETERANS PENSION PROTECTION ACT

The VFW supports the passage of S. 748. Current law allows VA pension claimants to transfer assets to lower their net worth prior to applying for pension benefits. Other means-tested assistance programs have a "look-back" period that prevents a claimant from disposing of assets below fair market value.

Because there is disparity between the programs, veterans who are seeking pension benefits from VA can put themselves into a "penalty period," precluding them from receiving assistance from programs like Medicaid for up to three years when applying for other assistance programs. Since VA lacks a "look-back," veterans are being solicited by financial institutions that state they can shelter assets and assist in successfully claiming VA pension. In many cases, these institutions are charging large service fees and in some cases placing the veteran's assets into annuities that cannot be accessed during their expected lifetime without withdrawal fees.

GAO released a report in June 2012, outlining the need for VA to adopt a "look-back" period when determining eligibility for VA's need-based pension. This bill would provide for a three-year look back and penalty period that could not exceed 36 months. In passing this legislation, VA will protect veterans from falling victim to aggressive marketing that can diminish their assets and prevent them from receiving other finical assistance when they need it most.

S. 778

A bill to authorize the Secretary of Veterans Affairs to issue cards to veterans that identify them as veterans, and for other purposes.

The VFW opposes the passage of S. 778, a bill to authorize the Secretary of VA to issue ID card to any veteran for use as validation of veteran status. The VFW believes that states are better suited to provide veterans with identification that verifies veteran status. Forty-three states already provide or are in the process of providing a "veteran" designation on state-issued driver's licenses or state issued non-driver's license ID cards. The infrastructure already exists within each state's Department of Motor Vehicles to provide picture identification to its citizens, whereas the VA would have to expand its capability to accommodate the increase in veteran requests for an ID card. The VFW encourages the remaining seven states to pass legislation to provide for veterans status on their existing state-issued driver's licenses and ID cards.

S. 819, VETERANS MENTAL HEALTH TREATMENT FIRST ACT OF 2013

The VFW does not support this legislation which would create a program of mental health care and rehabilitation for veterans who are diagnosed by a VA physician with service-related PTSD, depression or anxiety. Those who comply with the treatment regimen of the program would be paid a stipend during participation, not to exceed a total of $11,000. Although the VFW appreciates the effort to offer a new

approach to solving the difficult problem of mental health rehabilitation, we feel that this legislation contains serious flaws.

The VFW does not support the idea of asking veterans not to submit applications for disability compensation while participating in the program. Even with the payments for treatment that this bill would provide, we cannot support legislation that will require veterans to temporarily forgo any benefits to which they may be entitled. This is especially true in the case of a veteran who would ultimately receive a high rating for a mental health disorder, even after completing the program. The total monetary value of the wellness stipend could potentially be far less than that of an award of service-connected disability compensation, harming the veteran financially.

S. 868, FILIPINO VETERANS PROMISE ACT

The VFW has no official position on this legislation.

S. 889, SERVICEMEMBERS' CHOICE IN TRANSITION ACT OF 2013

The VFW recently testified in support of the House companion, H.R. 631, and we are proud to support Senator Boozman's bill. S. 889 reflects the changes recently passed by the House Veterans' Affairs Committee, clarifying that Department of Defense (DOD) must deliver the education component of the military Transition Assistance Program (TAP) to all interested transitioning servicemembers.

The VFW has long served as a vocal advocate for student-veterans, and we believe that TAP plays a critical role in ensuring that transitioning servicemembers are academically and financially prepared for college. The VFW has been generally satisfied with the newly-developed education curriculum for TAP, but we are concerned that the military had no plans to adequately deliver the training to those who need it, since participation in individualized tracked curricula will neither be mandatory, nor will sufficient staff be provided.

DOD has instead decided that servicemembers will need to meet "career readiness standards" in the track of their choice, including education. To the VFW, this does not satisfy the VOW to Hire Heroes Act mandate to deliver "assistance in identifying employment and training opportunities, help in obtaining such employment and training * * *" in accordance with title 10, U.S.C., § 1144 (a), since the goal of veterans' education benefits is to train veterans to enter the job market.

DOD insists that it is building a life cycle model for military professional development that will include education goals, but the VFW remains concerned that the new model will still fail to adequately prepare servicemembers for civilian life. We prefer the model set forth in S. 889, which acknowledges the finite timeframe services can dedicate to preparing separating servicemembers for civilian life, but also ensures potential student-veterans can make knowledgeable college choices.

S. 893, VETERANS' COMPENSATION COST-OF-LIVING ADJUSTMENT ACT OF 2013

Disabled veterans, their surviving spouses and children depend on their disability and dependency and indemnity compensation to bridge the gap of lost earnings and savings that the veteran's disability has caused. Each year, veterans wait anxiously to find out if they will receive a cost-of-living adjustment. There is no automatic trigger that increases these forms of compensation for veterans and their dependents. Annually, veterans wait for a separate Act of Congress to provide the same adjustment that is automatic to Social Security beneficiaries.

The VFW supports this legislation that will bring parity to VA disability and survivor recipients' compensation by providing a COLA beginning December 1, 2013, so long as VA disability, pension and survivor benefits continue to be calculated with the currently used Consumer Price Index—W, and not change the calculations for these adjustments to the Chained—Consumer Price Index.

S. 927, VETERANS' OUTREACH ACT OF 2013

The VFW often hears from veterans who are confused by the dearth of information about veterans' benefits, veteran-specific services, and community resources. Since 2001, thousands of new non-profit and community organizations have popped up, seeking to meet the needs of servicemembers, veterans and their families. Some provide tremendous resources and services, like the Wounded Warrior Project, Student Veterans of America, Fisher House, Team Rubicon, or Team Red White and Blue. Others have rightfully come under fire from charity watchdogs for seeking to exploit the good will of the American people.

Saturation of the marketplace and the availability of information through online and social channels have left many veterans confused. The VFW and our partners

in the veterans' community have seen this before and we proudly help any veteran who reaches out navigate this complex system to the best of our ability. But we can't do it alone.

Chairman Sanders' bill would insist that the Federal Government take a hard look at how it disseminates information about veteran-specific services to the men and women who need it. It seeks to improve coordination among Federal, state and community resources to ensure that information can be delivered in a timely manner. The VFW believes these efforts are long overdue and we are proud to support this legislation, and continue our work with Federal, state and local agencies who seek to inform veterans of the programs and services designed to serve them.

S. 928, CLAIMS PROCESSING IMPROVEMENT ACT OF 2013

The VFW generally supports the concept of this bill and we thank Chairman Sanders for his attention to the VA disability claims backlog. The current wait times to process VA disability claims remains woefully insufficient, and the VFW has consistently testified for nearly 20 years that the disability claims backlog demands leadership and decisive action.

We support many of the provisions in this bill, such as creating a study group to evaluate how VA administers work credit for claims processors, establishing a task force on training and retention for raters, providing education and training for transitioning servicemembers to assist in claims-processing, and streamlining how VA acquires military records.

However, the VFW has several concerns about the current bill. First, the VFW opposes reducing a veteran's appeal period from one year to 180 days. To the VFW, this clerical change will not affect the backlog, since rated claims are no longer considered pending. Instead, this will only hurt veterans who wish to appeal their rating decisions, and only further exacerbate VA bureaucratic hurdles when veterans seek exemptions from the 180-day filing period.

Next, the VFW wants to clarify that when VA requests records from the military, VA must summarize why they stop development after a second attempt to acquire records.

Next, the VFW worries that formally adopting VA's 125-day backlog goal, while ambitious, does not accurately reflect the steps required for proper claim development in certain circumstances. We also believe that is unnecessary to formally codify "pending," since this is already defined in VA regulations and introduces an unnecessary redundancy in the code.

S. 930

A bill to amend title 38, United States Code, to require the Secretary of Veterans Affairs, in cases of overpayments of educational assistance under Post-9/11 Educational Assistance, to deduct amounts for repayment from the last months of educational assistance entitlement, and for other purposes.

The VFW supports this bill, which would protect student-veterans from facing significant financial hardships and allow a student veteran to charge their individual overpayment to entitlement. A student-veteran's enrollment status can change month to month by adding or dropping units, or based on an institution's academic calendars. When these payments change so frequently, lack of due process and poor communication does not allow the veteran a reasonable path to understand whether or not they have received an overpayment in a timely manner.

The VFW understands that VA overpayments must be recouped in order for benefit programs to work efficiently, but the VFW is also concerned that debt collections for a benefit as complicated as the Post-9/11 GI Bill can cause significant financial hardships for both veterans and their schools. Organizations representing school certifying officials, like the National Association of Veterans Program Administrators (NAVPA), report that VA's assignment of debt collections to schools and students, as well as erroneous offsets have been inconsistent across the board.

By allowing VA to tack debts to the end term of a benefit, we offer veterans the flexibility to continue attending without facing potential financial hardships.

While the VFW supports this bill, we also recognize that this is just a stop-gap measure to protect student-veterans, but does not tackle the major issue through which schools and veterans report that VA poorly communicates the results of an assigned overpayment from the Regional Processing Office in a timely manner and can result in the recoupment of other Federal funds from schools through the Treasury's tax offset program which in turn may result in the school reassigning the debt to the student and/or placing a veteran's credit in jeopardy. Either way the student veteran's educational goals are in jeopardy. VA must clarify its policies on debt collections. Debt notices must be clear and both veterans and schools should be able

to take quick steps to resolve any outstanding debts. We look forward to working with the Committee to resolve this issue in an equitable way that not only protects veterans and schools, but also ensures VA can properly administer its benefit programs in a responsible manner.

S. 932, PUTTING VETERANS FUNDING FIRST ACT OF 2013

The VFW is proud to support this bill, which is a companion to H.R. 813. In March, VFW Commander-in-Chief John Hamilton made the case for why Congress needed to offer advance appropriations for all VA programs. Advance appropriations would prevent disruptions or delays to existing or proposed programs and services that occur when budgets are not passed in a timely manner. As we have seen with Advance Appropriations for VA's medical care accounts, when VA knows how much funding they will receive, they can better plan and more responsibly spend their annual budget. By including all accounts under Advance Appropriations, building projects will not be halted, IT development will not be delayed and essential services and staffing levels will not be threatened by arbitrary cutbacks.

S. 935, QUICKER VETERANS BENEFITS DELIVERY ACT

The VFW supports the intent of this legislation, but we have serious concerns with the bill as written. The VFW supports the provision to mandate VA's acceptance of private medical evidence that is competent, credible, probative, and otherwise adequate for purposes of making a decision on a claim. However, we believe that the bill must also clarify that VA must not order an additional exam for the veteran unless VA has provided a thorough explanation as to why the private medical evidence proved insufficient for establishing service connection and determining a rating.

Next, the VFW understands and supports the goal of lowering the threshold with which VA can deliver temporary disability ratings for veterans, but we believe the concept in this bill requires further development. The VFW believes that this bill would unintentionally incentivize VA to deliver temporary disability ratings with no required follow-up. The bill currently also exempts VA from considering claims with a temporary rating as "backlogged" for the purposes of reporting to Congress.

The VFW understands that the wait time for disability rating decisions remains a national embarrassment that demands innovative solutions. We thank Senator Franken for his attention to this issue and his continued support of our veterans. Though we cannot support this bill in its current form, we look forward to working with Senator Franken to craft a bill that will best serve the needs of our disabled veterans.

S. 938, FRANCHISE EDUCATION FOR VETERANS ACT OF 2013

The VFW is proud to support this bill, which will allow veterans to tap into their earned education benefits for established professional development programs offered by franchisors. The VFW has long held that the GI Bill is a professional development tool designed to help veterans secure the skills necessary to succeed in the marketplace. Allowing veteran franchisees to use their earned education benefits for legitimate industry training seems like a reasonable extension of non-degree professional training already offered through the GI Bill.

However, the VFW must ensure that State Approving Agencies, which already approve or disapprove on-the-job training and apprenticeship programs for GI Bill eligibility, also have oversight in approval and disapproval of franchise education programs to ensure training is relevant and necessary for the success of the franchisee.

Veterans, by nature, are more entrepreneurial than their civilian counterparts, and veterans who own franchises are more likely to succeed than civilian franchisees. Considering both of these factors, providing educational resources for veterans to operate their own franchises is a reasonable way to not only encourage business ownership among veterans, but also a way to foster success and build the economy with proven leaders.

S. 939

A bill to amend title 38, United States Code, to treat certain misfiled documents as motions for reconsideration of decisions by the Board of Veterans' Appeals, and for other purposes.

When a veteran seeks to appeal his or her rating decision with the Board of Veterans' Appeals, paperwork must be filed with the board in a timely manner. If the veteran fails to file within the designated time period, their motion to reconsider will be dismissed by the board. However, many times the paperwork is confusing

and veterans will mistakenly seek to file their motion to reconsider with the VA regional office of original jurisdiction for the claim. When this happens, the regional office must process the paperwork and forward it to the Board within the allotted time or the veteran's motion will be dismissed. To avoid this unreasonable burden on veterans who make a good faith effort to file a motion for reconsideration before the deadline, the VFW agrees that misfiled documents postmarked within the allotted time should also be treated by the Board as a motion for reconsideration. The VFW is proud to support this bill.

S. 1039, SPOUSES OF HEROES EDUCATION ACT:

The Marine Gunnery Sgt. John D. Fry Scholarship Program offers the surviving children of fallen servicemembers the opportunity to earn a quality education. This bill would expand Fry Scholarship opportunities to surviving spouses and the VFW is proud to support this initiative. Military spouses often must sacrifice careers of their own to support the service obligations of their loved ones. By extending this kind of educational opportunity to a surviving spouse, we demonstrate our commitment to serving not only the servicemember, but also the one ones they may leave behind.

S. 1042, VETERANS LEGAL SUPPORT ACT OF 2013

While the VFW understands the intent of this bill, we cannot support it as written. We have concerns about VA using funds from its Medical Services accounts to fund higher education programs. The VFW would prefer to see states that offer veterans treatment courts to work with law schools to provide legal resources to veterans.

S. 1058, CREATING A RELIABLE ENVIRONMENT FOR VETERANS' DEPENDENTS ACT

While VA has made considerable progress in mitigating the factors that contribute to veteran homelessness, the problem continues to disproportionately affect the veterans' community. Sadly, veterans of the current conflicts are experiencing homelessness in different ways.

The VFW supports this legislation as an additional resource in the fight to end homelessness among veterans. Recent statistics show that the number of homeless women veterans and homeless veterans with children are on the rise. Current VA programs do not provide adequate services for veterans with dependent children, leaving many without access to resources critical to finding and maintaining permanent housing.

Senator Heller's and Senator Murray's legislation would allow those who qualify as a grant recipient under Section 2011 of title 38, U.S.C. to also receive funding to furnish care for a dependent of a homeless veteran. By providing per diem payments for a dependent you will allow the veteran time needed to begin receiving supportive services designed to help them achieve stability, increase employment skills, and obtain greater independence.

VFW believes this is a wonderful example of how to strengthen partnerships within the community to help meet the goal of ending homelessness by 2015, and we urge the Committee to pass this bill quickly.

Chairman Sanders, Ranking Member Burr and distinguished Members of the Committee, this concludes my statement and I am happy to answer any questions you may have.

Chairman SANDERS. Well, let me begin by thanking you all not only for your excellent testimony this morning but for your years of service for veterans in this country.

What I have believed from day one when I assumed this position is that we cannot be successful unless we fully understand the problems and that we work with the service organizations who represent millions of veterans to try to find solutions for those problems. That is what we are going to do and that is what we are going to continue to do.

So, we may not be able to do everything everybody wants but I think, as I have heard this morning, you are aware that we are working on a very ambitious set of legislation and we are going to continue to do that.

We are holding a markup in about a month to go over some of these issues. We will be continuing our progress into next year. But, at the end of the day, I want to do my best with this Committee to make sure that within our limited financial resources, acknowledging that we cannot do everything we want to do.

We have a long list of every one of the issues that are of concern to the veterans community and do our best to address them all, health care, benefits, et cetera.

Let me start off by touching on an issue that some of you have touched on. I know you have gone on to other areas, important areas, as well—education, et cetera—but, I want to get back to the issue that we have perhaps heard most about in the last year and that is the backlog of claims.

My question is very simple. Do you believe the VA is making progress in addressing this very serious problem?

Mr. Hall, why do you not begin.

Mr. HALL. We believe that the VA is making progress, but we simply cannot ascertain the amount of progress that they have made because we have not been provided any type of milestone data.

Chairman SANDERS. As you know, that is exactly what we want to be able to do.

Mr. de Planque.

Mr. DE PLANQUE. I would absolutely like to associate myself with that. I am recalling the famous expression, "in God we trust, all others we verify." I mean I think there has been a very strong good faith effort by the VA. I think they are working very hard. We have had excellent discussions with some of the people in this room. The dialog——

Chairman SANDERS. Sorry to interrupt you. Do you feel you have access to the VA? Have you been able to give your views about where we should be going to the VA?

Mr. DE PLANQUE. Our staff has been able to communicate very well generally with the VA. However, in terms of having bench marks, milestones; are we meeting markers; what is the plan; what is the plan if we are going to get down to this 125 days and 98 percent accuracy.

If we are here, where do we need to be in 3 months from now, where do we need to be 6 months from now, where do we need to be a year from then? Those sorts of things we have not seen, but in terms of when we have a question we try to raise it and speak to the VA, it would be wrong to say that they are not communicative. They have been very communicative and they have tried to work with us.

The American Legion worked closely with VA and other groups who have worked with them on the fully developed claims process which has made an impact in processing time on some of the claims.

So, there are definitely ways that they are communicating with us. They are taking input. We would like to see more in terms of putting out benchmarks showing that they are reaching those markers and that some of the errors of the past are not made.

Chairman SANDERS. You know, that is exactly what our legislation proposes to do.

Colonel Norton, are we making progress or not?

Colonel NORTON. Yes, we are making progress. They are making progress, Mr. Chairman, but we continue to point out that the long pole in the tent is the electronic medical record or the lack thereof. We still need that. It is not there yet.

I would point out in commenting on the VA panel earlier that four out of every ten of initial claims that are coming into the VA today are from members of the National Guard and the Reserve.

In a recent hearing, General Hickey, in response to a question from Senator Tester, pointed out that there were, in her words, complications with getting National Guard and Reserve records.

So, we would like more information about the so-called DOD guarantee that by the end of this calendar year the records, the medical records, will be certified complete and available for adjudication.

We want to see that for the entire force, not just for the active duty force because so many of our National Guard and Reserve members, tens of thousands of them, have served two, three, and even four tours of active duty. They deserve the same speedy treatment as everybody else in the total force team.

Chairman SANDERS. How has your relationship been with the VA? Are they listening to what you have to say?

Colonel NORTON. Yes, they are listening. We have, I would say, a very good relationship. There are regular meetings with senior VA officials. They welcome us in. They listen to our thoughts. They provide good information. We support the team that is in place.

But we, too, join with our colleagues in wanting to see specific measurements set out to meet production and quality goals month to month as we move toward 2015.

Chairman SANDERS. We agree with you.

Mr. Gallucci.

Mr. GALLUCCI. Thank you, Chairman Sanders.

The VFW agrees with our partner organizations here at the table that the situation is improving. We also echo calls for specific benchmarks for how VA intends to meet its 2015 goal.

Specifically, we also support improving the information flow from the Department of Defense. One of our concerns was the announcement from DOD that they are going to once again solicit a new integrated health care record.

Our concern is also that they've guarantee to deliver electronically by the end of the year certified complete health care records. Our concern is if they deliver this electronically is it in PDF format or is it in a format that VA can easily read through its Vista system?

This seems to be a major problem for the military. I have seen it with colleagues of mine who served in Iraq and Afghanistan when their files go missing or when they cannot acquire them from DOD in a timely manner.

Chairman SANDERS. During your testimony, Mr. Gallucci, you and others touched on the higher education problems that we are having with tuition issues which I do not want to get into now. We take what you have said seriously.

Let me move to employment, which is a big issue. The bottom line, briefly, starting with Mr. Hall, what would you like to see us

do to make sure that we improve capabilities in terms of getting jobs for returning servicemembers?

Mr. HALL. Well, I think there is a lot of pretty good legislation that is geared at that and we would like to see that, you know, continue in that way; but I think the one thing that I would like to comment on specifically is the Transition Assistance Program in the military because that is where it starts. That would be the first leg of many steps that they have to do.

Chairman SANDERS. Are we making progress through that program? Is it an improved program?

Mr. HALL. According to our transition service officers there at military installations, there are improvements being made but I think there is still a lot of work left to do in that regard.

Chairman SANDERS. Mr. de Planque.

Mr. DE PLANQUE. In terms of, is the transition program better than the one I went through in 2005; it is head and shoulders better.

Is there still room for improvement? Absolutely. But I think that is an area that is being worked on and I think that is something essential in terms of that hand off. I think that is one of the reasons a lot of us have spoken about the GI Bill and tuition and the fact that protection of the in-state tuition rates goes away the second you step out of these services. That is kind of critical and we have seen a lot of examples with that.

Making more on-the-job training robust would be another thing, you know, that we would like to see improvements toward. I think that there are a lot of efforts toward that. I think managing that transition handoff is very important, but also not forgetting those servicemembers who transitioned 2 years ago and are still looking for work.

You know, we have to find ways to double back and make sure that we are not missing those people as they slip off of the statistics because, obviously, the longer you stay unemployed the more difficult it is to get back into the workforce.

It is a terribly difficult thing to go through and I know a number of people who have gone through it, particularly people who have served in the Guard and Reserve. We have talked about the Guard and the Reserve and having to keep one foot in the civilian world and one foot in the military world and constantly get jerked back and forth between those two places.

It is difficult to find employers who are going to stick with you through that. They are not going to say it up front that they are not hiring you because they are not happy about the possibility of losing an employee for a year but that certainly exists out there, so we need to look into more of those aspects, as well.

Chairman SANDERS. Thanks.

Colonel Norton.

Colonel NORTON. Thank you, Mr. Chairman. Let me preface my comment on the employment situation by saying that we have had in MOAA a very robust career transition services capability for many, many years.

Last year, we conducted hundreds of workshops for all grades, not just officers, around the country and we provided counseling for about 10,000 military men and women.

One of the things we emphasize is that it is not just about converting the military skill equally into some civilian skill. It is also about acquiring broader skills that help you transition into the civilian work force.

That is why we believe that your bill, S. 922, has potential. We do believe that it would have to be closely monitored. The pilot programs that are being set up certainly offer a great opportunity for our young veterans and our older veterans, as well, to gain or regain exposure and experience in the civilian workplace.

It is a different environment all together than what they have experienced on active duty. Many of these young men and women enter the Armed Forces at age 18. They have never had civilian work experience.

So, at the end of the day, it is about gaining a whole range of civilian-related skills and exposure that will then help to enable them to move forward.

We would like to see your bill used in conjunction with the VOW to Hire Heroes Act and the GI Bill, in other words, basically making it a work-study program. But we think you are headed in the right direction on that legislation.

Chairman SANDERS. Colonel, thank you very much.

Mr. Gallucci.

Mr. GALLUCCI. Thank you, Mr. Chairman.

There are a few points that we consistently hit on. We touched on many of them in our testimony on ways to improve the employment situation for veterans. One would be to extend and improve the VRAP program.

As my colleague, Colonel Norton, said, improving it to open access to 4-year institutions and also allowing eligible veterans to use it for certain kinds of remediation.

We have heard a number of great success stories of veterans who have taken advantage of VRAP but we have also heard stories of veterans who have hit bumps in the road in accessing their benefits.

An example that I used in my testimony was in Erie, Pennsylvania, where the University of Pennsylvania, Erie Campus, serves as a de facto community college. There are no community colleges in the area so VRAP-eligible veterans are fairly limited in the kinds of programs that they can access.

In addition to that, examining VA's on-the-job training and apprenticeship program in addressing your bill, S. 922, we did have some disagreement on the approach that it took.

Our main concern is the duplicity in a pilot program for on-the-job training and apprenticeships with what already exists at VA. But, that being said, it has come to our attention that in States like your homestate, Vermont, there is one person responsible for approving education programs who also has the collateral duty of approving on-the-job training and apprenticeship programs which means that their reach is very limited. Their capacity to approve those programs is also very limited so it does warrant looking at other options to make sure that veterans have those kind of opportunities.

Next, I want to build on what my colleague Jeff said about the Transition Assistance Program. It has certainly improved but our

main concern is access to those resources once a servicemember has left active duty.

We know that the Committee managed to move a pilot program to offer those resources to veterans after they leave the military last session. But, we want to make sure when we are talking about the transition GPS and the military life cycle of transition that we also take into account that many servicemembers do not know the kinds of problems they are going to face until they physically leave the military. You cannot anticipate all the challenges that you will face.

So, our recommendation to the Department of Defense, VA, Labor, and the other relevant agencies has consistently been to ensure that the veterans can access these resources whether it is the TAP briefings or the TAP modules after service even if it is through something as simple as the eBenefits portal.

Finally, ease of access to the tax credits and consistently working to build a career-ready force as my colleague, Colonel Norton, said in making sure that servicemembers can acquire skills that will translate once they leave the military.

Chairman SANDERS. Gentlemen, thank you very much for your testimony and your response to the questions. I do not need you to answer this publicly but as a favor I want you to be thinking about if we are going to improve and expand existing programs, we need money to do that; and one of the ways that I hope to find funds is I need your help in telling us what programs, in your judgment, are no longer working at the VA, no longer efficient.

I need your help basically to tell us where there is waste. We are looking at a budget of almost $150 billion. Not every nickel there is spent as effectively as it can be.

So as the world changes, we want the VA to change and become more efficient but I need your help to identify those areas as well. OK?

Gentlemen, thank you very much for being here today.

This meeting is now adjourned.

[Whereupon, at 12:01 p.m., the Committee was adjourned.]

A P P E N D I X

PREPARED STATEMENT OF HON. JOHNNY ISAKSON,
U.S. SENATOR FROM GEORGIA

I would like to thank Chairman Sanders and Ranking Member Burr for holding this hearing on pending benefits legislation. I remain committed to ensuring that the United States lives up to the promises we have made to our Nation's service men and women. The members of the Senate Veterans' Affairs Committee and other colleagues have worked diligently to address the needs of veterans from all eras, and I look forward to marking up these bills in the near future.

Of course, when we talk about veterans' benefits we must make sure that they are delivered in a timely manner to the veterans and their families. I continue to have concerns regarding the VA disability claims backlog, and I think the current situation is inexcusable. I will work with my colleagues on the Committee to ensure that any claim submitted is decided in a timely and accurate manner.

I would like to highlight a few bills that I have cosponsored and think will help address some of the needs veterans have.

I would like to thank Chairman Sanders for introducing S. 893, the Veterans' Compensation Cost-of-Living Adjustment Act of 2013. As compensation payments are based on the Consumer Price Index and historically tied to adjustments made to Social Security, I am proud to cosponsor this bill, which ensures veterans will receive a cost-of-living adjustment, too. I believe it is important that veterans are given proper compensation for the sacrifices made in service to our country, and am glad all of the Committee members have shown a similar commitment.

Next, I am an original cosponsor of S. 495, the Careers for Veterans Act of 2013, introduced by Ranking Member Burr. I believe we must enable servicemembers to translate the valuable skills they honed during their military service into successful civilian careers. It is important that the Federal Government be a model employer of veterans, and this bill requires that Federal agencies use the Veterans Recruitment Appointment authority to hire no fewer than 10,000 veterans into existing vacancies. The VA and the Department of Defense already use VRA extensively, and I think the rest of the Federal Government could benefit from it as well. This bill also enables veterans to use their military training to acquire credentials and licenses administered by the states. It requires states to develop examinations for the credentials and licenses for veterans to take without additional training or apprenticeships if they meet certain criteria. I believe that this bill will help veterans use their skills as effectively in the civilian workforce as they did during their military service.

I am happy to continue my support of the disabled veterans training or competing for the U.S. Paralympic Team. There are four grantees in the state of Georgia doing good work for disabled veterans. I am happy to cosponsor this bill and thank Senator Boozman and Senator Begich for introducing the bill this Congress.

Finally, I am an original cosponsor of S. 705, the War Memorial Protection Act of 2013. Our military has always fought to protect the rights enshrined in Constitution and the Bill of Rights, including the freedom to express religious beliefs. This bill would ensure that religious symbols, regardless of affiliation, are allowed to be part of military memorials that commemorate those who served or paid the ultimate price in service to their country.

PREPARED STATEMENT BY HON. MAZIE K. HIRONO, U.S. SENATOR FROM HAWAII

Thank you Chairman Sanders for your remarks.

Today we will be considering a number of bills related to veterans' benefits. Our Nation's veterans answered the call to duty and served and sacrificed in defense of liberty and freedom. Support for servicemembers and their families, whether on ac-

tive duty, during the transition back home, or as they settle into civilian life as veterans, is our country's responsibility.

While I have cosponsored a number of bills before the Committee today aimed to help fulfill our obligation to our Nation's veterans, I would like to focus on legislation related to Filipino World War II Veterans.

I want to associate myself with the testimony of my colleague from Hawaii, Senator Schatz, in support of S. 690, the Filipino Veterans Fairness Act.

Filipino veterans, many of whom live in Hawaii, are those that answered the call of President Franklin D. Roosevelt and served honorably alongside our Armed Forces during World War II. They fought shoulder to shoulder with American servicemen; they sacrificed for the same just cause.

President Roosevelt made a promise to provide full veterans' benefits to those who served with our troops but Congress denied these rights in passing the 1946 Rescission Act. And while we have made appreciable progress, we have not yet achieved the full equity that Filipino veterans deserve.

S. 690 would deem service in the organized military forces of the Government of the Commonwealth of the Philippines and the Philippine Scouts to have been active service for purposes of benefits under programs administered by the Department of Veterans Affairs (VA).

I want to thank the Military Officers Association of America for their support and urge my colleagues to support S. 690.

I recognize the concerns voiced by the VA and others on this bill and want to state that as a policymaker I think we should consider multiple proposals and ways to provide equity to these veterans.

I also wish to speak in support of S. 868, the Filipino Veterans Promise Act, I cosponsored with Sen. Heller which seeks to resolve issues surrounding the implementation of the Filipino Veterans Equity Compensation Fund.

The bill would establish a process to determine whether individuals claiming certain service in the Philippines during World War II are eligible for compensation from the fund despite not being on the National Personnel Records Center list used by the VA.

The American Recovery and Reinvestment Act of 2009 established the Filipino Veterans Equity Compensation (FVEC) Fund that provides a one-time benefit payment to eligible Filipino World War II veterans.

Over 45,000 claims were received and processed. While more than 18,000 claims have been approved, over 24,000 were denied and around 4,500 denied claims have been appealed.

To determine the Filipino veterans eligible for FVEC payment, the Department of the Army relies on an official Guerrilla list that was created in 1948 in the immediate post-war period.

However, many possible inaccuracies in the official Guerrilla list, which is maintained and searched by the National Archives' National Personnel Records Center (NPRC) in St. Louis, Missouri, have been identified. The NPRC has noted name variation issues and the existence of other U.S. records verifying service in addition to the Guerilla list. This has resulted in the reversal of denial decisions by the VA.

In light of evidence that the current process needs improvement and that these Filipino veterans are now in the 80s and 90s, the urgency to resolve this issue cannot be emphasized enough.

I look forward to working with the Committee, Secretary Shinseki, and Secretary Hagel on this issue and urge my colleagues support these bills.

PREPARED STATEMENT OF HON. HARRY REID, U.S. SENATOR FROM NEVADA

Mr. Chairman, For over a decade, we have sent men and women into battle. After two wars, we have spent hundreds of billions of dollars, tens of thousands have come back wounded, and 6,709 servicemembers have paid the ultimate price. Moreover, as our Nation's heroes transition into civilian life, they are increasingly faced with a new battle—trying to find a job.

Unemployment is an issue facing all Americans, especially in Nevada, but veteran unemployment numbers are routinely higher than the national average. In fact, as of March 2013, roughly 783,000 veterans were unemployed and looking for work, including 207,000 post-9/11 veterans. For me, this is simply shameful. Our servicemembers who are currently fighting to protect the freedoms we all enjoy should be focused on the task at hand, not worried about what they will do when they come home. And those who have already left the military should be able to put the skills and experience they have developed in the most highly trained military in the world to use.

To combat this problem, I introduced one of the first pieces of legislation during the 113th Congress: the Putting our Veterans Back to Work Act of 2013 (S. 6). Whether by equipping veterans with the skills they need to succeed in today's workforce or helping them get their own small businesses off the ground, this bill honors the sacrifice of the men and women who served in our Armed Forces and builds upon the great work the Senate Veterans' Affairs Committee has undertaken in the past several years to help veterans find jobs.

Specifically, this legislation reauthorizes the transition, retraining, and employment services created by the VOW to Hire Heroes Act. It also further enhances the VOW to Hire Heroes Act by creating a new, unified, online employment portal for veterans seeking information regarding Federal employment and jobs training resources; provides grants to first-responders for hiring and re-hiring needs; and directs agency heads to favorably consider contractors that employ a significant number of veterans for contracts of $25 million.

S. 6 is also instrumental in strengthening our vow to protect employment rights for all veterans. This legislation enables the Attorney General to investigate and file suit against a pattern or practice of Uniformed Services Employment and Reemployment Rights Act (USERRA) violations by a state or private employers; allows Federal agencies to suspend and debar Federal contractors who repeatedly violate the employment and reemployment rights of members of the Armed Services; and provides the Special Counsel with authority to subpoena attendance, testimony, and documents from Federal employees and agencies in order to carry out investigations related to USERRA.

Finally, this legislation helps veteran small business owners. S. 6 codifies the Patriot Express Loan Program into law. This program has been an invaluable resource for small businesses owned by veterans, servicemembers, and their families by providing loans of up to $500,000. This legislation also raises the Small Business Administration Surety Bond Cap to $5 million, enabling many veteran-owned small businesses to compete for larger contracts.

I appreciate Chairman Sanders and the Veterans' Affairs Committee for taking the time to consider this valuable piece of legislation that is so badly needed. Putting veterans back to work is a key priority for Senate Leadership during the 113th Congress, and moving forward, you can count on my support in working with the Veterans' Affairs Committee to ensure that our Nation's commitment to veterans does not end with their tours of duty.

PREPARED STATEMENT OF HON. G.K. BUTTERFIELD,
U.S. REPRESENTATIVE FROM NORTH CAROLINA

Chairman Sanders and Ranking Member Burr, Thank you for the opportunity to submit written testimony to your committee. I regret that I was unable to testify in person.

I urge the Committee to support S. 262, the Veterans Education Equity Act of 2013, introduced by Senator Dick Durbin (IL). I introduced identical legislation in the House of Representatives in the 112th and 113th Congresses. The Veterans Education Equity Act seeks to equalize veterans' tuition and fee benefits under the Post-9/11 G.I. Bill by resolving an inequity in the existing law that unintentionally allots more education funds to veterans enrolled in private colleges than those in public institutions. Last Congress, the House Veterans' Affairs Subcommittee on Economic Opportunity held a legislative hearing on an identical version of the Veterans Education Equity Act.

Enacted in January 2011, the Post-9/11 Veterans' Educational Improvements Assistance Act caps the amount of education benefits for veterans enrolled in private colleges at $18,077.50, and limits the education benefit for veterans who attend public colleges to the amount charged for in-state tuition and fees. This law unintentionally burdens a significant number of American veterans, requiring them to pay thousands of dollars out-of-pocket in non-resident tuition and fees. In certain states, this can add up to more than $100,000 in costs, which has resulted in veterans dropping out of college, transferring to another school, or assuming significant student debt. The Veterans Education Equity Act is essential to more than 20,000 veterans who are paying for school out-of-pocket although they were promised full funding for their college education.

The table below illustrates how S. 262 would improve current law by showing its impact on Post-9/11 G.I. Bill education aid available to veterans at four institutions in North Carolina:

Institution	In-state tuition and fees 2012-2013	Out-of-state tuition and fees 2012-2013	Total out of pocket cost for non-resident under current law	Total out of pocket cost for non-resident under *Veterans Education Equity Act*
Elizabeth City State University (Public) Elizabeth City, North Carolina	$2,776	$13,633	$10,857	$0
East Carolina University (Public) Greenville, North Carolina	$3,959	$18,072	$14,113	$0
North Carolina Central University (Public) Durham, North Carolina	$3,455	$14,028	$10,573	$0
Chowan University (Private) Murfreesboro, North Carolina	$11,405	$11,405	$0	$0

At Elizabeth City State University (ECSU), in-state tuition and fees are $2,776 per year and out-of-state tuition and fees are $13,633. Under current law, a veteran with North Carolina residency attending ECSU would have his full tuition covered. A veteran who is not a resident of North Carolina would be charged $13,633 but only receive $2,776 in education benefits, so he would owe $10,857 out-of-pocket. However, if that veteran chose to attend Chowan University which costs $11,405, his education benefits would cover full tuition and fees. The Veterans Education Equity Act would equalize benefits for veterans who choose to attend public or private institutions.

Last year there were 516 veterans at University of North Carolina institutions and 667 veterans in North Carolina Community Colleges who would be immediately impacted should this bill become law. In my District, Air Force veteran Edward Bailey, who attended East Carolina University (ECU), faced $6,000 in charges before classes began in fall 2011 after the Post-9/11 Veterans' Educational Improvements Assistance Act became law. He was forced to take out a $5,000 loan and borrow $1,000 from friends to stay in school. In his final year of school, he was forced to pay for $30,000 in tuition and fees. Marine Corps veteran Nan Lopata, who also attended ECU, received G.I. benefits to cover full tuition and fees for her first semester in spring 2011, only to face $6,800 in charges before her second semester in fall 2011. She was unable to afford to continue as a full-time student, delaying her graduation. But worse, she must shoulder her misfortune without relief because the United States did not honor their commitment to her. Two other students attending ECU—James and Mary Murtha—received full tuition G.I. benefits for their first three academic years before receiving bills in fall 2011 totaling $38,000 to complete their senior years. Their father, active duty Marine Corps Colonel Brian Murtha, was forced to withdraw $36,000 from his retirement funds. We owe it to veterans and their families to protect the benefits they were promised when they joined our military.

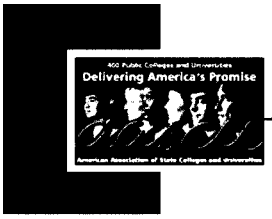
I am concerned that the alternative legislative approach being considered in this hearing, S. 257, would create unintended consequences that could negatively impact veterans and our higher education system. The bill would require every public institution, as a condition of participating in the Post-9/11 G.I. Bill program, to charge every veteran no more than the in-state rate. In the vast majority of states, public institutions do not have the authority to grant in-state tuition rates to out-of-state veterans—those decisions are a matter of state law controlled entirely by the state legislature. If a state legislature is unable or unwilling to make the changes called for in this bill, all veterans would be prohibited from using their Post-9/11 G.I. Bill benefits to attend that state's public institutions. While I appreciate and share the goals of the bills' sponsors, the legislation would allow an inappropriate level of Federal intrusion and would result in significant harm to veterans' ability to attend public institutions of their choosing. In my home state of North Carolina, there are many outstanding public institutions such as North Carolina Central University, East Carolina University, and Elizabeth City State University; to name a few, that are providing veterans with an excellent education and important support programs and services.

S. 257 is an unfunded mandate which sets a dangerous precedent by shifting responsibility for veterans' benefits from the United States Department of Veterans Affairs (VA) to the states. The bill is significantly more expensive to taxpayers than the Veterans Education Equity Act which focuses specifically on correcting the inequity in current law for the 20,000 veterans who are impacted. The actual cost and impact of S. 257 is uncertain and warrants further investigation. In fact, in an April House subcommittee hearing on identical companion legislation, VA Deputy Under Secretary for Economic Opportunity Curtis L. Coy testified, "VA cannot offer support for this legislation because of its uncertain impact on the availability of edu-

cational choices for Veterans, Servicemembers, or their dependents." I strongly agree with Mr. Coy's assessment: S. 257 should not move forward until such time as the Committee can assure itself that the bill will not result in unintended and negative consequences for veterans.

We owe our veterans every opportunity to get a quality education and enter the workforce with the tools needed to compete. Our broad coalition including 45 cosponsors and seven higher education groups urge the Committee to consider the positive impacts this legislation will have for our Nation's veterans. If we do not correct this problem, up to 20,000 veterans could face paying as much as $100,000 in out-of-pocket tuition costs in a tough economy, and at a time when 9.2 percent of veterans are unemployed. Let's treat all of our veterans fairly by passing the Veterans' Education Equity Act out of committee and helping it become law.

Enclosure from the American Association of State Colleges and Universities follows.



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January 29, 2013

The Honorable G.K. Butterfield
United States House of Representatives
2305 Rayburn House Office Building
Washington, DC 20515

The Honorable Richard Durbin
United States Senate
711 Hart Senate Office Building
Washington, DC 20510

Dear Congressman Butterfield and Senator Durbin:

I am writing on behalf of our associations, which represent more than 1,000 colleges and universities, to indicate our support for the Veterans Education Equity Act of 2013. This bill would help ensure that our veterans receive the necessary education and training to succeed upon entering civilian life. In the last three years, the Veterans Administration has provided benefits to 870,000 veterans and their families thus enabling them to attend college. This number is expected to increase as the conflicts in Iraq and Afghanistan draw to an end. Your bill would correct the unintended and unfortunate treatment of non-resident veterans attending public institutions that resulted from the passage of the Post-9/11 Educational Improvements Assistance Act.

The original Post 9/11 GI Bill created a state-by-state formula for determining benefit payments for tuition and fees. This resulted in nearly every veteran who attended a public college or university receiving benefits that covered his or her cost of tuition and fees regardless of their state of residency. The Post 9/11 Veterans Educational Improvements Assistance Act limited the education benefit for those enrolling in public institutions for both resident and non-resident students at the amount charged for in-state tuition and fees. It capped the education benefit for veterans enrolling in private schools at $18,000.The Veterans Education Equity Act of 2013 would correct this imbalance and allow out-of-state veterans attending a public institution to receive up to $18,000 in education benefits for the 2012-2013 school year.

We understand that many veterans groups support this bill. We believe that given the high unemployment rate among veterans, we should give them the tools and resources they need to succeed in the workplace. Your bill is an excellent step toward achieving this goal. Thank you again for your leadership.

Sincerely,

Muriel A. Howard, Ph.D.
President
American Association of State Colleges and Universities

On behalf of:
American Council of Education
American Association of Community Colleges
Association of Public and Land-Grant Universities
Association of American Universities
National Association of Independent Colleges and Universities

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PREPARED STATEMENT OF DR. MURIEL A. HOWARD, PRESIDENT, AMERICAN ASSOCIATION OF STATE COLLEGES AND UNIVERSITIES (AASCU)

Thank you Chairman Sanders, Ranking Member Burr, and other distinguished Senators for affording me this opportunity to submit testimony on the role of AASCU institutions in providing affordable access to higher education for our veterans; I commend the Committee for exploring this topic. My name is Dr. Muriel Howard and I have the honor of serving as the president of the American Association of State Colleges and Universities (AASCU). Now in its 51st year, AASCU is a national leadership association consisting of over 400 presidents, chancellors and system heads of public four-year colleges and universities. The group is diverse in its membership, ranging from small, liberal arts institutions enrolling a few hun-

dred students to research-intensive universities that enroll tens of thousands of students.

AASCU will be providing written testimony on two bills before the Committee: S. 257, the proposed "GI Bill Tuition Fairness Act of 2013," and S. 262, the proposed "Veterans Education Equity Act of 2013." Both bills would essentially provide in-state tuition rates for our veterans, something AASCU as an organization strongly supports. However, we have significant concerns about the mechanism used in S. 257 that would shift the cost burden for Post-9/11 GI Bill Benefits from the Federal Government to the states. Since many institutions of higher education do not have independent tuition-setting authority, 40 state legislatures would need to change state laws in order to comply with the bill. Many states have enacted minimum residency requirements that students must meet to be eligible for in-state tuition rates. For example, in the District of Columbia, to receive the in-state tuition rate, a veteran must reside in the District for a full year to become eligible. We have concerns regarding the practicality of having multiple states change their laws regarding in-state tuition for veterans in a short period of time. Thus, we conclude that S. 262 includes language that is a preferred method for providing in-state tuition. The procedure in S. 262 would avoid confusing our veterans and not put additional stress on overburdened state budgets still recovering from a recession.

S. 262—THE VETERANS EDUCATION EQUITY ACT

In short, The Veterans Education Equity Act addresses the unintentional harm to veterans enrolled as out-of-state students at public institutions of higher education resulting from the passage of the Veterans Educational Assistance Improvements Act, Public Law 111–377. After passage of the 9/11 Veterans Educational Assistance Act of 2008, the Department of Veterans Affairs (VA) began the unenviable task of implementing the legislation in a very short period of time. The VA established a tuition and fee payment schedule for each state in order to do so. In creating this structure, the VA separately determined the highest amount in tuition and in required fees charged to a student attending a public institution, rather than combining tuition and required fees into one amount as is the standard practice in higher education billing procedures. This structure resulted in veterans attending public institutions having all or nearly all of their tuition and fee charges paid via their Post-9/11 GI Bill benefits regardless of whether they were considered an in-state or out-of-state student.

The major focus of Public Law 111–377 was to revamp the tuition and fee structure first established by the VA. The legislation established two criteria: those veterans attending public institutions would receive benefits equal to in-state tuition and fee charges, while veterans attending private institutions would receive the lesser of $18,000 or their actual charges for tuition and fees. Congress, when drafting this legislation, thus created an inequity considerably reducing benefits for those veterans attending public institutions located outside of their home state. The benefit for in-state tuition and fee charges is worth, on average, about $8,655 per year and does not pay the full tuition and fee costs at public institutions located outside a veteran's home state. Out-of-state tuition and fees at public four-year institutions averaged $21,706 in 2012–13 (College Board Trends in Pricing, 2012, p. 3). On the contrary, if one of our veterans chooses to attend an out-of-state private institution, he or she will automatically qualify for up to $18,000 per year. Simply put, a veteran who chooses to attend a public institution is entitled to, on average, less than half of the benefit of a veteran who chooses to attend a private institution. S. 262 would remedy this inequity.

AASCU supports S. 262 as the preferred method to provide in-state tuition for our veterans. We believe that this bill would not shift additional cost burdens on institutions and states along with providing what amounts to in-state tuition by leveling off the payment disparity between public and private colleges. Finally, this bill would avoid creating additional confusion for our veterans. Forty states would not need to update state laws in order to be eligible to receive benefits from the Federal Government.

S. 257—THE GI BILL TUITION FAIRNESS ACT

S. 257 would require the Secretary of Veterans Affairs to deny GI Bill benefits to veterans who are not charged in-state tuition rates. Moreover, this bill would not allow any veteran or their dependents enrolled at a public institution to receive GI Bill benefits if that institution does not offer in-state tuition to all veterans. As stated previously, AASCU strongly supports offering in-state tuition rates to veterans. However, we are concerned that this bill could create more problems than it actually solves.

S. 257, as currently written, would require institutions to convince state legislatures to alter their tuition laws on a state-by-state basis. Currently only 10 states provide in-state tuition to veterans regardless of their state of legal residence. We do not think it is realistic to expect 40 states to substantially amend their state tuition laws prior to August 1, 2014.

It is important to remember that the majority of public colleges and universities in the United States do not set their individual tuition or control the state policies governing tuition. Postsecondary tuition policy in the remaining 40 states is set by state legislatures, a statewide coordinating board, or other state entities with authority to set tuition for institutions. In addition, many states have established clear criteria for who is eligible to receive in-state tuition benefits. Currently, only 10 States offer in-state tuition to qualified veterans immediately after they move into the state. Thus, state legislatures would ultimately be required to change the residency treatment of veterans. This is a potentially difficult obstacle in many states.

Given the complexity of tuition-setting policies across 40 states, it is quite likely that institutions will not be legally permitted to charge in-state rates regardless of their desire to serve veterans. Veterans seeking to enroll in public institutions in those states would need to find other, more than likely costlier, programs in order to utilize their GI Bill benefits. Veterans would be forced to either move to a state that offered in-state tuition, go to a more expensive private nonprofit institution, attend a for-profit college or abandon their plans to attend college.

This will create a scenario of confusion since many veterans arrive on campus with the full expectation of receiving their GI Bill benefit. Public institutions would be forced to inform veterans that they would not be eligible to use those benefits in states where in-state tuition has not been specifically approved for veterans. Further, no new additional veterans, whether designated in-state or out-of-state residents, would be permitted to use their GI Bill benefits in the state. Thus, AASCU envisions further confusion which could potentially discourage veterans from pursuing any postsecondary education as well as creating a negative atmosphere toward veteran-friendly public institutions that are legally bound by the laws of the states in which they are located.

Veterans usually decide to remain in local communities after the end of a tour of duty in a specific location where they may not be considered state residents for a variety of reasons including their minor children being already established in local K–12 schools (particularly those minor children with special needs), their spouses' employment, their family's integration into the local community, their caregiving responsibilities for other family members, and so forth. If they are located in a state that is unable or has yet to alter residency treatment for veterans, significant disruption to the family unit could occur. A veteran would explore options at a campus, not be able to use their GI Bill benefits there, and be forced to move to a state offering in-state tuition in order to receive their benefits. Passage of this measure would create a hodge-podge of eligible and ineligible states.

Further, we ask if the Committee has considered the treatment of a veteran who is forced to move to another state as a result of family obligations such as caring for an ill or aging parent? If a veteran is attending classes at an institution within a state that has automatic in-state tuition eligibility for veterans, but moves to one that does not in order to satisfy family obligations such as caregiving, the veteran, through no fault of his or her own, will no longer be eligible to use GI Bill benefits in order to complete coursework.

It may also be instructive for the Committee to understand the nature of in-state versus out-of-state tuition and fee rates. One way of looking at an established out-of-state rate is to consider it as the full cost to the institution of educating a student. Since public institutions receive support from the state in order to provide its residents with an education—a priority of the state—the in-state tuition and fee rate reflects the cost to the institution after factoring in the state subsidy. Thus, an in-state rate is supported by state taxpayers. Out-of-state surcharges, therefore, are an attempt for the state to recoup the costs of educating those students whose education has not been supported by state taxpayers. Passage of this bill would shift paying for veterans' education—established under the original post-World War II GI Bill and all its successive iterations as a Federal Government obligation—to the states, but only for veterans attending public institutions.

This inequitable treatment would punish public institutions—and only public institutions for the legal inability to set their own tuition and fees. It would not affect private non- and for-profit institutions that charged, on average respectively, $29,056 and $15,172 for tuition and fees in 2012–13 (College Board Trends in Pricing, 2012, p. 10). Thus, it would end up costing veterans—and public institutions, that educate the majority of Americans—rather than helping them. Therefore, AASCU does not support the punitive aspects of S. 257.

PREPARED STATEMENT OF MAX CLELAND, SECRETARY, AMERICAN BATTLE MONUMENTS COMMISSION

S. 705—WAR MEMORIAL PROTECTION ACT OF 2013

Mr. Chairman and Members of the Committee: Thank you for the invitation to submit written testimony on S. 705, the "War Memorial Protection Act of 2013."

The American Battle Monuments Commission believes its existing statutory framework provides the Commission with sufficient authority to execute its mission. Accordingly, we would not expect S. 705 to have any impact on Commission authorities or operations.

LETTER FROM AMERICAN COALITION FOR FILIPINO VETERANS, INC.

American Coalition for Filipino Veterans, Inc.
E-mail: *usfilipinoveterans@gmail.com*
867 North Madison St., Arlington VA 22205
http://usfilvets.tripod.com
202-246-1998

June 12, 2013

The Honorable Bernard Sanders
Chairman Senate Veterans Affairs Committee
& Members of the Committee
412 Russell Senate Bldg.
Washington DC 20510

Submitted for the Committee Hearing record

RE: The Filipino Veterans Fairness Act and the Promise Act

Dear Chairman Sanders and Committee Members:

On behalf of the members and leaders of the American Coalition for Filipino Veterans, a national advocacy organization, we the undersigned officers proudly endorse these two timely bills: the Filipino Veterans Fairness Act (S. 690) of Senator Brian Schatz and the Filipino Veterans Promise Act (S. 868) of Senator Dean Heller.

Both bills require the Secretaries of the VA and Defense Departments to establish a process to determine eligibility for Filipino soldiers who served in the U.S. Army in WWII. These bills address the 24,812 denied claims and 4,525 appeals like in the case of Mr. Celestino Almeda, 96, our spokesman.

S. 690 requires the VA Secretary to "take into account any alternative documentation regarding such service, including documentation other than the Missouri List, that the Secretary determines relevant."

S. 898 requires the Defense Secretary "to establish a process to determine whether individuals claiming service in the Philippines during World War II are eligible for certain benefits despite not being on the Missouri List."

In 1946, these Filipino soldiers were honorably discharged by the U.S. Army, were provided with official documentation and were paid by the Philippine Commonwealth Army of the United States. Unfortunately, thousands of our Filipino heroes were denied official recognition and veteran benefits because they were not included in the "1948 Missouri List" of the U.S. Army.

If enacted into law, these bills would compel the U.S. Army Department and the VA to update their policies and procedures to recognize the meritorious Filipino veterans' claims. The Filipino Veterans Equity Compensation fund has about $35 million remaining and sufficient to cover future awards.

We deeply appreciate your leadership and today's committee's hearing and the mark up in July of the Schatz and Heller bills. We applaud you - our champions and bipartisan co-sponsors. We urge Congress to pass this legislation to fix a historical wrong by correcting an incomplete list of our heroes.

Maraming salamat or many thanks!

Sincerely yours,

PATRICK GANIO SR.	FRANCO ARCEBAL	ERIC LACHICA
President	Vice President-Membership	Executive Director

LOS ANGELES: Franco ARCEBAL 213-626-0485 WASHINGTON DC: Eric LACHICA & Celestino ALMEDA
SAN DIEGO Bert ANDRADE SAN FRANCISCO: Regino NACUA & Lolita RAMOS SAN JOSE: Sarah GONZALEZ
DELANO: Ernesto ANOLIN SACRAMENTO: Monina NUEGA SEATTLE: Conrado RIGOR or Thelma Sevilla
HAWAII: Art CALEDA & Pastor GARCIA LAS VEGAS: Ceasar ELPIDIO PHILADELPHIA: Senen FONTANILLA
NEW JERSEY: Jose RED NEW YORK: Rafael DE PERALTA FLORIDA: Patrick GANIO Sr. & Dick AQUINO

PREPARED STATEMENT OF LAURA W. MURPHY, DIRECTOR; VANIA LEVEILLE, SENIOR LEGISLATIVE COUNSEL; AND ELAYNE WEISS, LEGISLATIVE ASSISTANT, WASHINGTON LEGISLATIVE OFFICE, AMERICAN CIVIL LIBERTIES UNION

On behalf of the American Civil Liberties Union (ACLU) and its more than a half million members, countless additional supporters and activists, and 53 affiliates nationwide, we commend the Senate Veterans' Affairs Committee for bringing attention to the problems survivors of military sexual trauma face when applying for disability benefits from the Department of Veterans Affairs (VA).

For decades, the ACLU has worked not only to end discriminatory treatment within our military,[1] but also to prevent and respond to gender-based violence and harassment in the workplace and to ensure women's full equality. The ACLU also works to hold governments, employers and other institutional actors accountable so as to ensure that women and men can lead lives free from violence.

Over the last several years, Congress, the Department of Defense and the VA have grappled with the scourge of sexual harassment, sexual assault and rape within the military. Although a variety of proposals have been implemented and some progress has been made to prevent and respond to sexual assault, sexual harassment and rape in the military, the problem is deeply-rooted and persists. More than 3,300 reports of sexual assault were made in FY 2012,[2] but we know that the incidence of sexual assault is significantly underreported. The Pentagon estimated that 26,000 incidents of sexual assault occurred in 2012 alone,[3] and that one in three women serving in the military has been sexually assaulted.[4] While such statistics alone are alarming, the problem of military sexual assault is compounded by the fact that servicemembers who leave the service find that the trauma they experienced as a result of sexual assault is not adequately recognized by the VA.

The ACLU supports the Ruth Moore Act of 2013 (S. 294), which would remove current barriers that far too often prove insurmountable for sexual assault survivors who apply for disability compensation for Post Traumatic Stress Disorder (PTSD) and other mental health conditions. Congress should act quickly to enact this legislation.

I. CONGRESSIONAL ACTION IS NEEDED TO EASE THE EVIDENTIARY BURDEN OF PROOF SURVIVORS OF SEXUAL ASSAULT MUST MEET WHEN SEEKING DISABILITY BENEFITS.

Veterans who were sexually assaulted during their service in our Armed Forces, and who now seek disability benefits, for conditions such as PTSD and depression, face enormous barriers. Data obtained through a FOIA lawsuit, filed in 2010 by the ACLU and the Service Women's Action Network (SWAN) against the VA and the Department of Defense, shows that only 32 percent of PTSD disability claims based on military sexual trauma were approved by the Veterans Benefits Administration (VBA), compared to an approval rate of 54 percent of all other PTSD claims from 2008–2010. Moreover, of those sexual assault survivors who were approved for benefits, women were more likely to receive a lower disability rating than men, therefore qualifying for less compensation.

Despite the disparity in approved claims uncovered by the FOIA lawsuit, the VA has indicated that it is unwilling to amend 38 CFR § 3.304(f), the current regulation governing the claims process for PTSD.[5] In 2011, the VA issued a "fast letter" to all VA Regional Offices (VAROs) reiterating the current policy while also emphasizing that the regulation should be interpreted liberally to give a veteran's claim

[1] Most recently, In November 2012, the ACLU initiated a lawsuit, on behalf of the Service Women Action Network and other plaintiffs, against the Department of Defense challenging the ground combat exclusion. Over the years, we have also successfully challenged military recruitment standards and military academy admissions policies that discriminated against women; fought for servicewomen to receive the same military benefits as their male counterparts; and defended the rights of pregnant servicewomen; and advocated for servicewomen's access to reproductive health care.

[2] DEPARTMENT OF DEFENSE, ANNUAL REPORT ON SEXUAL ASSAULT IN THE MILITARY: FISCAL YEAR 2012, VOLUME I, 3 (2013), available at http://www.sapr.mil/media/pdf/reports/FY12_DOD_SAPRO_Annual_Report_on_Sexual_Assault-VOLUME_ONE.pdf.

[3] *Id.* at 25.

[4] James Risen, *Military Has Not Solved Problem of Sexual Assault, Women Say*, N.Y. TIMES, Nov. 2, 2012 at A15, available at http://www.nytimes.com/2012/11/02/us/women-in-air-force-say-sexual-misconduct-still-rampant.html?pagewanted=all&_r=0.

[5] See *Invisible Wounds: Examining the Disability Compensation Benefits Process for Victims of Military Sexual Trauma: Hearing Before the Subcomm. on Disability Assistance & Mem'l Affairs of the H. Comm. on Veterans' Affairs*, 112th Cong. (2012) (statement of Anu Bhagwati, Executive Director, Service Women's Action Network).

the benefit of the doubt.[6] The letter provided further guidance for what secondary markers—evidentiary signs, events or circumstances—a claims officer should seek out and review in determining the validity of a disability claim. While we commend the VA for providing such guidance, it fails to address the problem. Although the VA specifically "developed regulations and procedures that provide for a liberal approach to evidentiary development and adjudication of [ ] claims,"[7] the subjective nature of the current policy actually works against survivors of sexual assault.

The VA's regulations explicitly treat veterans who suffer from PTSD based on sexual trauma differently from all other PTSD claims, including those related to combat and hostile military activity. Even when a veteran can establish a diagnosis of PTSD and his or her mental health provider connects PTSD to sexual assault during service, the VA "is not required to accept doctors' opinions that the alleged PTSD had its origins"[8] in the claimant's military service. The VA reasoned that while such a diagnosis may constitute credible evidence, it is not always probative.[9] As a result, the VA requires additional evidence, such as records from law enforcement authorities, hospitals, or mental health facilities, that generally does not exist. As the Department of Defense itself acknowledges, the vast majority of servicemembers who are assaulted do not report that assault because of the retaliation they are likely to face.

Another problem faced by veterans is that until recently, the Department of Defense retained restricted reports of sexual assault for only 5 years; after that time the records were destroyed.[10] On average, a veteran who was assaulted waits 15 years after leaving the service to file a disability claim with the VA.[11] Because of this delay and the Pentagon's former record retention policy, veterans who were sexually assaulted are effectively cutoff from accessing critical evidence substantiating their disability claim to the VA. Likewise, as more time passes before a veteran seeks disability benefits, the harder it becomes for that individual to later prove a claim of sexual assault through secondary markers, such as statements from fellow servicemembers or deterioration in work performance. People move away, while documents are lost or discarded.

Even when a veteran is able to present evidence to a claims examiner, whether the claim is approved is ultimately determined by a subjective standard that differs from examiner to examiner leading to inconsistent outcomes.[12] Moreover, VAROs have seen high workforce turnover and the time period over which new employees receive training on adjudicating claims has been significantly reduced from one year to just eight weeks.[13] As the VA grapples with the overwhelming number of outstanding benefits claims, which now total almost 900,000,[14] unprepared and overburdened employees may not have the time or the skill set needed to properly investigate and adjudicate complex sexual assault disability claims.

While the VA stands by its current policy, it is clear that the Department is not achieving its mission to "treat all veterans and their families with the utmost dig-

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[6] See Training Letter 11–05 from Thomas J. Murphy, Director, Compensation & Pension Services, to all VA Regional Offices (Dec. 2, 2011).

[7] Id.

[8] *Godfrey* v. *Brown*, 8 Vet. App. 113, 121 (1995).

[9] Post-Traumatic Stress Disorder Claims Based on Personal Attacks, 67 Fed. Reg. 10330 (Mar. 7, 2002) (codified in 38 CFR pt. 3).

[10] The National Defense Authorization Act for FY 2013 changed this policy so that now DOD must retain these documents for 50 years, but only at the request of the servicemember. Pub. L. No. 112–239, § 577, 126 Stat. 1632, 1762.

[11] DEP'T OF VETERANS AFFAIRS, VETERANS HEALTH INITIATIVE: MILITARY SEXUAL TRAUMA 58 (2004), available at http://www.publichealth.va.gov/docs/vhi/military_sexual_trauma.pdf.

[12] A study commissioned by the VA reported that "rating decisions often call for subjective judgments." INST. FOR DEF. ANALYSES, ANALYSIS OF DIFFERENCES IN DISABILITY COMPENSATION IN THE DEPARTMENT OF VETERANS AFFAIRS, VOLUME 1: FINAL REPORT, S–3 (2006), available at http://www.va.gov/VETDATA/docs/SurveysAndStudies/State_Variance_Study-Volumes_1_2.pdf. See also *Title Redacted by Agency*, Bd. Vet. App. 0318972 (2003) (veteran's claim was denied despite presenting substantial evidence corroborating his sexual assault, including documentation of erratic behavior, sworn statements attesting to military performance issues, and records of mental counseling and treatment for sexual transmitted diseases.).

[13] *Focusing on People: A Review of VA's Plans for Employee Training, Accountability, and Workload Management to Improve Disability Claims Processing: Hearing Before H. Comm. on Veterans' Affairs*, 113th Cong. (2013) (submission for the record of The American Federation of Government Employees).

[14] Rick Maze, *VFW defends VA official, despite continued backlog*, FED. TIMES (Mar. 20, 2013, 4:19 PM), http://www.Federaltimes.com/article/20130320/DEPARTMENTS04/303200003/VFW-defends-VA-official-despite-continued-backlog.

nity and compassion."[15] Instead the VA has created an unfair standard that sets sexual assault survivors up to fail in claiming the disability benefits they deserve.

The Ruth Moore Act would rectify the current policy and bring fairness to the claims process. Under S. 294, the VA would be required to treat PTSD claims related to sexual assault the same way it treats all other PTSD claims: by accepting the veteran's lay testimony as sufficient proof that the trauma occurred "in the absence of clear and convincing evidence to the contrary."[16] This standard will help reduce the number of inconsistent and arbitrary adjudication decisions that result from applying a subjective standard and will decrease the risk of veterans experiencing further trauma as they navigate the claims process.

II. S. 294'S REPORTING REQUIREMENT HELPS ENSURE GOVERNMENT ACCOUNTABILITY.

The ACLU works to hold our government accountable for responding to and taking proactive measures to end the cycle of violence in our country. For this reason, in 2010 we filed a Federal lawsuit against the Department of Defense and the VA for their failure to respond to our FOIA requests seeking records documenting incidents of sexual assault, sexual harassment, and domestic violence in the military and how the government addresses this violence. The goal of the lawsuit was to "obtain the release of records on a matter of public concern, namely, the prevalence of [military sexual trauma] (MST) within the armed services, the policies of DOD and the VA regarding MST and other related disabilities, and the nature of each agency's response to MST."[17]

Given our past work in advancing government accountability, we strongly support the provision in the bill that requires the VA to submit an annual report to Congress that includes statistics, such as the number sexual assault-related claims that were approved or denied, and the average time it took the VA to adjudicate a claim.

Should you have any questions, please don't hesitate to contact our Senior Legislative Counsel.

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[15] U.S. DEP'T OF VETERANS AFFAIRS, ABOUT VA: MISSION, CORE VALUES & GOALS, available at http://www.va.gov/about_va/mission.asp (last visited Apr. 15, 2013).

[16] Ruth Moore Act of 2013, S. 294, 113th Cong. § 2(a) (2013).

[17] Complaint at 2, *Serv. Women's Action Network* v. *U.S. Dep't of Def.*, No. 3:2010cv01953 (D. Conn. Feb. 23, 2011).

LETTER FROM AMERICAN CIVIL LIBERTIES UNION AND OTHER GROUPS

June 11, 2013

The Honorable Bernard Sanders
Chairman
Committee on Veterans' Affairs
412 Russell Senate Office Building
Washington, DC 20510

The Honorable Richard M. Burr
Ranking Member
Committee on Veterans' Affairs
825A Hart Senate Office Building
Washington, DC 20510

Dear Chairman Sanders and Ranking Member Burr:

We are writing in opposition to S. 705, which will be considered during the Committee's June 12th hearing. This bill would broadly authorize the use of religious symbols on any government memorial or monument honoring United States veterans and is a misguided attempt to sanction government promotion of religion.

S. 705 is an ill-advised attack on a federal appeals court decision that held a 43-foot tall cross at a war memorial was an unconstitutional endorsement of religion because the cross is a preeminent Christian symbol that no other religion shares.[1] Although in limited circumstances the government may allow religious symbols to appear on public property, it must take steps to ensure that in doing so, it does not convey a message of preferring religion over non-religion, or advancing a particular religion over others. Enacting this, however, would not overcome this constitutional prohibition as Congress may not authorize violations of the First Amendment or overrule a court decision finding such a violation. In addition to constitutional concerns, certain government uses of religious symbols can harm religion by assigning a secular meaning to a sacred religious symbol. S. 705 ignores the delicate analysis for evaluating religious symbols on public property in which the courts have long engaged. Religious symbols do not become something else merely by congressional say-so.

Further, Department of Defense reports show that the U.S. Armed Forces is highly religiously diverse. Indeed, nearly one-third of all members of the armed services identify as non-Christian.[2] The government should not use religious symbols that do not represent a large segment of our service members. All of those who have served should be equally respected, regardless of their beliefs.

Notably, none of our organizations, nor any organization that we know of, has the slightest doubt that veterans and their families can mark their burial places with their choice from the dozens of symbols of belief, including a cross, a star of David, or a crescent. In fact, we support and defend their right to do so. Thus, S. 705 is not necessary to protect religious symbols found on headstones in military cemeteries throughout the country. These religious symbols are not considered military memorials, but are instead personal religious speech that reflects the personal faith and choice of each individual fallen service member. In such cases, the government simply respects and facilitates an expression of an individual's personal beliefs.

We oppose this bill because it is an attempt to use religion for political purposes, which harms the beliefs of everyone.

Respectfully,

American Civil Liberties Union
American Jewish Committee
Americans United for Separation of Church and State
Baptist Joint Committee for Religious Liberty
Hindu American Foundation
Interfaith Alliance
Religious Action Center of Reform Judaism
Sikh American Legal Defense and Education Fund (SALDEF)
The Sikh Coalition

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[1] *Trunk and Jewish War Veterans v. City of San Diego*, 629 F. 3d 1099, 1110-11 (9th Cir. 2011), *cert. denied*, 132 S.Ct. 2532 (2012).
[2] Religious Diversity in the U.S. Military, Military Leadership Diversity Comm'n, Issue Paper No. 22 (June 2010).

PREPARED STATEMENT OF THE AMERICAN CHEMICAL SOCIETY

Office of Public Affairs

Date: May 15, 2013
To: Senate Veterans Affairs Committee
Fr: Miranda Wu, President of the American Chemical society
Re: Expanding GI bill coverage for veterans seeking STEM education

Dear Mr. Chairman, Senator Bernie Sanders, and Members of the Senate Veteran's Affairs Committee,

On behalf of the American Chemical Society and the thousands of members we represent, we thank you for the opportunity to address and submit testimony on this critical issue.

We are here first, to support S. 514, second, to affirm the need for a qualified workforce that will promote innovation and economic growth, and third, to make clear the benefits of providing assistance to veterans perusing STEM Education opportunities.

Well-educated scientists and engineers drive the technology development that allows the United States to maintain its competitive edge in the global marketplace and improve the well-being of all the world's citizens. STEM education creates critical thinkers, increases science literacy, and enables the next generation of innovators, which in turn leads to new products and processes that sustain our economy. It is clear that most jobs of the future will require a basic understanding of math and science—10-year employment projections by the U.S. Department of Labor show that of the 20 fastest growing occupations projected for 2014, 15 of them require significant mathematics or science preparation.

Additionally, not only are STEM workers responsible for marketable and innovative products, but STEM workers make significantly more in wages than non-STEM workers. According to the nonprofit Change the Equation, STEM workers with a bachelor's degree earn 23 percent more than their non-STEM peers . What's more, these high-paying, solidly middle class jobs that create taxpayers are widely available. In the overall U.S. economy, there are 3.6 applicants for each job opening, but for STEM occupations there almost 2 vacant jobs for each STEM job-seeker.

Due to the increasingly technological nature of modern warfare, veterans return home with a great degree of technical and other important job-related skills. Approximately 38 percent of active enlisted men and women directly serve in technical or medical capacities. Many learn how to use complex instruments and become familiar with a wide range of technology, even if they don't serve in explicitly technical roles. Veterans offer the nation a diverse and pre-qualified pool of scientific talent. They have strong cognitive aptitudes, experience with technical systems, ability to solve complex problems, the know-how to work in teams, and also to lead. These qualities make them not only exceptional servicemen, but have the potential to make them exceptional scientists.

By providing this additional assistance to veterans seeking to be STEM workers, you are not only ensuring them the necessary skills to compete in tomorrow's economy, you are also providing the United States with a talented and dedicated pool of skilled workers— something that many private companies and government agencies have been requesting.

The ACS strongly believes that policymakers should nurture students of all backgrounds and encourage them to further their studies in careers for the STEM fields. It also supports providing preferential assistance to students studying in the STEM subjects through existing student aid programs, such as the GI Bill.

We look forward to working with Congress in the coming months to assist with the passage of this significant legislation, and I thank you for your leadership on this crucial issue.

American Chemical Society
1155 Sixteenth Street, N.W. Washington, D.C. 20036 **T** [202] 872 4475 **F** [202] 872 6206 www.acs.org

PREPARED STATEMENT OF AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES, AFL–CIO AND THE AFGE NATIONAL VA COUNCIL

OVERVIEW

The American Federation of Government Employees and the AFGE National VA Council (hereinafter "AFGE"), the exclusive representative of employees processing disability claims at the Department of Veterans Affairs (Department) Veterans Benefits Administration (VBA) Regional Offices (ROs) support the Department's Transformation efforts and appreciate the opportunity to share our views on Section 101 of S. 928, the Claims Processing Improvement Act of 2013, which would establish a working group to improve VBA's employee work credit and work management systems. AFGE commends Chairman Sanders' leadership in introducing legislation to create a new work credit system through collaboration between the Department, employee representatives, and veterans service organizations. Creating a more effective, scientifically designed, databased system for measuring the personnel hours and other resources required to accurately decide veterans' claims the first time will help reduce VBA's backlog of benefits claims and better serve our Nation's veterans. AFGE urges this Committee to provide ongoing oversight of the work group's efforts to design and implement this new work credit system.

COMPOSITION OF THE WORKING GROUP

AFGE commends Chairman Sanders for proposing to increase collaboration among interested parties to fix the current, broken work credit system. AFGE also supports the provision in the bill for Congressional oversight of progress of the working group.

AFGE also supports the requirement in the bill to include frontline employees recommended by a labor organization in the working group. Frontline employees provide a unique perspective on workplace issues and the current work credit system, and will play a valuable role in identifying much needed improvements for a new work credit system. Their input will be especially critical during the current period of Transformation when many new processes are being implemented. It is critical that labor representatives are able to select these employees as well in order to ensure true collaboration with VA management and stakeholders.

AFGE supports requirements in S. 928 for regular oversight and reporting to Congress. The reports outlined in Section 101(e) are thorough and allow for several opportunities for Congressional oversight and adjustment. For example, the bill allows for implementation of changes following the first report after 180 days, which will allow positive changes to the work credit system to take place prior to the final report from the working group.

The mandate in Section 101(c) (3) to create a new resource allocation model will also make long overdue changes in the claims process. Currently, VBA deprives low performing offices of resources, rather than shifting resources to strengthen the capacity of these offices. VBA must change its resource allocation model to support struggling Regional Offices, and AFGE supports Chairman Sanders' focus on this issue.

AFGE urges the Committee to include in Section 101(b)(2) specific language regarding the number of work group representatives from the Department, labor and veterans' community to ensure effective collaboration in the work group.

AFGE also requests that work group's duties be expanded to include consultation with an independent subject matter expert to design and conduct a scientific, databased, time motion study. This study will serve as the foundation of the new databased methodology. Under VBA's current work credit system, Veteran Service Representatives (VSRs), Rating VSRs (RVSRs), and Decision Review Officers (DROs) complete numerous time consuming steps in the adjudication process for which they receive no credit, as discussed more fully below. These tasks are both critical to VBA's ability to process claims and the agency's customer service for veterans. Despite assertions made by VBA in the past, the agency has never completed a data driven time motion study to analyze the time needed for each of these tasks. Similarly, AFGE recommends incorporating an independent third party expert in the assessment phase of the workgroup in Section 101(c)(1). Finally, in order to ensure that the new work credit system is properly designed, this independent entity must be able to provide ongoing oversight and input, and have regular access to all work group participants.

CURRENT WORK CREDIT SYSTEM PROBLEMS

As noted, VBA has never had a formal work credit system in place that is based on actual data reflecting the amount of time required to process specific types and

components of claims. The current work credit system does not include an inventory of employees' daily tasks. The agency has made a few perfunctory efforts to establish a more reliable set of measures over the years. However, AFGE has not seen any work credit study or work credit system based on actual data.

Some of the main problems with the current work credit system include:

- Lack of consistency
- Lack of a solid methodology
- Failure to update its "system"
- Lack of participation from the front line employees and veterans service officers with direct knowledge of the work process
- Lack of work credit for a variety of tasks

The only study AFGE is aware of is the 2008 IBM Gap Analysis study. IBM's main work credit recommendation was to provide work credit for developing and rating issues, rather than claims as a whole. When IBM tested these performance measures on 150 RVSRs, they found the employees produced at a higher quality and used far less excluded time while rating cases. However, the study did not break down the time for every piece of rating and development. The study is also outdated now with VBMS' implementation.

Depriving employees of the proper credit for critical work needed to get claims processed accurately and timely the first time hurts veterans by increasing errors and delays.

VBA EMPLOYEE SURVEY ON CURRENT WORK CREDIT SYSTEM

AFGE conducted an informal survey of Regional Offices to identify how well the current work credit system measures (or does not measure) the hours and skills required to complete different tasks. Responses from employees working in approximately a dozen different offices indicated widespread inconsistencies in how much work credit is awarded for the same tasks. Perhaps more troubling, employees in every Regional Office and position are required to perform daily tasks for which they are provided zero credit or only partial credit. By denying credit for significant tasks, the current work credit system increases workplace stress, puts pressure on employees to rush through claims, and results in unwarranted negative performance ratings.

More specifically, employees reported that they receive inadequate or zero work credit for the following tasks:

- *Deferred ratings:* Deferred ratings occur on a daily basis in Regional Offices. It is important to spend time on these issues since the veteran should be assisted and informed accurately about additional medical evidence they will need for their claim. However, RVSRs do not receive any credit for cases where there is a deferred rating (for example, cases deferred back to the VSR because additional medical evidence is required). It is typical for a RVSR to have at least one deferred rating every day that requires two hours of work to write up medical opinions, tag pages where additional evidence is needed, and write an opinion for each issue being deferred—without any credit. For example, an RVSR is working on a case where the veteran has claimed ten issues, but only two can be rated. The RVSR must spend significant time on the other eight issues. In this situation, the RVSR will receive credit for only two issues, rather than ten.
- *Multi-issue and complex cases:* VSRs are not given adequate credit for rating a case with significantly more issues or complexity. Employees receive additional credit for completing cases with at least three issues. However, veterans are regularly filing claims cases with dozens of issues. VSRs do not receive any additional credit for developing a case with thirty issues versus a case with three issues. Employees also are denied sufficient credit for processing cases involving complex claims such as military sexual trauma and TBI.
- *VSR work by RVSRs:* RVSRs regularly work on developing cases (VSR work). Sometimes, RVSRs will receive a case to rate that needs additional development. Other times, Regional Offices do not have the proper ratio of VSRs to RVSRs; consequently, there are not enough cases to rate. In both of these instances, RVSRs work on developing cases, yet they receive no credit for this work.
- *Mentoring:* VBA's more senior claims processors receive no credit for assisting or mentoring newer employees.
- *Productive time lost due to breakdowns in VBMS:* VBMS is in the process of being rolled out nationally. However, the system still has frequent and significant malfunctions, at both the RO and national levels. During VBMS shutdowns or malfunctions, employees receive no adjustment to their work credit requirements for lost production time. This has become a major issue with VBA's recent enactment of mandatory overtime for employees. For example, employees reported that VBMS

shutdown on May 30, 2013 during mandatory overtime hours. Mandatory overtime cannot possibly be productive if employees are consistently dealing with a system that breaks down on a regular basis.

• *Supplemental development:* VSRs can take credit for supplemental development, while RVSRs and DROs cannot. However, VSRs must complete an Advanced Development Course in order to request medical opinions. At one Regional Office, VSRs regularly request medical evidence, despite the course not being offered for several years. This is inconsistent across VBA.

• *Training:* Employees are not given sufficient work credit for time spent during trainings. Often times, training is shifted away from classroom instruction to reading slides or a packet at their desk with less time allotted by managers than required by the curriculum. Employees are consistently not given enough work credit for the time it takes to go through this type of training.

The absence of a valid work credit system exacerbates the well documented problem of VBA managers manipulating backlog data to improve performance measures. The newest Fast letter from Undersecretary Hickey on long pending cases has an admirable goal of processing cases that have been pending for a long period of time. Veterans who fought for this Nation deserve to have their claims processed in a timely manner, and waiting over two years for a decision from VBA is unacceptable. However, in practice, this newest quick fix from VBA shifts difficult, time consuming cases to high performing office where employees are denied any additional credit for processing these more challenging cases. If Regional Offices are going to dedicate their efforts to this essential yet difficult task, employees must receive the proper work credit.

Section 102

Section 102 of S. 928 establishes a task force on retention and training of VBA employees working as claims processors and adjudicators. AFGE recommends adding a provision to S. 928 Section 102(b) to require the inclusion of employees on this task force, based on the recommendations of their labor representatives.

Proper retention techniques and training of a strong workforce will play an essential role in helping to lower the backlog of veterans' claims. Input from frontline employees is essential in determining inadequacies with training, inconsistencies across Regional Offices, issues related to career growth, and general morale.

AFGE believes it is essential to have frontline employees provide input into decisions related to retention and training in order to provide a wide and accurate scope of the workplace in VBA. A consistent theme throughout the ROs is that VBA management takes a "one size fits all" approach when creating their training materials. The training is not broken up between specific offices, and longtime employees receive the same training as newer employees. There is also no consideration of areas of performance when determining which type of training to give which employees. In the past, when employees have not been able to provide input, the training program suffers.

Thank you for the opportunity to provide input from AFGE and its National VA Council on this important legislation.

PREPARED STATEMENT OF STEPHEN PETERS, PRESIDENT,
THE AMERICAN MILITARY PARTNER ASSOCIATION

Chairman Sanders, Ranking Member Burr, and Members of the Committee: Thank you holding this hearing today, and for your dedication to our servicemembers, veterans, and their families. We are forever grateful to you for continuing to ensure our military families receive the support they deserve for their service to our great Nation.

You are considering a wide range of benefits bills here today that would impact the lives of our Nation's veterans and their families. However, there is one bill in particular that I would like to focus our testimony on because of the disproportionate impact it would have on our community and on the lives of so many military families—the Charlie Morgan Military Spouses Equal Treatment Act.

As the Nation's largest non-profit, non-partisan resource and support network for lesbian, gay, bisexual, and transgender (LGBT) military families, the American Military Partner Association (AMPA) is committed to connecting, supporting, honoring, and serving the partners and spouses of America's LGBT servicemembers and veterans. Our membership spans all branches of the military, every state in the Nation, and a wide range of experiences that all military families endure—including multiple members whose spouses have paid the ultimate sacrifice while serving.

Currently, the Department of Veterans Affairs (VA) and the Department of Defense (DOD) are limited in what benefits may be made available to the same-sex spouses of servicemembers and veterans. The Charlie Morgan Military Spouses Equal Treatment Act of 2013 would require the VA and the DOD to: (1) recognize any legal marriage by a state that permits same-sex marriage; and (2) grant access to military and veteran's related benefits to the spouses of all servicemembers.

There are more than 100 benefits granted to servicemembers, veterans, and military families based upon marital status, yet many of these are denied to same-sex military spouses and their families. While the previous Secretary of Defense, Leon Panetta, ordered the extension of a select number of benefits to same-sex domestic partners (the full extension of which has yet to be implemented), there are still critical areas of support and benefits that the same-sex spouses of servicemembers and veterans are and will continue to be be denied without passage of this bill.

Of direct relation to this Committee are the benefits provided through the VA to surviving spouses. Currently, surviving legal spouses who happen to be of the same gender are denied access to benefits like dependency and indemnity compensation, survivor's pension, dependent's educational assistance, and home loans. Nothing could be more dishonorable than to deny the legal spouse of a fallen servicemember critically needed support and benefits simply because of their gender. Regardless of their gender, these spouses hurt too when their loved one dies or is injured—both emotionally and financially. As a nation that is committed to honoring all who serve and supporting those they leave behind, this flaw in our current veterans benefits framework must be corrected.

One of AMPA's members in North Carolina, Tracy Dice Johnson, is the first known same-sex military spouse to lose her wife to war. Tracy's wife, North Carolina National Guardsman Staff Sergeant Donna Johnson, was killed in action in Afghanistan on October 1, 2012, by a suicide bomber while on patrol. When Staff Sergeant Johnson was killed, Tracy did not receive the proper notification from the Army because she is not recognized as the primary next-of-kin. Tracy sadly had to find out about her wife's death through someone else. At Donna's funeral, Tracy had to watch the flag of her fallen wife be given to someone else, something no military spouse should ever have to endure. Even though they were legally married, Tracy is not recognized as the military spouse that she undoubtedly is. To add insult to injury, she is still denied all of the surviving spouse benefits provided to heterosexual military and veteran spouses by our government.

The Charlie Morgan Military Spouses Equal Treatment Act would correct this injustice by extending vital benefits to same-sex military and veteran spouses. The bill itself is named after the late Charlie Morgan, who served as a Chief Warrant Officer in the New Hampshire National Guard. Charlie recently died of cancer, leaving behind her wife and daughter. Charlie's widow, Karen, is also denied all of the survivor benefits normally afforded to heterosexual widows of servicemembers and veterans.

There are numerous other military and veterans benefits and support services that same-sex spouses and their families are excluded from, such as access to military and veterans health programs, financial support for expensive moves to new duty stations, access to military family housing, family housing allowances at the "with dependent" rate, and even command sponsorship for overseas duty stations. All are denied simply because the legally wed spouse is of the same gender as the servicemember or veteran. While these selfless Americans voluntarily commit their lives in defense of our Nation, our Nation has turned it's back on their families.

These military families serve and sacrifice just as much for our freedom as their heterosexual counterparts, yet they do it all without the same level of support and benefits. They continue to sacrifice and serve because they believe in the goodness and righteousness of the United States of America and in the mission of our Armed Forces. The least our Nation can do in return is provide them and their families with access to the same benefits and support as everyone else who serves.

The Charlie Morgan Military Spouses Equal Treatment Act would finally honor all who serve and have served by providing equal access to support and benefits to these honorable warriors and their families. Most importantly for this Committee, it would ensure that the spouses of the fallen are properly cared for and receive the dignity, respect, and support they rightly deserve.

I truly appreciate your consideration of the impact this bill would have on the lives of our military families. We owe these families more than our gratitude; we owe them the proper support that they too deserve. Thank you.

Prepared Statement of Maggie Garrett, Legislative Director, Americans United For Separation of Church and State

Americans United for Separation for Church and State submits this testimony to the Senate Committee on Veterans' Affairs to voice our opposition to S. 705, "The War Memorial Protection Act." The bill is unnecessary to meet its purported purpose, is misleading and inaccurate, and fuels inflammatory rhetoric. In addition, Congress should not pass legislation that is based upon a specific lawsuit when that lawsuit is still making its way through the court system.

Founded in 1947, Americans United is a nonpartisan educational organization dedicated to preserving the constitutional principle of church-state separation as the only way to ensure true religious freedom for all Americans. We fight to protect the right of individuals and religious communities to worship as they see fit without government interference, compulsion, support, or disparagement. Americans United has more than 120,000 members and supporters across the country.

The Ongoing Lawsuit

According to testimony[1] in a House subcommittee last session on a bill that mirrors S. 705, this legislation was introduced in response to the lawsuit, *Trunk v. San Diego.*[2] In that case, the Ninth Circuit Court of Appeals held that a four-story-tall, federally-owned Latin cross located at the top of Mt. Soledad in La Jolla, California violated the Establishment Clause of the U.S. Constitution. The cross that stands there today[3] was dedicated in 1954 "as a memorial to American service members and a tribute to God's promise of everlasting life."[4] In its analysis, the Ninth Circuit properly looked to "the entire context of the Memorial," including "the meaning or meanings of the Latin cross at the Memorial's center, the Memorial's history, its secularizing elements, its physical setting, and the way the Memorial is used."[5] The facts considered by the Court include:

(a) The Latin cross can "serve as a powerful symbol of death and memorialization, but it remains a sectarian Christian symbol";[6]
(b) The cross "stands as the focal point of the Park, visible to those looking at the hill from a substantial distance"[7] and "physically dominates the site."[8] It is also "the only element of the Memorial that can be seen from *anywhere* except the site of the Memorial itself... ":[9]
(c) There is evidence of only two secular events being held at the cross before the litigation commenced, but multiple religious ceremonies, such as annual Easter services;[10]

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[1] *Legislative Hearing on H.R. 241, H.R. 290, H.R. 320, H.R. 441, H.R. 643, H.R. 686, H.R. 765, H.R. 850, H.R. 944, H.R. 1022 and H.R. 1141 Before the Subcomm. on National Parks, Forests, and Public Lands, of the Comm. on Natural Resources*, 112th Cong. (2011) (testimony of Congressman Duncan Hunter, sponsor of H.R. 290).
[2] 628 F.3d 1099 (9th Cir. 2011), *cert. denied,* 132 S. Ct. 2532 (2012).
[3] The first cross in that location was erected in 1913. After its destruction, a second cross was erected in 1923. The second cross blew down in 1952. *Trunk*, 628 F.3d at 1102.
[4] *Id*.
[5] *Id.* at 1110.
[6] *Id.* at 1116.
[7] *Id.* at 1123 (*citing Ellis,* 99 F.2d at 1527).
[8] *Id.* at 1123.
[9] *Id.*
[10] *Id.* at 1119.

(d) A plaque identifying the cross as a war memorial and other secular items were not erected until *after* the litigation commenced, which was decades after the placement of the cross;[11]
(e) Extensive expert evidence demonstrated that the Latin cross is not commonly used as a symbol to commemorate veterans and fallen soldiers in the United States;[12] and
(f) La Jolla has a history of anti-Semitism: "until the late 1950's, Jews were effectively barred from living . . . by a combination of formal and informal housing restrictions."[13] This "reinforces the Memorial's sectarian effect" and "may have stifled complaints about the Memorial early in its lifetime."[14]

Examination of these factors makes clear that the Ninth Circuit was correct and the monument, even if designated a war memorial, endorses Christianity and violates the Constitution. The Constitution forbids the government from adopting a 43-foot Latin cross, or any similar religious symbol, as a government-sponsored war memorial.

The Bill Is Unnecessary to Achieve its Stated Goals

Contrary to the rhetoric surrounding *Trunk*, the decision does not entirely forbid any and all religious symbols from being used in war memorials. Indeed, the Report submitted last year by the House Committee on Natural Resources acknowledges that "[u]nder current law, religious symbols are not barred from being used in any military memorials."[15] And, *Trunk* itself states that the case "does not mean that no cross can be part" of a war memorial.[16] Instead, it means that the government cannot include a religious symbol in a memorial if, looking at the context, history, and content of the memorial, the entire monument endorses religion.[17]

Furthermore, because this principle is derived from the Constitution, Congress cannot overcome it—or the decision in *Trunk*—by passing this or any other bill. As explained in *Marbury v. Madison*,[18] the Constitution is the "fundamental and paramount law of the nation" and "an act of the legislature, repugnant to the constitution, is void."

The Bill is Misleading and Inaccurate

As explained above, the constitutionality of a government display with religious symbols depends on whether those symbols result in an endorsement of religion. This bill, however, takes no account of

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[11] *Id.*
[12] *Id.* at 1112.
[13] *Id.* at 1121.
[14] *Id.* at 1122.
[15] H.R. Report No. 112-156, at 3 (2011).
[16] *Trunk*, 629 F.3d at 1125.
[17] *Id.* at 1110. Granted, it is rare that inclusion of a religious symbol, such as the Latin Cross, does not lead to endorsement. And, even if constitutional, the inclusion of such symbols is also usually unwise.
[18] 5 U.S. 137, 177 (1803).

constitutional mandates and Supreme Court jurisprudence. It instead makes the blanket statement that "religious symbols may be included as part of" military memorials the U.S. government has established or acquired. This language excludes the constitutional parameters that apply to such memorials, causing the statement to be inaccurate and misleading. As such, the bill should be rejected.

Including Religious Symbols in Military Memorials Excludes Veterans Based on Religion

The military is highly religiously diverse: almost one-third of all members of the Armed Services identify as non-Christian.[19] Once the government chooses depict certain religious symbols, the government is affirmatively excluding some members of the military from being represented by the monument.

As explained in *Trunk*, the Latin cross "sends a strong message of endorsement and exclusion. It suggests that the government is so connected to a particular religion that it treats that religion's symbolism as its own, as universal."[20] Indeed, the court cited one World War II veteran who fought both in D-Day and the Battle of the Bulge as saying:

> I don't know it if is a Christian monument, but it does not speak for me. I was under Hitler and in a concentration camp and a cross does not represent me. The Cross does not represent all veterans and I do not know how they can say it represents all veterans. I do not think a cross can represent Jewish veterans.[21]

Perhaps this is why there is "extensive evidence that the cross is not commonly used as a symbol to commemorate veterans and fallen soldiers in the United States" and has "been incorporated only rarely into monuments commemorating groups of soldiers."[22]

Veterans' memorials should be inclusive of all who fought for the United States, not exclusive. And, they should include symbols that unite rather than divide soldiers. As such, using religious symbols in government should be discouraged and this bill rejected.

This Bill Does Not Affect Headstones in Military Cemeteries

Proponents of the bill falsely argue that the *Trunk* decision threatens the ability of individual soldiers to mark burial stones in military cemeteries with religious symbols. But headstones are not governed by *Trunk*, which applies only to government messages. Instead, headstones are considered the individual speech of each soldier and each soldier may choose the messages—including the religious symbols—that appear on his or her marker. In fact, Americans United has fought for the right of military veterans and

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[19] Religious Diversity in the U.S. Military, Military Leadership Diversity Comm'n, Issue Paper No. 22 (June 2010).
[20] *Trunk*, 629 F.3d at 1124-25.
[21] *Id.*
[22] *Id.* at 1112-13. And even in the incidents when the Latin cross is used, it is "generally subordinated to symbols and inscriptions that commemorate American nationhood." *Id.* at 1114.

their families to choose symbols for their military headstones that reflect their own personal faith.[23]

Congress Should Not Legislate Based on a Lawsuit Still In Litigation

In June 2012, the U.S. Supreme Court declined to take an appeal of the Ninth Circuit opinion in *Trunk*.[24] But that denial of *certiorari* did not end the case. To the contrary, the case is now back in the district court and still moving towards resolution. According to the Plaintiff's attorneys:

> The district court held a status conference on April 22, 2013 and directed the parties to participate in settlement discussions with the magistrate judge. If a settlement is not reached within 60 days, the parties shall filed briefs on the appropriate remedy, with arguments scheduled on September 16, 2013.[25]

It would be imprudent for Congress to legislate based upon this case when the legal issues have not been fully litigated, the parties are currently in the process of settlement negotiations, and a hearing is set for September.

Placing Religious Symbols on Government Monuments Trivializes those Symbols

Arguments that religious symbols, such as the Latin cross, represent all members of the military actually secularize and strip religious symbols of their sacred meaning. The Latin cross is not a secular symbol. Instead, it is "the preeminent,"[26] "exclusive,"[27] and "unmistakable symbol of Christianity as practiced in this country today."[28] Attempts to deny the powerful religious message associated with such symbols with claims that they represent persons of all faiths, does not serve religion. Instead it strips religious symbols of their sacred meanings, devaluing them for true believers. The secularization of religious symbols by the government trivializes these symbols and is a threat to religious freedom.

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[23] *Circle Sanctuary v. Secretary of Veterans Affairs,* 222 Fed. Appx. 981 (Fed. Cir. 2007).
[24] *Trunk*, 132 S. Ct. 2532 (2012).
[25] ACLU of San Diego and Imperial Counties, "Our Current Docket," May 2013, *available at* <http://www.aclusandiego.org/legal/our-cases/>.
[26] *Buono v. Kempthorne*, 527 F.3d 758, 769 (9th Cir. 2008); *see also Carpenter v. City & County of San Francisco*, 93 F.3d 627, 630 (9th Cir. 1996) ("The Latin cross is the preeminent symbol of many Christian religions and represents with relative clarity and simplicity the Christian message of the crucifixion and resurrection of Jesus Christ, a doctrine at the heart of Christianity." (internal quotation marks and citation omitted)).
[27] *Buono*, 527 F.3d at 769.
[28] *Gonzales v. North Twp. of Lake County*, 4 F.3d 1412, 1418 (7th Cir. 1993); *see also ACLU v. City of Stow*, 29 F. Supp. 2d 845, 852 (N.D. Ohio 1998) ("The religious significance and meaning of the Latin or Christian cross are unmistakable."); *Jewish War Veterans v. United States*, 695 F. Supp. 3, 13 (D.D.C. 1988) ("Running through the decisions of all the federal courts . . . is a single thread: that the Latin cross . . . is a readily identifiable symbol of Christianity.").

Passage of this Bill Inflames Rhetoric Surrounding the Case.

Some have argued that the language of this bill is innocuous because the Constitution will continue to protect us from military monuments that endorse religion. In addition to overlooking the points made above, this argument also overlooks the danger of yielding to the rhetoric that accompanies the bill. Passage of the bill furthers the false notion that religious symbols are appropriate for use in military monuments and that not using such symbols is hostile to religion. As explained above, the exact opposite is true—religious symbols in monuments actually lead to exclusion, division, and the trivialization of religious symbols. Also, passage would also represent another regrettable instance of politicizing religion.

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For all of the above reasons, we oppose S. 705.

LETTER FROM THE ASSOCIATION OF THE UNITED STATES NAVY

May 13, 2013

The Honorable Bernie Sanders (VT)
United States Senate
332 Dirksen Senate Office Building
Washington, DC 20510

Dear Senator Sanders,

On behalf of the Association of the United States Navy (AUSN), we applaud and support your bill S. 893, which would provide for an increase, effective December 1, 2013, in the rates of compensation for Veterans with service-connected disabilities and the rates of dependency and indemnity compensation for the survivors of certain disabled Veterans.

In these difficult fiscal times, our Veteran community often struggles to make ends meet despite utilizing the benefits afforded to them. Unique circumstances often challenge retired servicemembers, especially those suffering from service-connected disabilities or other ailments that require dependency of indemnity. These retired Veterans often face financial shortcomings due to their benefits failing to meet the ever rising cost of living. An appropriate Cost-of-Living-Adjustment (COLA) is necessary to ensure that the retirement benefits for our Nation's servicemembers' reflect the current fiscal environment.

S. 893 would ensure that more than 4.2 million Veterans and survivors receive benefits that are commensurate with the current fiscal environment. The bill will also help continue providing the quality of life guarantees made to current and future servicemembers, in good faith, who consider having 20 or 30 year careers in the United States Armed Forces.

Thank you for taking an active role in such an important issue to our military and Veteran community by introducing this legislation. Our nation's Veterans deserve to have their promised benefits reflect the economic realities we currently live in. If you have any questions or concerns, feel free to contact me at 703-548-5800 or at anthony.wallis@ausn.org.

Sincerely,

Anthony A. Wallis
Legislative Director, AUSN

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PREPARED STATEMENT OF THE U.S. DEPARTMENT OF DEFENSE

Chairman Sanders, Ranking Member Burr and Members of the Committee, the Department of Defense (DOD) appreciates the opportunity to comment on pending legislation before this Committee. We are committed to providing our Servicemembers and veterans with the support and benefits they are deserved, and ensuring the partnership between DOD and the Department of Veterans Affairs (VA) works toward those ends. Included in this written statement are our views on legislation that DOD has a direct equity. Thank you again for this opportunity and the continued support of this Committee and Congress.

S. 373, THE CHARLIE MORGAN MILITARY SPOUSES EQUAL TREATMENT ACT OF 2013

S. 373 would change the current definition of spouse to include a person of the same sex lawfully married under the law of the state where the marriage occurred. This proposal would enact an exception to the DOMA for the sole purpose of defining the word "spouse" in titles 10, 32, 37, and 38, United States Code. The Department of Defense supports the extension of benefits to same-sex domestic partners of military members to the fullest extent allowable under the law.

S. 495, CAREERS FOR VETERANS ACT OF 2013, SECTION 3; AND S. 492

While the Department appreciates the intent of this legislation (Section 3 of S. 495 and S. 492 are identical) to assist our Veterans by eliminating barriers to credentialing and licensing at the state level, there are, however, two areas we would like to highlight.

The proposed legislation could potentially withhold funding from two Department of Labor programs specifically designed to assist Veterans with employment—the Disabled Veteran's Outreach Program and the Local Veterans Employment Representatives.

Also by limiting participation to Veterans who have, "* * * not less than 10 years of experience in a military occupational specialty * * *" the proposed legislation misses the Veteran demographic with the highest rates of unemployment. According to the Bureau of Labor Statistics, the 2012 annual average unemployment rate for Veterans aged 18 to 24 was 20.4%. The requirement for 10 years of experience effectively prevents mid to lower grade Servicemembers from taking advantage of this section of the proposed legislation. Younger Servicemembers who decide to depart the military after their first or second enlistment will not be eligible to take advantage of this proposal.

S. 629, HONOR AMERICA'S GUARD-RESERVE RETIREES ACT OF 2013

This bill would add to chapter 1, title 38, United States Code, a provision to honor as Veterans, based on retirement status, certain persons who performed service in reserve components of the Armed Forces but who do not have service qualifying for Veteran status under 38 U.S.C. § 101(2). The bill provides that such persons would be "honored" as Veterans, but would not be entitled to any benefit by reason of the amendment.

Under 38 U.S.C. § 101(2), Veteran status is conditioned on the performance of "active military, naval, or air service." Under current law, a National Guard or Reserve member is considered to have had such service only if he or she served on active duty, was disabled or died from a disease or injury incurred or aggravated in line of duty during active duty for training, or was disabled or died from any injury incurred or aggravated in line of duty or from an acute myocardial infarction, a cardiac arrest, or a cerebrovascular accident during inactive duty training.

S. 629 would eliminate these service requirements for National Guard or Reserve members who served in such a capacity for at least 20 years. Retirement status alone would make them eligible for Veteran status.

DOD recognizes that the National Guard and Reserves have admirably served this country and in recent years have played an even greater role in our Nation's overseas conflicts. Nevertheless, the Department does not support this bill because it represents a departure from active service as the foundation for Veteran status. This bill would extend Veteran status to those who never performed active military, naval, or air service, the very circumstance which qualifies an individual as a Veteran. Thus, this bill would equate longevity of reserve service with the active service long ago established as the hallmark for Veteran status. The Department does not concur with expanding the definition and calling this population "veterans," even if that does not entail qualification for associated benefits.

Additionally, this provision as written is likely to cause significant confusion amongst the population of those who have served, and under S. 629 would be called "veterans," yet not be qualified for any additional benefits.

S. 674, ACCOUNTABILITY FOR VETERANS ACT OF 2013

This bill states that whenever the Secretary of Veterans Affairs submits a request for information, that the head of a covered agency has no more than 30 days to provide all information that the Secretary determines is necessary to adjudicate a claim for a benefit under a law administered by the Secretary.

DOD and VA have both agreed to a 45 day timeframe to allow any and all last minute medical care documentation, particularly coming back from TRICARE network providers, time to "catch up" to the Service Treatment Record and be interfiled prior to sending the Service Treatment Record to VA. This agreement enabled DOD to dramatically decrease the volume of late and loose flowing medical documentation to the VA Records Management Center and provides greater likelihood that the Service Treatment Record is complete upon transfer to VBA. Thus, the proposed legislation of implementing a 30 day requirement is not feasible and would undermine the current DOD/VA efforts in this arena.

S. 690, FILIPINO VETERANS FAIRNESS ACT OF 2013;
S. 868, FILIPINO VETERANS PROMISE ACT

The Department opposes S. 690 and S. 868 regarding the identification of individuals claiming service in the Philippines during World War II, because the current and effective process is consistent with the process used for other conflicts, ensures the service of claimants is properly authenticated, and results in claimants receiving all benefits to which they are entitled.

The requirements for validating the qualifying service of Filipino Guerillas who belonged to the U.S. Army Forces in the Far East (USAFFE) and non-USAFFE Guerillas were established in the wake of the U.S. Government's robust "Guerilla Recognition Program" that operated in the Philippines from 1945–1948. The Army's service validation tools, which include operational records, rosters, and other documents that identify USAFFE and non-USAFFE Guerillas, were created as part of an extremely thorough public outreach effort, spanning across the Philippines, to identify and record any service of Philippine nationals in support of the Allied war effort. This information was developed and collected in direct coordination with the Philippine Authorities to serve as a mechanism by which the Army could assess future claims.

Over the years, the U.S. Army spent a significant amount of time reviewing its qualifying service verification policies and procedures for potential USAFFE and non-USAFFE Filipino Guerillas. Changing the validation process for potential Filipino Veterans of World War II could result in inequity between special population groups associated with other past conflicts and could generate an unprecedented number of new claims that could not be verified given the passage of time. The current process has been well-tested and has proven to be effective and efficient in ensuring that the service of claimants is properly authenticated with a view to ensuring that claimants receive all benefits to which they may be entitled.

S. 889, SERVICEMEMBERS' CHOICE OF TRANSITION ACT OF 2013

While we support the premise of this legislation, namely to ensure Servicemembers are informed of their GI Bill benefits and how to access those benefits to support the attainment of their educational goals, we believe adding more time to the existing Transition curriculum as stated in Section 10 is not the best approach. The VA currently provides GI Bill benefits information within the mandatory (VOW Act) Transition VA Benefits briefings and we believe the best approach is to leverage and build on the existing curriculum to ensure Servicemembers are well informed of how to access their GI Bill Benefits to support the attainment of their educational goals. Additionally, the testing provision contained in section 2(a)(3) duplicates the admissions testing process already in place at academic institutions requiring admissions testing. Moreover, requiring Servicemembers to take a test, as required by this legislation, when they are applying to institutions of higher learning that do not require such a test for admission, places an undue burden and potential additional costs on Servicemembers, which their non-Servicemember counterparts are not required to bear.

LETTER FROM JUDITH T. WON PAT, ED.D., OFFICE OF THE SPEAKER, 32ND GUAM LEGISLATURE

Office of the Speaker
JUDITH T. WON PAT, Ed.D.
I MINA'TRENTAI DOS NA LIHESLATURAN GUAHAN | 32nd GUAM LEGISLATURE

COMMISSIONER
GUAM COMMISSION ON DECOLONIZATION
GUAM FIRST COMMISSION

PRESIDENT
ASSOCIATION OF PACIFIC ISLAND LEGISLATURES (APIL)

BOARD MEMBER
PACIFIC RESOURCES FOR EDUCATION AND LEARNING (PREL)

VICE CHAIR
PACIFIC ISLAND DEVELOPMENT BANK (PIDB)

MEMBER
FESTIVAL OF THE PACIFIC ARTS (FESTPAC)

May 10, 2013

The Honorable Bernie Sanders
Chairman
U.S. Senate Committee on Veterans' Affairs
412 Russell Senate Bldg.
Washington D.C. 20510

The Honorable Richard Burr
Ranking Member
U.S. Senate Committee on Veterans' Affairs
Sponsor Bills (S.492 & S. 495)
217 Russell Senate Bldg.
Washington, D.C. 20510

Re: Support of U.S. Senate Bills (S.492 & S. 495)
Hearing Date; Wednesday, May 15, 2013

Dear Chairman Sanders:

I am writing in support of Bills (S. 492), sponsored by the Honorable Senator Richard Burr of North Carolina, a proposed bill to amend Title 38, United States Code, to require States to recognize the military experience of veterans when issuing licenses and credentials for veterans; and (S. 495), also sponsored by Sen. Burr, the proposed Careers for Veterans Act of 2013.

Just three months ago, over 600 active duty men and women of the Guam Army National Guard, 1st Battalion, 294th Infantry Regiment, were deployed to Afghanistan. Reportedly, this group is among the largest group, if not the largest, of reserve component troops to be mobilized and deployed in support of Operation Enduring Freedom.

In fact, on May 1, 2013, the 1-294th Infantry Regiment was assigned control of a vital security force mission at Camp Eggers, Afghanistan, dubbed "Task Force Guam." This task force relieved a contingent from the Alabama National Guard, which operated as "Task Force Centurion Prime."

With Guamanian troops deployed in support of Operation Enduring Freedom in Iraq and Afghanistan, our island's veteran population continues to grow; and so do challenges that they face as they try to reacclimatize to daily life, upon conclusion of their respective deployments. Veterans residing in Guam face similar circumstances experienced by veterans nationwide with regard to needs and support.

(cont.)

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Members of our troops struggle with readjusting to civilian life; many report that they feel the support services for veterans are inadequate post-deployment. Moreover, veteran unemployment is nearly twice the national average with one out of every three Iraq and Afghanistan veterans suffering from Post Traumatic Stress Disorder (PTSD) or Traumatic Brain Injury (TBI) or a combination of both due to combat trauma.

Additionally, there are thousands of veterans residing in Guam from all conflicts; these are not just Guamanian veterans, but veterans from U.S. States and territories and Micronesia who now call Guam home. These devoted brave men and women of our island have willingly answered the call to defend the freedoms of our country. They have earned our respect and admiration and warrant the recognition and assistance provided in Bills S. 492 and S. 495.

As I close, I would like to share with you a couple of interesting points related to Guamanian veterans and our island: Statistics reflect that Guam has had the most soldiers, per capita, killed in our Nation's recent war than any other jurisdiction in the United States; the same held true during the Vietnam conflict, there were more soldiers, per capita, from Guam that were killed in that war, than any other state or territory; as well, during World War II, Guam was the only United States possession that was occupied by enemy forces.

Although we will never have the opportunity to repay those who have gone before us, and the debt we owe for their ultimate sacrifice, we can begin to make good for those few veterans who are still with us today – and their numbers are quickly dwindling.

Mr. Chairman, Bills S. 492 and S. 495 provide at least some remedy for our brave men and women in assisting the hiring of veterans, and recognizes their military experience when being issued licenses and other credentials.

I respectfully request, on behalf of our U.S. Veterans residing on Guam, your consideration of this testimony in strong support of Bills S.492 and S.495.

Thank you for the opportunity to provide testimony on these bills.

Respectfully,

Judith T. Won Pat, Ed.D.
Speaker, 32nd Guam Legislature

cc: The Honorable Richard Burr, United States Senator
The Honorable Madeleine Z. Bordallo, Member of Congress

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ATTACHMENTS:

OFFICE OF SENATOR
FRANK B. AGUON, JR.
CHAIRMAN, COMMITTEE ON
GUAM U.S. MILITARY RELOCATION | HOMELAND SECURITY | VETERANS' AFFAIRS | JUDICIARY

May 13, 2013

The Honorable Bernard Sanders
Chairman, US Senate Committee on Veterans' Affairs
217 Russell Senate Office Building
Washington, DC 20510

Dear Senator Sanders:

Buenas yan Hafa Adai! (Greetings from Guam)! As a Senator of the 32nd Legislature from the island of Guam and as Chairman of the Committee on the Guam-U.S. Military Relocation, Homeland Security, Veterans' Affairs and Judiciary, I would like to present testimony in support of two proposals that will directly affect the lives of U. S. veterans. I understand these proposals are scheduled to be entertained by your Committee in the upcoming Committee Hearing. Guam, a U. S. territory located in the Western Pacific Ocean, is commonly recognized as one of the most patriotic communities per capita in the nation, with an estimated more than 10,000 Veterans residing on our beautiful island. In addition, the Guam National Guard has approximately 600 Guardsmen and women presently serving in Operation Enduring Freedom in Afghanistan, and who are not scheduled to return back to the island until early next year.

I would like to extend my appreciation on behalf of the veterans on Guam, their families, and the people of Guam to the sponsors of both S. 492, requiring states to recognize the military experience of veterans when issuing licenses and credentials to veterans, and S. 495, requiring federal agencies to hire veterans, to require States to recognize the military experience of veterans when issuing licenses and credentials to veterans. In Guam, specific laws have been enacted that provide veterans with local benefits, to include the waiver of fees for driver's licenses and the provision of veteran points for employment within the government. Enacting similar national legislation would certainly complement existing local programs and further support our veterans. Therefore, I would recommend, and hope that your Committee considers applying the U.S. territories, i.e. Guam, to these proposals. Through including the territories in this measure, it would equitably extend the application of these provisions and any intended benefits therein to all veterans who have served our nation in the U. S. Armed Forces. Furthermore, should federal grants and financial resources be provided to the community of Guam, these measures would ensure that the programs carry out the intent therein in benefitting Guam veterans.

Once again, I would like to commend and congratulate you and the sponsors of these measures for continuing to recognize the service provided to our nation by all veterans. Should you have any comments, questions or concerns regarding this matter, please do not hesitate to contact my office at your earliest convenience. Your positive consideration and support for these measures, and for Guam's veterans who have proudly served our nation and our island, would be most appreciated. **Dangkolo' Na Si Yu'os Ma'ase' (Thank you very much).**

Respectfully,

SENATOR FRANK B. AGUON, JR.
Chairman, Committee on Guam-U.S. Military Relocation, Homeland Security, Veteran's Affairs & Judiciary
Mina'Trenta Dos Na Liheslaturan Guahan (Thirty-Second Guam Legislature)

Attachments: (S.492 and S.495)

CC The Honorable Madeleine Z. Bordallo, Guam Delegate, U. S. House of Representatives
Committee Members on Guam-U.S. Military Relocation, Homeland Security, Veteran's Affairs & Judiciary, 32nd Guam Legislature
Honorable Edward B. Calvo, I Maga'lahen Guahan

I Mina'Trentai Dos Na Liheslaturan Guåhan
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www.frankaguonjr.com

Office of Senator Aline A. Yamashita, PhD
I Mina'Trentai Dos Na Liheslaturan Guahan
32nd Guam Legislature

Committee on Aviation, Ground Transportation, Regulatory Concerns and Future Generations
Member

Committee on Education, Public Libraries & Women's Affairs
Vice Chairperson

Committee on General Government Operations & Cultural Affairs
Member

Committee on Health & Human Services, Health Insurance Reform, Economic Development & Senior Citizens
Member

Committee on Municipal Affairs, Tourism & Housing & Hagatna Redevelopment Authority
Member

Committee on Public Safety, Infrastucture & Maritime Transportation
Member

Committee on Rules, Federal, Foreign & Natural Affairs, Human & Natural Resources; & Election Reform
Member

May 10, 2013

The Honorable Bernard Sanders
Chairman, US Senate Committee on Veterans' Affairs
217 Russell Senate Office Building
Washington, DC 20510

Dear Senator Sanders:

I am writing in support of two measures before you in Congress- S.495 – Careers for Veterans Act of 2013 and S. 492 – To amend title 38, United States Code, to require States to recognize the military experience of veterans when issuing licenses and credentials to veterans, and for other purposes– as they would broaden opportunities for our returning heroes to be engaged in meaningful work.

As a Senator in the 32nd Guam Legislature, I am constantly looking towards growing opportunities of support for our veterans and their families. The longer I serve, the more concerned I become for all families and, most certainly our Guam veterans and their families.

As you are probably aware, Guam has the highest per capita military representation. Guam is a proud, loyal American island. Currently, out of our island population of approximately 160,000, our veterans account for 14,000.

Sadly, the supports and services afforded veterans elsewhere are not found in our island. From medical challenges to the lack of unemployment compensation insurance, Guam soldiers who have proudly and distinctively served our nation,

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returns home to find great hardships as they re-integrate into life beyond war. The Guam veteran has the same challenges found in every American community but ours face harder times because of a lack of resources. As well, because of our geographic location, Guam veterans and their families are unable to travel to another county or state to access much needed supports and services.

Out of Guam's 7,970 unemployed in the civilian labor force, 3,800 are veterans. As the standards are met during duty, the acknowledgement of that accomplishment only makes sense. As well, the expansion of the VA small business contracting goals to include those owned by one or more veterans opens the doors wider.

As Guam veterans and their families gave, it is now our turn to give. Providing the opportunities for them to find life meaningful and relevant is a needed step. This office humbly and respectfully asks that you ensure that Guam veterans and their families are always included in all measures for veterans. Thank you for your time and kind attention and for the opportunity to be heard.

With Respect,

Aline A. Yamashita, Ph.D.
SENATOR

Cc: The Honorable Eric K. Shinseki, Secretary of Veterans Affairs
The Honorable Edward JB Calvo, Governor of Guam
The Honorable Madeleine Z. Bordallo, Guam Delegate to US Congress
The Honorable Judith T. Won Pat, Speaker, 32nd Guam Legislature
Mr. John Unpingco, Administrator, Guam Veterans Affairs Office
Mr. Bill Cundiff, Chairman, Guam Veterans Commission

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LETTER FROM REV. DR. C. WELTON GADDY, PRESIDENT, INTERFAITH ALLIANCE

REV. DR. C. WELTON GADDY
President

June 11, 2012

The Honorable Bernie Sanders
Chairman
U.S. Senate Committee on Veterans Affairs
412 Russell Senate Office Building
Washington, DC 20510

The Honorable Richard Burr
Ranking Member
U.S. Senate Committee on Veterans Affairs
412 Russell Senate Office Building
Washington, DC 20510

Dear Chairman Sanders and Ranking Member Burr:

On behalf of Interfaith Alliance, a national non-partisan organization committed to protecting religious freedom whose members belong to more than 75 different faith traditions, I write to you with regard to the War Memorial Protection Act (S.705), currently pending before the Senate Committee on Veterans Affairs. I urge you to oppose this legislation and to ensure it is not passed by your committee. This misguided and unnecessary measure is harmful both to institutions of religion and government and does a disservice to the memories of the diverse Americans the memorials in question commemorate.

This legislation would enable the government to use a religious symbol as a war memorial—a practice that is constitutionally suspect, an attempt to contravene an ongoing court case, and, of equal importance, would lead to age-old symbols of faith being reduced to secularized markers. Most often, the Latin cross is the chosen symbol for such memorials. Yet, the cross is the quintessential symbol of most of the Christian tradition, including that of my Baptist faith, and represents the crucifixion of Jesus and the role of that event in salvation—which is why the cross is inherently a symbol of the Christian faith. We cannot divorce religion from the cross—nor should we. And, certainly the cross does not represent all those who have given their lives in service of their country. Any attempt to claim otherwise, to claim that the cross is simply a secular symbol to commemorate any and all individuals who have died, diminishes the stature of this integral symbol of my faith.

Though there are times when the government can appropriately include religious symbols and imagery on public land, such displays cannot and should not be based on one particular religious symbol. Our military, like our nation, is among the most diverse in the world. That is in large part because religion has flourished freely here without government explicitly or implicitly giving preference to one religion over another, or even to religion over non-religion. Passing this legislation would fly in the face of that great tradition of religious freedom, and literally hurt religion itself rather than promote it.

It is important to remember that at issue here is *not* the Free Exercise right of soldiers to be able to place religious symbols of their choosing on their headstones at Arlington National Cemetery. Nor is this an issue of whether a variety of religious symbols representing the faiths of the fallen can be included in war memorials—they can. Simply put, this legislation is about enabling the government

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to use a single religious symbol—generally speaking, the cross—in and as monuments to our soldiers. Those who have fallen in service to our nation have done so defending the freedoms we hold dear, including our First Amendment-guaranteed religious freedom. Please do not put this freedom in jeopardy by passing this bill.

Thank you for your consideration.

Sincerely

C. Welton Gaddy

PREPARED STATEMENT OF IRAQ AND AFGHANISTAN VETERANS OF AMERICA

Bill #	Bill Name	Sponsor	Position
S. 6	Putting Our Veterans Back to Work Act of 2013	Reid	Support
S. 200	Bill to authorize the interment in national cemeteries individuals who served in combat support of the Armed Forces of Laos.	Murkowski	No Position
S. 257	GI Bill Tuition Fairness Act of 2013	Boozman	Support
S. 262	Veterans Education Equity Act of 2013	Durbin	No Position
S. 294	Ruth Moore Act of 2013	Tester	Support
S. 373	Charlie Morgan Military Spouses Equal Treatment Act of 2013	Shaheen	Support
S. 430	Veterans Small Business Opportunity and Protection Act of 2013	Heller	Support
S. 492	Bill to require States to recognize the military experience of veterans when issuing licenses and credentials to veterans.	Burr	Support
S. 495	Careers for Veterans Act of 2013	Burr	Support
S. 514	Bill to provide additional educational assistance to veterans pursuing STEM and other high-demand occupation degrees.	Brown	No Position
S. 515	Bill to extend the Yellow Ribbon G.I. Education Enhancement Program	Brown	Support
S. 572	Veterans Second Amendment Protection Act	Burr	Support
S. 629	Honor America's Guard-Reserve Retirees Act of 2013	Pryor	Support
S. 674	Accountability for Veterans Act of 2013	Heller	Support
S. 690	Filipino Veterans Fairness Act of 2013	Schatz	No Position
S. 695	Veterans Paralympic Act of 2013	Boozman	Support
S. 705	War Memorial Protection Act of 2013	Burr	No Position
S. 735	Survivor Benefits Improvement Act of 2013	Sanders	Support
S. 748	Veterans Pension Protection Act	Wyden	Support
S. 778	Veterans ID Card Act	Burr	Support
S. 819	Veterans Mental Health Treatment First Act of 2013	Burr	Support
S. 863	Veterans Back to School Act of 2013	Blumenthal	Support
S. 868	Filipino Veterans Promise Act	Heller	No Position

Bill #	Bill Name	Sponsor	Position
S. 889	Servicemembers' Choice in Transition Act of 2013	Boozman	Support
S. 893	Veterans' Compensation Cost-of-Living Adjustment Act of 2013	Sanders	Support
S. 894	Bill to extend the VA's work-study allowance program and expand the program to include outreach within Congressional offices.	Sanders	Support
S. 922	Veterans Equipped for Success Act of 2013	Sanders	Support
S. 927	Bill to require the VA to carry out a demonstration project to increase awareness of benefits and services.	Sanders	Support
S. 928	Claims Processing Improvement Act of 2013	Sanders	Review
S. 932	Putting Veterans Funding First Act of 2013	Begich	Support
S. 935	Quicker Veterans Benefits Delivery Act	Franken	Support
S. 938	Franchise Education for Veterans Act of 2013	Moran	Support
S. 939	Bill to treat certain misfiled documents as motions for reconsideration of decisions by the Board of Veterans' Appeals.	Blumenthal	Support
S. 944	Bill to require courses of education provided by public institutions of higher education to charge veterans tuition at the in-state rate.	Sanders	No Position

Chairman Sanders, Ranking Member Burr, and Distinguished Members of the Committee: On behalf of Iraq and Afghanistan Veterans of America (IAVA), I would like to extend our gratitude for being given the opportunity to share with you our views and recommendations regarding these important pieces of legislation.

IAVA is the Nation's first and largest nonprofit, nonpartisan organization for veterans of the wars in Iraq and Afghanistan and their supporters. Founded in 2004, our mission is critically important but simple—to improve the lives of Iraq and Afghanistan veterans and their families. With a steadily growing base of over 200,000 members and supporters, we strive to help create a society that honors and supports veterans of all generations.

IAVA strongly believes that all veterans must have access to quality health care, education, and employment resources. The men and women who volunteer to serve in our Nation's military do so with the understanding that they and their families will be cared for as promised both during their period of service and after their period of service as well. IAVA stands with you in faithfully supporting legislation that helps to accomplish these goals.

S. 6

IAVA supports S. 6, the Putting Our Veterans Back to Work Act of 2013, which would extend critical aspects of the VOW to Hire Heroes Act and the Wounded Warrior Act. This bill will make a difference for veterans who are currently unemployed and servicemembers who will be entering the civilian workforce in the future. By passing the VOW to Hire Heroes Act, Congress sent veterans a clear message—we've got your back. This legislation contains critical provisions that we believe will help veterans find jobs, and it could not have come at a better time. Veteran unemployment still remains high, but Congress has recognized that the greatest investment they could make is supporting the New Greatest Generation. This bill forwards that goal.

S. 200

IAVA has no position on S. 200, which would make an individual eligible for interment in a national cemetery if they served in combat in support of the Armed Forces of Laos between February 28, 1961, and May 15, 1975, and at the time of death the individual was a U.S. citizen or lawfully admitted alien.

S. 257

IAVA strongly supports S. 257, the GI Bill Tuition Fairness Act of 2013, which would grant in-state status at public colleges and universities for all veterans using the GI Bill. For those who elect to return to school after completing their military service obligations, the GI Bill has been a remarkable personal development and economic mobility tool for our Nation's veterans, and a tremendously successful investment for our country. The new, Post-9/11 GI Bill in particular has also been a tremendous boon for veterans of the wars in Iraq and Afghanistan who deserve the same opportunities and adjusted benefit levels as were afforded to veterans of previous generations.

But with the entry of millions of new veterans into the ranks of those now utilizing their earned education benefits, the need for various adjustments and fixes to the program have come to light over the years. Given that Congress and the American people agree that all veterans deserve a fair opportunity to be able to utilize their benefits without undue hardship, this body has generally been amenable to quickly addressing these various issues as they have come up. S. 257 would fix another one of these benefit access and utilization issues by allowing veterans to attend public colleges and universities at their respective in-state rates and, thereby, actually be able to afford to go to school and live comfortably using their Post-9/11 GI Bill benefits.

Because of the nature of military service, servicemembers are required to move around according to the needs of their service. Typically that means they are forced to settle down and reside for years in communities outside of their original state of residence. Servicemembers who are stationed at a particular base or post may live in that state for years, buy a home in that state, shop and pay local taxes to that state, raise a family in that state, and generally become part of the community in that locale. However, that servicemember is technically still not considered a resident of that state. So if he or she retires or ends his or her term of service in that state and wants to stay local and go back to school as a new veteran in the place where he or she has already functionally settled, that servicemember would nevertheless be considered a non-resident as a new veteran there and would be forced to pay the often-exorbitant out-of-state tuition rates for his or her education there.

Veterans who wind up living in an area outside of their home states through no fault or choice of their own because of the obligations associated with serving their country in uniform should not be denied the opportunity to use their deserved and earned education benefits to cover the full cost of their education in an area where they have already become functional—but not technical—residents simply because of their military service. This bill would remedy that gap in tuition and residency fairness and ensure that all veterans can take advantage of the promise of the Post-9/11 GI Bill without undue hardship.

S. 262

IAVA has no position on S. 262, the Veterans Education Equity Act of 2013, would allow veterans who are considered non-residents of the state school they attend to receive up to $18,077 in tuition benefits, the same benefit that would be available to that veteran if attending a private institution. IAVA supports the residency and tuition issues that S. 262, aims to solve. However, it is IAVA's belief that the method for resolving these issues laid forth in this bill is not the most viable and beneficial solution available for veterans. IAVA feels that better solutions exist, such as those covered in S. 257, but we nevertheless recognize and support the mutual goal of both pieces of legislation.

S. 294

IAVA supports S. 294, the Ruth Moore Act of 2013, which would change the standard of proof so that official records are not required to sufficiently document an incident of military sexual trauma (MST) to the VA. Creating, obtaining or maintaining official records of MST has proven difficult for many victims over the years. As a result of this bill, veterans who say they were victims of MST would have their claim accepted if a mental health professional says their condition is consistent with sexual trauma and that other evidence does not rebut their claim. This legislation would shift the burden of proof by directing decisions to be resolved with "every reasonable doubt in favor of the veteran."

For years, combat veterans also faced similar problems as Military Sexual Trauma (MST) survivors in claiming benefits by having to provide documentation of a combat event that led to their PTSD. On numerous occasions, tangible documentation was incredibly difficult to produce. To address this, the VA made changes that

allowed veterans' personal accounts of the incident(s) to serve as sufficient proof of a traumatic event if accompanied by diagnosis of PTSD and a medical link. The Ruth Moore Act would apply these same practices and principles to victims of MST.

S. 373

IAVA supports S. 373, the Charlie Morgan Military Spouses Equal Treatment Act of 2013, which would make additional benefits available to all military spouses and families. This bill would require the Departments of Defense and Veterans Affairs to honor any marriage that has been legally recognized by a state and provide a number of key benefits to the spouses of all servicemembers.

This bill is a natural extension of our mission to advocate for the best interests of our troops, veterans and their families. IAVA supports equality under the law for every member of our community. No servicemember or veteran should ever be treated as a second-class citizen by our country. However, when the family of any member of the Armed Forces is denied benefits, that's exactly what happens. This policy undermines the morale and welfare of our troops and, by extension, the readiness of our Armed Forces.

S. 430

IAVA supports S. 430, the Veterans Small Business Opportunity and Protection Act of 2013, which would allow small businesses bequeathed to spouses and dependents of veterans and of servicemembers killed in the line of duty to be treated as disabled veteran-owned small businesses for the purpose of VA contracting goals and preferences. In the troubling time following the death of a family member, surviving spouses and dependents need as much assistance as we can provide. This legislation would ensure that the VA's useful small-business benefits and incentives get passed on to those spouses and dependents and that this critical source of family income can be sustained.

S. 492

IAVA supports S. 492, which would enhance the transition of servicemembers to the civilian workforce and help reduce the veteran unemployment rate. Today's veterans are highly skilled and better trained than ever, yet their unemployment rate remains high. This legislation would require a state to issue a license or credential to a veteran who has already passed the necessary exams within that state and has demonstrated use of the specific skill while a member of the Armed Forces. Thus, it would eliminate certain unnecessary and repetitive steps that veterans encounter too frequently in today's job market.

S. 495

IAVA supports S. 495, the Careers for Veterans Act, which would require the Director of Office of Personnel Management (OPM) to coordinate with Federal agencies and departments to hire 10,000 veterans to fill existing vacancies over the next five years. The bill would also require the Secretary of Labor to establish a one-stop job search center with a list of all Web sites and applications identified as beneficial for veterans trying to navigate their way through the job market. This bill would help create long-term, sustainable jobs for America's veterans by transitioning the skills they gained through their service into jobs in the civilian workforce. By making licenses and credentials in their chosen fields more accessible, this bill is a rational approach to addressing the long-term employment needs of our Nation's veterans.

S. 514

At this point in time, IAVA has no position on S. 514, which would allow the VA to provide greater levels of assistance to those veterans pursuing science, technology, engineering, math degrees than it does to veterans pursuing programs of higher education in other fields.

S. 515

IAVA supports S. 515, which would make the child of an individual who died while serving on active duty eligible for the Yellow Ribbon Program. The Yellow Ribbon Program has received much attention and many accolades since its inception. This program is designed to help "bridge the gap" caused by schools charging tuition and fees higher than the Post-9/11 GI Bill would cover. The Yellow Ribbon

Program of the Post-9/11 GI Bill will help make graduate schools and private universities more affordable for a veteran's surviving family member.

S. 572

IAVA supports S. 572, the Veterans Second Amendment Protection Act, which would end a capricious process through which the government strips veterans and other VA beneficiaries of their Second Amendment rights. Veterans who have a had fiduciary appointed to act on their behalf on financial matters are reported to the FBI's National Instant Criminal Background Check System (NICS), a system which prevents individuals from purchasing firearms in the United States. The Veterans' Second Amendment Protection Act would require a judicial authority to determine that a VA beneficiary poses a danger to himself or others before VA may send their names to be listed in the FBI's NICS.

S. 629

IAVA supports S. 629, the Honor America's Guard-Reserve Retirees Act of 2013, which would grant full veteran status to members of the Guard and Reserve components who have served at least 20 years, but who were not called up for active duty. The men and women who have served in uniform for 20 or more years as Guard or Reserve members should be recognized as military veterans too, but are being overlooked. This legislation corrects that error. We must honor the sacred contract between a grateful nation and all veterans who make unselfish sacrifices in defense of freedom.

S. 674

IAVA supports S. 674, the Accountability for Veterans Act of 2013, which would require prompt responses from covered Federal agencies when those agencies are asked for information necessary to adjudicate claims by the VA. According to the VA's own figures, nearly 70 percent of claims are backlogged, a number that is unacceptably high. Such long wait times can delay the dispensing of benefits and the awarding of compensation and, in turn, can have a devastating impact on veterans and their families.

In order to reduce the wait time that veterans are facing during the claims process, this legislation would hold agencies accountable on the submission of requested evidence in a timely manner. This accountability will help accelerate the claims process by ensuring that the necessary medical information has been collected to produce an accurate disability rating. This legislation would also keep veterans better informed about the status of their claims. Any effort that can make the claims process more efficient and more lucid will have a positive impact on the livelihood of our veterans.

S. 690

At this point in time, IAVA has no position on S. 690, the Filipino Veterans Fairness Act of 2013, which would adjust the disbursement of benefits for certain veterans of WWII. As always, IAVA is incredibly humbled by the display of patriotism from those who served our country in a time of war across all generations.

S. 695

IAVA supports S. 695, the Veterans Paralympic Act of 2013, which would extend through the 2018 fiscal year a joint program operated by the U.S. Department of Veterans Affairs and the U.S. Olympic Committee that funds grants to a host of adaptive sports programs for disabled veterans across the country. The bill would ensure that disabled veterans in local communities throughout the country continue to have opportunities for rehabilitation, stress relief, and higher achievement through adaptive sports.

S. 705

IAVA has no position on S. 705, the War Memorial Protection Act of 2013, which would ensure that memorials commemorating the service of the United States Armed Forces may contain religious symbols. Nevertheless, IAVA strongly believes that American military memorials stand as an important public reminder of the sacrifices made by our men and women in uniform.

S. 735

IAVA supports S. 735, the Survivor Benefits Improvement Act of 2013, which would expand benefits for surviving spouses and continue to enhance the VA's ability to ensure that a veteran's family members are able to establish some stability in their lives after sacrificing so much. This bill would provide grief counseling in retreat settings to survivors whose spouses died while on active duty; expand benefits for children with Agent Orange-related spina bifida, to include those whose parent or parents served in Thailand; extend supplemental payments to survivors with children for five years after the veteran's death instead of the current two; and change remarriage rules so that survivors who remarry can continue receiving benefits under the same rules that apply to other Federal benefits. Current rules cancel benefits for a spouse who remarries before age 57, but allow benefits to be restarted if the marriage ends. This bill would change the age to 55.

S. 748

IAVA supports S. 748, the Veterans Pension Protection Act, which would help discourage abuses within the low-income veterans' pension program by establishing a three-year "look back" period for individuals applying for benefits. By strengthening the pension program and implementing protections to put a stop to abuse, this bill would safeguard pension benefits so they would be there for those who genuinely need them.

S. 778

IAVA supports S. 778, the Veterans ID Card Act, which would provide a simple mechanism by which those who served could readily prove their status as veterans. Currently only veterans who served at least 20 years or who have a service-connected disability are able to get an ID card from the VA establishing their service. The only option available for all other veterans is to carry a DD–214, which is impractical and unrealistic. This bill would make the veteran ID card available to all who served.

S. 819

IAVA supports S. 819, the Veterans Mental Health Treatment First Act of 2013, which would place a stronger emphasis on treating veterans with mental health disorders and would also provide prevention and wellness incentives for veterans to seek treatment. Should a veteran choose to enroll in the voluntary program, that veteran would work with a VA clinician to develop an individual mental health treatment plan. A veteran who is diagnosed with a service-connected mental health issue (i.e. PTSD, anxiety, depression) would be eligible for enrollment, regardless of his or her disability claim status.

S. 863

IAVA supports S. 863, the Veterans Back to School Act of 2013, which would eliminate the time restriction on using Montgomery GI Bill benefits. Those benefits currently expire ten years from the date that an individual separates from the military. This legislation would allow education benefits to expire ten years from the date of first use, which would give veterans greater flexibility to take advantage of their benefits.

This legislation would also reauthorize the Veterans Education Outreach Program (VEOP) to provide funding for campus-based outreach services to veterans. VEOP provided formula grants to institutions of higher education based on the number of enrolled veterans receiving veterans' educational benefits or vocational rehabilitation services. After more than 12 years of war, more and more veterans are going back to school, and this legislation would help expand veterans education outreach and further enrich veterans' academic endeavors.

S. 868

IAVA has no position on S. 868, the Filipino Veterans Promise Act, which would require the DOD to collaborate with military historians on a process to potentially make adjustments to the Approved Revised Reconstructed Guerilla Roster of 1948, also known as the "Missouri List." As always, IAVA is incredibly humbled by the display of patriotism from those who served our country so bravely in a time of war.

S. 889

IAVA supports S. 889, the Servicemembers' Choice in Transition Act of 2013, which would enhance the content of the Transition Assistance Program for servicemembers who are preparing to reintegrate into the civilian world, go back to school using their VA education benefits, and/or enter the civilian job market. This bill constitutes a positive step in the right direction toward equipping troops with the knowledge and skills they need to be successful as new veterans.

We cannot simply turn new veterans loose into the civilian world and expect them to be successful, just as we would not release them as new troops onto a battlefield without proper acculturation and training. A strong, comprehensive, substantive, and consistent Transition Assistance Program is vital to ensuring servicemembers' successful transition back into civilian life, and to ensuring the security and stability of their families.

S. 893

IAVA supports S. 893, the Veterans' Compensation Cost of Living Adjustment Act of 2013, which would give qualified disabled veterans and their dependents annual Cost of Living Adjustments (COLA) adjustments starting in December 2013. Tough economic times have placed a heavy burden on our wounded veterans and the limited resources they are afforded. IAVA believes this piece of legislation will help protect the financial stability of our disabled veterans and their families as costs increase over time.

S. 894

IAVA supports S. 894, which would extend the VA's work-study allowance program to 2016 and expand the program to include outreach within Congressional offices. This outreach would include distributing necessary information to servicemembers and veterans as well as their dependents about the benefits and services available through the VA as well as preparing any paperwork related to claims benefits. IAVA believes that this bill would benefit veterans by granting them valuable experience in the Federal Government and will benefit Congressional offices by substantially increasing the number of veterans helping other veterans.

S. 922

IAVA supports S. 922, the Veterans Equipped for Success Act of 2013. As Congress knows well, today's veterans are highly skilled and better trained than ever before, yet their unemployment rate remains far too high. While the most recent unemployment statistics show promising indications of increasing opportunities for our nations veterans, younger veterans are still experiencing difficulty finding adequate employment in the current job market. Addressing this problem remains a top priority for the veteran community, and IAVA supports this legislation because it will provide employment resources to veterans in general and to younger veterans specifically.

S. 927

IAVA supports S. 927, the Veterans Outreach Act of 2013, which would require the VA to carry out a demonstration project to increase awareness of benefits and services. Too often, veterans express frustration about not knowing if the VA is capable of providing assistance on a variety of issues. Part of the VA's mission is to make veterans' lives better by getting them the right information about their benefits at the right time.

IAVA welcomes legislative proposals focused on better informing veterans about the benefits and services available to them from the VA. Further, IAVA supports the continued establishment and strengthening of partnerships between the VA and other state, local, and non-governmental organizations for the benefit of America's veterans, which this bill aims to accomplish.

S. 928

IAVA supports S. 928, the Claims Processing Improvement Act of 2013. Far too many veterans are stuck in the VA's claims backlog and their numbers have been increasing exponentially over the past few years. At present, over 860,000 VA claims are pending and over 569,000 (or 66.2%) of those claims are backlogged. This legislation would offer a wide array of support and solutions to help improve VA claims-related processes and capabilities, expand veterans' ability to conveniently appeal

claims decisions, and provide for extensions of other important benefits and authorities.

Of particular note within this bill is the establishment of working groups and task forces which collectively would mirror the work and resemble the constitution of the backlog commission or task force for which IAVA has been advocating. However, rather than a piecemeal approach to the establishment of these entities, IAVA supports a comprehensive approach under the authority of one task force. Since the problems related to the conditions under which the claims backlog has grown to such immense proportions are systemic and multidimensional, IAVA favors a comprehensive look at these problems and comprehensive solutions rather than a piecemeal approach.

Ending the disability claims backlog is one of IAVA's top priorities. As such, IAVA encourages the adoption of solid legislation that would provide long-term support and solutions to improve the timeliness and accuracy of VA disability claims processing, expand appeals rights for veterans, and improve upon other benefits and authorities designed to serve veterans and their families.

S. 932

IAVA supports S. 932, the Putting Veterans Funding First Act, which would require Congress to fully fund the Department of Veterans Affairs' discretionary budget a year in advance, ensuring that all VA accounts will have predictable funding in an era where continuing resolutions and threats of government shutdowns are all too frequent. America's veterans have already paid their debt to this country and in return for their service, our Nation promised them care and benefits to help transition back into civilian life. This bill would fulfill that obligation by ensuring that crucial VA services are not affected by Washington's partisan budgetary oscillations, and that the care and benefits veterans have earned are delivered to them in a timely manner.

S. 935

IAVA supports S. 935, the Quicker Veterans Benefits Delivery Act of 2013, which would prevent the VA from requesting a medical examination to further assess a disability if a veteran submits medical evidence provided by a "competent, credible, probative, and otherwise adequate" non-VA medical professional in support of a disability claim. This legislation would require the VA to maximize the use of private medical evidence, which would conserve VA resources and enable swifter, more accurate rating decisions for veterans. VA should be a beneficial resource and efficient adjudicator, not a veteran's biggest obstacle to disability compensation.

S. 938

IAVA supports S. 938, the Franchise Education for Veterans Act of 2013, which would allow veterans interested in purchasing a business franchise to use up to $15,000 in VA educational assistance program funds to pay for franchise education and training programs. IAVA believes that veterans can benefit from such programs just as much as they can benefit from other programs and courses of study for which VA educational assistance can be utilized, and that a greater array of such educational and training programs will encourage veterans to start business that will improve their own livelihoods as well as the overall health of the American economy.

S. 939

IAVA supports S. 939, which would protect a veteran's appeal rights before the United States Court of Appeals for Veterans Claims when the veteran mistakenly files a document with the VA and the document is not transmitted to the appropriate office in a timely fashion. This bill would instead treat that document as a motion for reconsideration before the Court of an adverse decision by the Board of Veterans Appeals in certain circumstances. The failure of VA to notify a veteran promptly of a filing error or to forward the document to the appropriate court or office should not deprive a veteran of the right to have a case reviewed on appeal. The VA should be a beneficial resource and a veteran's strongest advocate, not an obstacle to compensation or care.

S. 944

At this point in time, IAVA has no position on S. 944, the Veterans' Educational Transition Act of 2013, which would require courses of education provided by public institutions of higher education to charge veterans tuition at the in-state rate as

long as the veteran separated within the last two years before enrollment. IAVA supports the tuition issue that S. 944 aims to solve. However, it is IAVA's belief that the method for resolving the issue put forth in this bill is not the most viable and beneficial solution available for veterans. IAVA feels that better solutions exist, such as those covered in S. 257, but we nevertheless recognize and support the mutual goal of both pieces of legislation.

We again appreciate the opportunity to offer our views on these important pieces of legislation, and we look forward to continuing to work with each of you, your staff, and the Committee to improve the lives of veterans and their families. Thank you for your time and attention.

LETTER FROM PHILIP SMITH, NATIONAL LIAISON & WASHINGTON, DC, DIRECTOR, LAO VETERANS OF AMERICA

LAO VETERANS OF AMERICA, INC.
Washington, DC, May 15, 2013.

Hon. BERNARD SANDERS
Chairman,
Committee on Veterans' Affairs,
U.S. Senate, Washington, DC.

RE: MAY 15, 2013, HEARING ON PENDING VETERANS BENEFITS LEGISLATION & S. 690, THE FILIPINO VETERANS FAIRNESS ACT OF 2013.

DEAR CHAIRMAN SANDERS, VICE CHAIRMAN BURR AND SENATE VETERANS' AFFAIRS COMMITTEE MEMBERS: On behalf of the Lao Veterans of America, Inc. (LVA) and the Lao Veterans of America Institute (LVAI), the Nation's largest Laotian and Hmong-American veterans organizations with over 55,000 members across the United States, we write in support of important legislation S. 690, The Filipino Veterans Fairness Act of 2013, introduced by Senator Brian Schatz of Hawaii.

The Filipino Scouts, and Filipino veterans, are indeed special heroes that deserve the attention and support of this Committee. These veterans courageously served in bloody defense of the Philippines, and America's Armed Forces, during World War II, and the brutal invasion and occupation of their island homelands by Imperial Japanese Army and naval forces. The Filipino veterans endured unspeakable suffering and helped turn the tide of battle. These veterans deserve the full support of the United States, and the U.S. Senate Veterans' Affairs Committee.

We appeal to you Chairman Sanders, Vice Chairman Burr, and all of the Senate Veterans' Affairs Committee Members, to act decisively, and unanimously, in support of passage of S. 690, The Filipino Veterans Fairness Act of 2013. It is critical for America to provide long-overdue fairness, and full veterans benefits, to all Filipino veterans who served during World War II.

Time is running out for these elderly Filipino veterans and their families from World War II.

We sincerely appreciate Senator Brian Shatz's leadership on this important matter as well as the work of his staff on this issue.

Like the Filipino veterans of World War II, the Lao and Hmong veterans served in defense of freedom and America's interests in Southeast Asia when they were under relentless and bloody attack. Laotian and Hmong veterans uniquely served in the "U.S. Secret Army" defending the Kingdom of Laos and U.S. national security interests during intense combat the Vietnam War. The Lao and Hmong veterans truly know, understand and appreciate the full meaning of sacrifice on behalf of the defense of their homeland and the United States, having shed much blood and tears, and having saved the lives of many American soldiers, pilots and aircrews in defense of freedom.

The Lao- and Hmong-American veterans of America's war in Indochina, respectfully and humbly submit this appeal to you in support of S. 690 and all of the Filipino veterans of World War II. Please do not forget them, especially as Senator Schatz and others seek to memorialize the American and Filipino victims of the Bataan Death March.

We hope that the Senate Veterans' Affairs Committee, and the U.S. Senate, will immediately act to pass this important legislation.

Sincerely,

PHILIP SMITH,
National Liaison & Washington, DC, Director.

LETTER FROM NATIONAL ACADEMY OF ELDER LAW ATTORNEYS, INC.

National Academy of Elder Law Attorneys, Inc • 1577 Spring Hill Road, Suite 220 • Vienna, VA 22182
703-942-5711 • 703-563-9504 Fax • www.NAELA.org

August 13, 2012

Monica Jackson
Office of the Executive Secretary
Consumer Financial Protection Bureau
1700 G Street NW
Washington DC 20552

Response to Request for Information Regarding Senior Financial Exploitation
Docket Number: CFPB-2012-0018

Dear Ms. Jackson:

Thank you for providing the National Academy of Elder Law Attorneys (NAELA) an opportunity to provide input on the topic of financial exploitation of elders. NAELA is a professional association consisting of approximately 4,400 attorneys who advocate for the rights of seniors and people with disabilities. Elder law attorneys often come in contact with elderly clients who have experienced abuse, neglect, or exploitation. The financial exploitation of the elderly is an area of grave concern for our members and our organization. As you'll see with the attachments, NAELA has in place Board-approved public policy guidelines focused on Elder Justice; moreover, NAELA was a founding member of the Elder Justice Coalition, which worked to gain passage of the Elder Justice Act as part of the Patient Protection and Affordable Care Act.

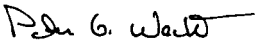
In response to the Consumer Financial Protection Bureau's (CFPB) Request for Information, we distributed a survey to a portion of our membership and asked them to share their professional knowledge. The survey consisted of the questions proposed in the CFPB's Request for Information and also gave our members the opportunity to provide their recommendations on how to better protect the elderly from financial exploitation.

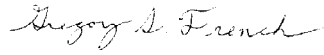
Please find attached a summary of our organization's findings and our members' personal recommendations. Also attached is information NAELA compiled in response to the U.S. Government Accountability Office's investigation regarding the financial exploitation of elders that may be of use.

Thank you for your office's efforts to combat the financial exploitation of the elderly. Please contact NAELA public policy advocates Brian Lindberg (brian@consumers.org) or Sadia

Sorathia (ssorathia@consumers.org) if there is anything else that we can do to support your important study.

Sincerely,





Peter G. Wacht, CAE
Executive Director

Gregory S. French, CELA, CAP
President

Attachments:

1. Response to Request for Information Regarding Senior Financial Exploitation (Docket Number CFPB-2012-0018)
2. Cover Letter to Kay Brown, U.S. Government Accountability Office
3. Sampling of NAELA Members' Perspectives on Financial Abuse and Exploitation of the Elderly
4. List of NAELA Members to Contact for Additional Information
5. NAELA Public Policy Guidelines on Elder Justice
6. *Bringing National Action to a National Disgrace: The History of the Elder Justice Act.* By Brian W. Lindberg, Charles P. Sabatino, Esq., and Robert B. Blancato
7. Letter to Senate Appropriations Committee
8. Letter to House Appropriations Committee
9. S. 462 Bill Summary

ATTACHMENTS:

As an organization, NAELA has taken elder abuse, neglect, and exploitation very seriously. On a daily basis our members come in contact with older adults and individuals with special needs and disabilities who have experienced some kind of abuse, neglect, or exploitation. Our members regularly share concerns about the inadequacy of the programs designed to prevent, detect, and address the problems of financial exploitation. The members who responded to our survey highlighted common forms of exploitation in their communities and identified problems facing national and state governments in preventing future exploitation of seniors.

Request for Information Question #3:

NAELA members overwhelmingly believe that existing accountability controls are ineffective in deterring the misuse of senior advisor credentials. No NAELA member who responded to the survey thought the existing accountability controls are effective. Twenty-five percent (25%) of responses stated that the current controls are "somewhat effective," while seventy-five percent (75%) believed the controls are ineffective.

Not only are the accountability controls ineffective, but NAELA members believe that seniors have a difficult time determining whether the credentials of financial advisors are legitimate. Fifty percent (50%) believed that seniors were ineffective in determining the legitimacy of credentials.

When asked what state or local standards were in place to help seniors determine the validity of financial advisor credentials, sixty percent (60%) of the members surveyed did not know of any such standards.

Request for Information Question #4:

NAELA members believe that seniors are only "somewhat effective" in using available resources to select a financial advisor with appropriate knowledge to address their specific financial needs and requirements. Sixty-four percent (64%) of NAELA members who participated in the survey stated that seniors are only "somewhat effective," while thirty-two percent (32%) argued that seniors are ineffective in utilizing the available resources to appropriately select a financial advisor. Only one response stated that seniors were effective in selecting financial advisors.

Request for Information Question #7:

More than half of those surveyed identified the misuse of Power of Attorney documents by close friends and family as a common example of elder financial exploitation. A member shared an experience where a client's family member used a Power of Attorney document to establish credit cards in the client's name for the family member's personal use. Another NAELA member stated that "family based financial exploitation is far and away the most common form of abuse. Anything else pales in comparison." This strong statement effectively explains the extent and severity of financial abuse by close confidants. In many cases, it is exceedingly difficult for a senior or a person with disabilities to take legal action if he or she has no helpful

friend or relative. It becomes even more difficult when the victim's friend or relative is the person who is financially exploiting the victim.

Another common example of financial exploitation is the selling of unnecessary annuities or trusts to seniors by financial advisors. Financial advisors frequently receive a high commission from selling these products. Many times such annuities and trusts are sold with the inaccurate promise that transferring assets will not negatively impact Medicaid eligibility. Further, members raised concern that many of these seniors do not even have capacity to sign such documents.

NAELA members also expressed the concern that these financial advisors often target the elderly in senior housing facilities with the knowledge of these facilities. The fear is that senior facilities, such as assisted living facilities, are "aiding and abetting" these financial advisors without any consequences.

As many members stated, the elderly are often the target of scam artists. Members shared numerous scams that they have witnessed. Two members identified a scam where seniors were sold annuities from people claiming to work for a Veterans' organization when in reality no relationship with any Veterans' organization existed. Other members stated that scam artists impersonate financial advisors and claim to be associated with government agencies in order to encourage seniors to invest in various financial tools. Scam artists also impersonate employees of a charity in order to receive funds from seniors. Home improvement scams are another popular method employed to deceive seniors.

Telephone solicitation is also a common scam targeting the aging population. Solicitors from Jamaica, Canada, and places within the U.S. contact the elderly and tell them that they will receive millions of dollars, cars, boats, and planes if they will first wire or mail various sums of money to the scam artist. These scam artists call repeatedly and engage the seniors in conversation about how much the senior could win and how important it is that they wire the money. The senior is also eventually billed for the international telephone calls, which have added up to $800 in one month for some seniors. A NAELA member's client reportedly lost approximately $1 million to these scam artists.

Request for Information Question #8:

Transferring funds in a manner that renders a Veteran ineligible for Medicaid is an unfortunately common example of fraudulent practices that target older military retirees. Selling unnecessary financial tools the Veteran does not need, such as annuities, trusts, and life insurance polices, is another example of deceptive practices facing Veterans.

Twenty-nine percent (29%) of those surveyed cited "scamming" the Veteran during the application process for benefits as a widespread example of financial exploitation of military retirees. One NAELA member stated that some financial advisors charge the Veteran large sums of money to apply for VA benefits even though charging a fee for assisting with a VA application is illegal. NAELA members also reported that non-accredited advisors deceive

Veterans by pretending to be from the Department of Veterans Affairs or a Veterans' assistance program.

Two NAELA members raised the concern of the relationship between these financial advisors and the senior assisted living facilities. They believe that these facilities steer Veterans towards certain financial advisors and, in exchange, the financial advisors pay the facilities a fee. A NAELA member writes that "most common and of most concern is the relationship of assisted living facilities to VA planning firms. The assisted living admissions office recommends to the applicant for residence that they work with the VA planner to obtain A&A benefits [when] the planner's primary goal is to sell an annuity product." Such an arrangement can easily expose Veterans to financial exploitation.

Recommendations:

State and local governments face different obstacles when addressing the financial exploitation of seniors. Some states have stronger state statutes regarding elder abuse. Other states have more resources devoted to their efforts of preventing further abuse. However, seventy-five percent (75%) of NAELA members who participated in the survey stated that state and local governments are ineffective in combating elder financial exploitation. No NAELA member responded that they believed the government is effective in protecting the elderly from financial abuse.

Many NAELA members shared their displeasure with the attitude of state and local governments towards preventing elder financial abuse. Seventeen percent (17%) of those surveyed believed the government has no interest in protecting the elderly. They stressed that the government does not understand the severity of the situation and that the government has adopted a belief that financial exploitation of the elderly is simply a "family dispute" that does not require government intervention.

NAELA members expressed what they believed to be the most common challenges facing state and local governments in combating financial exploitation of the elderly, along with providing their personal recommendations on how to make local and state governments more effective in protecting seniors from financial exploitation.

A. Establish Laws with Stronger and Consistent Enforcement Mechanisms

Members identified the lack of stronger laws as a major factor in state and local governments' failure to protect the elderly from financial exploitation. A NAELA member stated that elder abuse is not even a crime where he or she lives. Although the member failed to mention his or her jurisdiction, the member explained that "the criminal code does not define elder abuse as a crime" but rather it is used only as a factor in sentencing. Another member acknowledged that the lack of elder abuse laws with "teeth" is the reason why scam artists can continue their deceptive practices by merely changing a few identifying details.

The quality of Adult Protective Services (APS) is inconsistent across the nation. Some states do not have jurisdiction to pursue cases that involve private assets or non-government income. A NAELA member reported that APS will not intervene if the exploited adult is in a safe location, even if that "safe location" is an emergency room.

NAELA members stressed that stronger laws with criminal sanctions and financial penalties are required to truly protect the elderly from financial exploitation. According to one NAELA member, "the only measure that will deter misuse is severe financial penalties." New laws must also have "teeth" that will actually allow state prosecutors to pursue these cases in a consistent manner.

B. Establish Mandatory Reporting Laws

Some NAELA members believe that individuals in various positions of power knew of situations where the elderly were subjected to financial abuse and took no action. Members recommend that instituting stronger mandatory reporting laws is a necessary step towards eliminating elder financial exploitation. Members believe that physicians and employees of banking and financial institutions should be subject to mandatory reporting laws, requiring them to identify deceptive or abusive conduct towards seniors. However, members acknowledge that such a law would face stark opposition from financial companies.

C. Increase Funding for Elder Abuse Programs

One-half of NAELA members surveyed identified the lack of adequate funding for elder abuse programs as one of the most common challenges facing state and local governments in their efforts to combat elder financial exploitation. NAELA members assert that there is a link between the lack of funding and the ineffective training of government departments on how to appropriately respond to elder abuse. Insufficient funding also means that prosecutors must prioritize cases to pursue and oftentimes elder abuse cases are not ranked high on the list of important issues. NAELA members suggest that increased funding for elder abuse programs will directly improve prevention, detection, and response to elder financial exploitation.

D. Support and Strengthen Education Programs

One NAELA member writes, "although some states have elder abuse laws, seniors do not want to turn in family members or financial advisors so they typically suffer in silence." Members acknowledge that many times seniors do not reach out for help because they do not want to betray loved ones or they feel ashamed about falling for a scam. Members suggest that state and local governments support and strengthen education programs for the elderly and their family members in order to prevent elders from "suffering in silence." These programs should identify what is financial exploitation, how to identify financial exploitation, and how to prevent and report it.

One NAELA member has been a leader in a model program aiming to protect consumers from scams and fraud. The Elder Consumer Protection Program in Florida provides materials and services, conducts regional and state wide programs, and helps consumers protect themselves from exploitation. This program is an excellent example of how education will better protect the elderly from financial exploitation.

E. Prosecute These Crimes

NAELA members urge states to make elder abuse a higher priority and to allow for the prosecution of these crimes. In Colorado, an Elder Law attorney served as an expert witness on the duties of an agent in an elder financial exploitation case. The defendant was convicted of theft and crimes by a person in authority for stealing $10,000 by using a Power of Attorney document. Such cases can be tried successfully if the state prioritizes prosecuting these offenders.

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June 8, 2012

Kay Brown
Director
Education, Workforce, and Income Security
U.S. Government Accountability Office
Washington, DC 20548

Dear Ms. Brown:

Thank you for your recent letter giving the National Academy of Elder Law Attorneys (NAELA) an opportunity to provide input on the topic of financial exploitation of elders. This is an area of grave concern for our members and our organization. Elder law attorneys often come in contact with elderly clients who have experienced abuse, neglect, or exploitation.

In response to your inquiry, we conducted a leadership teleconference to explore ways that we could assist with your study given the short timeframe. Subsequently we sent out an e-mail on our listserv to NAELA members to solicit personal experiences with the financial exploitation of elders. A short sampling of the responses is included at the end of the letter. In addition, the individuals listed after the sampling, all experienced Elder Law attorneys from both the public and private sectors, are willing to make themselves available to you for further conversations on the topic.

As an organization, NAELA has taken elder abuse, neglect and exploitation, including financial exploitation, very seriously. We have educated our members, the public and Congress about the need to address these issues. As you may know, NAELA was one of the five founding members of the Elder Justice Coalition more than nine years ago. We have been active in promoting the passage of the Elder Justice Act and were gratified in March 2010 when the act became law as part of the Patient Protection and Affordable Care Act (P.L. 111-148).

Unfortunately, Congress has not provided any funding to carry out the provisions of the Act. The Administration on Aging has not convened the Advisory Board on Elder Abuse, Neglect, and Exploitation, nor has the Elder Justice Coordinating Council met. NAELA and the EJC continue to advocate for the full implementation of the Act, which we believe would have a significant impact on prevention, services for victims, and detection and prosecution.

In addition, there are several important Justice Department provisions which have not yet been passed by the Congress, which could also make a difference in the lives of many Americans. The Elder Abuse Victims Act of 2011, introduced by Senator Herb Kohl (S. 462) and Rep. Peter King (H.R. 2564), was referred to the Senate and House Committees on the Judiciary, and more or less forgotten. Attached is a summary of the bill.

The Violence Against Women Act, recently passed by the Senate, included a provision introduced by Senator Herb Kohl (D-WI), S. 464, the End Abuse Later in Life Act (EALLA). This bill amends the VAWA to provide grants to train law enforcement personnel, health care professionals, and social service providers to recognize and address instances of abuse in later life. The version of VAWA that passed in the House did not include these provisions, and no further action has taken place. NAELA supports the inclusion of Senator Kohl's provisions in the final version of the bill.

The Elder Justice Act, together with the Elder Abuse Victims Act and the End Abuse in Later Life Act, attempts to create a comprehensive approach to the scourge of elder abuse, exploitation, and neglect. When the funding and implementation of the Elder Justice Act and the other provisions come to fruition, we believe that the United States will have crafted a successful model for better prevention, service provision to victims, and prosecution of those who prey on the elderly.

Please contact us if there is anything else that we can do to support your important study.

Sincerely,

Peter G. Wacht, CAE
Executive Director

Gregory S. French, CELA, CAP
President

Attachments:

1. Sampling of NAELA Members' Perspectives on Financial Abuse and Exploitation of the Elderly
2. List of NAELA Members to Contact for Additional Information
3. NAELA Public Policy Guidelines on Elder Justice
4. *Bringing National Action to a National Disgrace: The History of the Elder Justice Act.* By Brian W. Lindberg, Charles P. Sabatino, Esq., and Robert B. Blancato
5. Letter to Senate Appropriations Committee
6. Letter to House Appropriations Committee
7. S. 462 bill summary
8. Third National Guardianship Summit Standards and Recommendations (see specifically section #4, Financial Decision-Making)

Sampling of

NAELA Members' Perspectives on Financial Abuse and Exploitation of the Elderly

NAELA has more than 4,000 members practicing in private firms, in government-sponsored programs, and in academic institutions across the United States. On a daily basis our members come in contact with older adults and individuals with special needs and disabilities who have experienced some kind of abuse, neglect, or exploitation, including financial exploitation. Our members regularly share concerns about the inadequacy of the programs designed to prevent, detect, and address the problems of financial exploitation. For example, they have shared their concerns related to the underfunding of the Older Americans Act Title III legal services program and the Title VII Long-Term Care Ombudsman Program, and the Adult Protective Services (APS) programs (primary funding from the Social Services Block Grants). NAELA members see the flaws in programs such as the Violence Against Women Act, which does not allow for funds to be used to help with exploitation issues, and they see the lack of private attorneys willing or able to take on exploitation cases in some communities, and much more.

We found different obstacles to addressing financial exploitation in different states and regions. Some states have stronger state statutes regarding elder abuse and more resources are devoted to their efforts to stop it.

This sampling will highlight several specific areas that NAELA members brought to our attention in response to the GAO request.

- Public interest attorneys reported that providing public education on abuse and exploitation falls far short of its goals. With limited resources to educate and little ability to respond when cases are brought forward, attorneys are overwhelmed. One NAELA member reported that the local Title III program is so pitifully funded that it can't take on court cases anymore. With about $44,000 to cover 17 counties for two area agencies on aging, and with more cuts to come, only the most critical of cases can be addressed.
- As mentioned above, other programs are failing also. One office receives VAWA funds, none of which can help with exploitation. They also receive some VOCA funding to serve victims of violent crime, but it does not allow the attorney to pursue remedies on exploitation or more than emergency assistance on abuse.
- The Legal Services Corporation funded offices are also underfunded.
- The quality of Adult Protective Services programs is inconsistent across the nation. Further, in some states they do not have jurisdiction to pursue cases that involve private assets (which means any assets) or non-government income. Also, a NAELA member told us that in any type of case, APS will not intervene if the abused/exploited adult is in a safe place, even if that place is an emergency room or an emergency shelter.
- Private attorneys are often not available for these cases in small towns.
- Another issue that came up was conservatorships. In some states, the state does not have specific requirements about "certification," background checks, training or any minimal requirements for conservators. Some of the public programs only serve age 60+ and are weak and poorly supervised. In many cases it is almost impossible to help a victim of exploitation if that victim has no helpful friend or relative with the means to file a court action.

- In Colorado, several members of the Elder Law Section tried to get a bill passed that would require notice to agents of their duties and responsibilities by banks and other financial institutions. It was unsuccessful we believe because they could not get it approved by the business bar and some members of the criminal bar. However, one can take on these cases individually and recently, and elder law attorney served as an expert witness on the duty of an agent. The individual in question was convicted of theft and crimes by a person in authority for stealing $10,000.00 using her Power of Attorney in part based upon the fact that she had signed the extended notice. It was the first POA trial in Jefferson County, Colorado. The Jefferson County assistant DA tried the case and may have more information.
- We heard from one NAELA member who said that while some cases involve family members or friends, the type of exploitation that is out-of-control involves telephone solicitations from Jamaica, Canada and places within the U.S. The elders, clearly vulnerable to influence, are contacted by telephone, told they will be given millions of dollars and often cars, boats, planes and other such property, if they will wire or mail various sums of money to the scammers first. They ask for amounts ranging from $250 to $1,000 at a time. They ask that money be wired via Western Union or other types of wire services to locations in the U.S., Canada and Jamaica. They call repeatedly, dozens and dozens of times a day, and engage the elders in conversation about what they will win, what kinds of assets the elder owns, and how important it is for the elder to send them money. The scammers often call the elder from outside the country and the charges are billed to the elder. Bills due to these calls have been reported as high as $800 in one month. Two clients had lost about $1 million to these scams before they were stopped.
    - Part of the problem is often due to individuals' mental impairments.
    - The scammers are described as brazen, polite and persistent. They use the same names now as they did 3 years ago, except now they claim to be FBI agents, and the elders think they are working with the FBI. Local police can do nothing. The FBI can do nothing. The FBI says that we have no treaty with Jamaica and even if we did, the money never stays there, it goes to Europe, to the mastermind. We are told that law enforcement is completely worthless in these situations and the abuse continues.
- Some consider the Publisher's Clearing House, long regarded as a legitimate organization, also guilty of perpetuating scams, asking elders to send them money for things of little or no value and keep elders "hooked" on the notion of winning large sums of money so long as they keep sending money. One member said that whether they claim to have lawful conditions or prizes or not does not matter; it contributes to the unrealistic notion that vulnerable elders will win something and that they must first pay something in order to win.
- One NAELA member has been a leader in a model program in Florida for protecting consumers from scams and fraud. The Elder Consumer Protection Program is seven years old and provides materials and services, conducts regional and state wide programs, and generally helps consumers protect themselves from exploitation, and tells them when and where to go for help. For further information on this program go to their website and contact Becky Morgan. http://www.law.stetson.edu/academics/elder/ecpp/index.php
- Another NAELA member, Ed Boyer, has had first-hand interaction with the Florida Senior Sleuth program, which is nationally recognized for it successes in education, referring cases to authorities, and helping to recover millions of dollars for seniors who were victims of con artists or businesses. Even with this program, there are examples of ineffective communication between federal agencies (e.g., IRS) and those fighting the crime at the local and state levels.

List of NAELA Members to Contact for Additional Information

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Statement of Gregory S. French, CELA

President of the National Academy of Elder Law Attorneys

"Pending Benefits Legislation"

A hearing of the:

Committee on Veterans' Affairs

United States Senate

Wednesday, May 15, 2013

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Good morning. Chairman Sanders and Ranking Member Burr, I congratulate you on calling for this hearing. I appreciate the opportunity to testify as a professional serving the elderly and individuals with disabilities and special needs, and as the President of the National Academy of Elder Law Attorneys (NAELA).

Thank you for your interest in our views regarding legislative proposals to protect veterans and improve the quality of their lives after their service to our nation. We fully support this Committee's interest in protecting veterans from scammers seeking to take advantage of vulnerable veterans and their families. We agree that change in the existing VA pension rules is necessary. Senators Wyden and Burr have introduced legislation (S. 748 Veterans Pension Protection Act) in response to the U.S. Government Accountability Office (GAO) study on improvements needed to ensure that only qualified veterans and survivors receive Veterans Pension benefits. However, the changes proposed in S. 748 will not protect veterans from further exposure to scammers. Instead, the current changes proposed in the legislation will make it more difficult for veterans or their surviving spouses to qualify for VA pension benefits without addressing many of the problems in the existing rules.

NAELA

I am proud to serve as the President of the National Academy of Elder Law Attorneys, which is a national, non-profit association composed of more than 4,200 attorneys. NAELA provides information, education, networking, and assistance to lawyers, bar organizations, and others who deal with the many issues involved with legal services for the elderly and people with special needs.

Elder Law

Elder law is a specialized area of law that involves representing, counseling, and assisting the elderly and individuals with disabilities, including many veterans, and their families in connection with a variety of legal issues. It is a holistic approach to the practice of law that focuses on the individual client's needs rather than a particular area of law.

When we work with veterans on their long-term care needs, it is often as part of a larger planning process that examines the full range of long-term care options, issues and costs relevant to the client's circumstances. In most situations, our help is sought when the need for long-term care or a health care crisis has already arrived. It usually involves spouses and children of persons who are in the need of home care, assisted living or nursing home care. Many veterans' families may have already provided care themselves and have exhausted available local resources.

Veterans and their families seek legal advice on quality of care, aging with dignity, self-determination, and how to keep loved ones in their own homes and communities. They want to know how to preserve enough money to pay for all the necessities of living and good care. Veterans and most clients do not like the idea of going on "welfare" or going on Medicaid or giving away their assets. Leaving bequests to children and grandchildren is not the driving force behind planning for veterans, nor is it a significant factor affecting veterans' program costs. There have been for some time exaggerated stories of millionaires on Medicaid and veterans' benefits programs, but millionaires do not need or want such programs.

Fraud Against Our Nation's Veterans

Mr. Chairman, veterans deserve generous and well-run benefits programs. Our most vulnerable veterans who are older, frail and/or have multiple chronic illnesses certainly deserve what they have earned. I believe our mutual goals are to protect veterans from unscrupulous scammers, and protect them from inappropriate administrative program rules and lengthy delays in receiving their benefits.

NAELA's Public Policy Committee, Veterans Task Force, staff and members have been quite active on veterans' issues. We have provided valued input to the Government Accountability Office (GAO) and Consumer Financial Protection Bureau (CFPB) regarding their work to fight fraud, misinformation, and the use of inappropriate services and products for veterans. Attached are recent communications with these agencies (NAELA has not enclosed the additional attachments sent to GAO and CFPB in this document but the materials are available upon request). As the GAO report notes (*Veterans' Pension Benefits Improvements Needed to Ensure Only Qualified Veterans Receive Benefits*), elder law attorneys have assisted with this study and have reported their concerns regarding some current practices that put our nation's veterans at risk. NAELA members have also been exposed to instances through their clients where individuals have been given inappropriate advice on the rules related to gifts and transfers of assets, which may result in the delay of Medicaid eligibility in order to secure VA benefits.

NAELA believes that the Special Committee on Aging's hearing and the GAO report outline critically important issues that should be addressed through education, rulemaking and/or legislation in order to protect our most vulnerable veterans and ensure that the Department of Veterans Affairs programs serve those in the greatest need.

NAELA has analyzed S. 748, the Veterans Pension Protection Act, that was drafted in response to the GAO study. Although the intent of this legislation to ensure that limited resources are available for those most in need is laudable, the bill currently fails to address areas of concern

raised during the senate hearing and in the GAO report. We also have concerns regarding the Department of Veterans' Affairs ability to administer a look-back period without increasing the already lengthy wait time and complex VA application process. However, NAELA is committed to finding reasonable solutions that will better protect aging veterans and their families from financial exploitation while preserving their access to their rightful pension.

Therefore, our testimony will address three primary areas:

1. Concerns with S. 748 and Proposed Changes
2. Accreditation for Representation of Veterans and Proposed Solutions
3. How Gray Areas in Existing Pension Rules Attract "Scammers" and Proposed Solutions

Concerns with S. 748 and Proposed Changes

On April 17, 2013, Senators Burr (R-NC) and Wyden (D-OR) reintroduced a bill to establish a three-year lookback period for the VA Aid & Attendance pension program and to create a penalty period for assets transferred in this time frame. The legislation was introduced in response to a Government Accountability Office report issued in May 2012 titled "Improvements Needed to Ensure Only Qualified Veterans and Survivors Receive Benefits." The report identified several suggestions to strengthen the VA pension program, including better coordination with the VA's fiduciary program and clear guidance for claims processors, but the Wyden/Burr legislation focuses solely on establishing a lookback period.

Congress should not create unnecessary obstacles and delays that will hurt veterans and their families by preventing them from engaging in the kind of planning that individuals will normally do to ensure the future security of themselves and their family. NAELA is committed to protecting veterans from inappropriate, vague, and overly harsh administrative program rules and lengthy delays in receiving necessary benefits.

It is NAELA's position that if a lookback period of *any* time frame is implemented then a number of problems will arise. In order to address these problems, NAELA has drafted changes to the current legislation to better protect veterans and their families. We will share those with the Committee upon request.

Implementation

The Department of Veterans Affairs (VA) will find implementing a lookback period of any length overwhelming and burdensome. The VA will have an extremely difficult time investigating all reported transfers. The VA does not have the staff necessary to address the current backlog. Hundreds of thousands of veterans are already waiting for determinations on benefit requests. In fact, many elderly veterans are dying before their claims are processed. For example, a NAELA member had a case where the claimant died while waiting to receive benefits. The initial application was sent in February 2012 and numerous contacts were made with the VA to determine the progress of the application. The veteran passed away after waiting 441 days. In another case, a veteran has been waiting almost 500 days for a decision since the date of his initial application. A NAELA member has had several contacts with the VA to

determine the status of the veteran's application and was told that a rating decision had been made in March 2012 but the veteran still has not received a notification letter. A lookback period of any length will only make the backlog problem more severe and will unfairly punish veterans and prevent them and their families from accessing their rightful pensions.

NAELA's proposed modification to the bill includes protections for veterans if a lookback period is implemented. We would include a "Timely Determination of Eligibility" section where a claim for improved pension must be decided within 90 days (and 180 days for all other claims). NAELA would also add a section to the bill explaining that the veteran has a duty to disclose fully and adequately relevant information. To impose a lookback period on veterans that will cause further delays to claims processing without imposing a corresponding obligation on the part of the VA to timely consider claims unduly punishes veterans who are eligible for VA pension benefits.

Penalty Period Calculation

The legislation would create inequity with the application of the penalty period, when the veteran would not be eligible to receive benefits. As written, an imposed penalty period created by a gift will only be eliminated if the entire gift is returned to the claimant. The legislation fails to address a situation where only some of the money that was transferred is returned to the claimant. NAELA's proposed amendment to the bill recognizes "partial returns." If an individual transfers assets for less than fair market value and a portion of those assets are returned to the individual, the individual's penalty period should be reduced by the proportion of the assets returned. A partial return should be a "cure" of a penalty, and no new penalty should be recalculated. For example, if a veteran transfers $10,000 to a child as a gift and the child spent $5,000, only $5,000 can be returned to the veteran in an attempt to avoid a penalty period. It is unfair to impose a full penalty of $10,000 on the veteran if the child returns $5,000 of the gift. An all or nothing rule on returns actually discourages partial restitution of funds.

The legislation appears to create a disparity in the application of the penalty period between single veterans and married veterans, as well as between veterans and surviving spouses and dependent children of veterans. The maximum pension rate for each type of claimant (i.e. single, married, veteran, or surviving spouse) is different, thus, creating a longer penalty period for certain claimants versus others, even though the amount of the transfer was the same. For example, if a veteran gives his son a gift of $10,000 and then applies for pension benefits, he would be assessed a penalty period of ten months ($10,000 divided by $1,038). If the veteran's surviving spouse gave her son a gift of $10,000 and then applied for pension benefits, her penalty period would be fourteen months ($10,000 divided by $696).

Further, the legislation provides that if the veteran's spouse makes any gifts during the veteran's lifetime, the penalty is to be assigned to both the veteran and his spouse and such penalty survives the death of the veteran. What this means is that if the veteran and his or her spouse together give their son $10,000 and the veteran then applies for pension benefits, they will receive a penalty of ten months. If the veteran dies before the end of the penalty period, the spouse will have the penalty period transferred to her should she apply for benefits. There is no time limit or end date to this provision. So, if the veteran dies in 2013, leaving a nine-month

penalty period and the spouse does not apply for benefits until many years later, for example 2033, the spouse will still have the nine-month penalty period of ineligibility. It should also be noted that, if the veteran's spouse applied for benefits in less than three years, it is unclear whether the VA could assess a penalty for the $10,000 gift as part of the lookback process, plus transfer the remaining penalty from the veteran's claim to her.

NAELA would propose to change the method of calculating the penalty period in order to better reflect the cost of long-term care for veterans and their families. NAELA suggests that the value of all covered resources disposed of by the veteran should be divided by the greater of either twice the amount of improved pension or the national average cost of care. This option decreases the devastating financial impact of a penalty period and reflects the reality that veterans will have to pay for the cost of care during the penalty period.

We feel that this change will have a lesser impact on veterans and their families because the cost of long-term care is an important element of eligibility for the VA pension benefit. This benefit helps elderly and chronically ill veterans and their families pay for much-needed long-term care. This is because, in order to be eligible for the full pension benefit of $1,038 per month, a veteran needs to have a monthly income of $0 or less. The VA regulations provide that unreimbursed medical costs (such as the cost of long-term care) can be subtracted from the gross income for "income for VA purposes." By tying the penalty period to the cost of care, rather than the amount of the monthly benefit, which other benefits programs such as Medicaid already do, the penalty period reflects the basic reality that the vast majority of those eligible are only eligible because they have significant care costs. This change will protect veterans because the national average cost of care is much higher than the pension benefit.

The highest pension benefit for a single veteran is $1,732 per month. The average cost of in-home homemaker care in the United States is $18 per hour. The highest pension benefit, reserved for those who need the regular aid and attendance of another person for their activities of daily living, will pay for only just over 3 hours of care per day or 22 hours per week (1732 divided by 18 divided by 30 days). When you consider that, in most states, someone who needs that much care would not qualify for Assisted Living (average cost: $3,450 per month) and would generally need nursing home care (average cost: $6,210 per month), to penalize veterans and their surviving spouses at the rate of benefit results in them having to pay the high costs of long-term care out of pocket for a greater amount of time.

Lack of Clarity and Guidance

The current draft of S.748 lacks clarity and guidance on what assets and transfers are exempt from determining the veteran's net worth. In order for veterans to adequately plan for their families' long-term health and financial needs, veterans need to understand how a potential lookback will treat certain assets and transfers. The bill as drafted does not include an adequate discussion on the treatment of trusts and annuities.

In order to protect veterans and their loved ones, NAELA identifies certain transfers that should be exempt from penalty. Transfers made for fair market value or for other valuable consideration are exempt. Also exempt are transfers made exclusively for a purpose other than

to qualify for benefits. Our proposal includes a non-exhaustive list of transfers that are presumptively transfers for a purpose other than to qualify for benefits, such as:

- To help a family member pay for education expenses, medical expenses, for a financial crisis;
- To contribute to a religious organization or charity;
- Transfers resulting from alleged financial fraud or abuse against the claimant;
- Transfers made by individuals with dementia who are unable to provide documentation or explanations of the transfers;
- Transfers made to a third party solely to benefit the veteran's spouse.

NAELA's approach also allows for the recognition of special needs trusts to help protect the veteran's family members who have a disability. For example, a disabled child in the veteran's household can receive Medicaid and have a special needs trust to help improve the quality of the child's life but as currently drafted, the assets in the special needs trust would count against the veteran's ability to obtain needed assistance from the VA. This is not what Congress intended.

The changes suggested also help protect veterans and their families by exempting Medicaid-compliant annuities as an asset. Because the VA pension benefit is usually significantly less than the cost of long-term care, yet a claimant is limited in the amount of assets they are allowed to have and still qualify for VA benefits, having a source of income to make up the cost of care is a critical factor for veterans and their families who want to remain out of Medicaid-covered nursing home care. A Medicaid-compliant annuity has no cash value, but is a source of income the veteran can use to pay for the cost of long-term care and delay the need for Medicaid. This change will help delay or even avoid the need for veterans and their spouses to receive Medicaid-covered nursing home care -- ultimately saving significant costs for the Federal government as a whole.

The current draft of the bill fails to include crucial definitions that would help veterans and their families adequately plan for their long-term care needs. NAELA's suggests adding a definition section to the bill that would include definitions for fair market value, resources, disabled, trust, annuity, and transfer.

Veterans and their families deserve protections from unjustifiably harsh eligibility restrictions. NAELA's suggestions to the bill work to correct the current problems in the legislation and are necessary if a lookback period of any length is instituted.

Accreditation for Representation of Veterans and Solutions

As of June 23, 2008, all persons who engage in the representation of a claimant before the Department of Veterans' Affairs with the preparation, presentation, and prosecution of a claim for benefits must be accredited by the VA. To become accredited, the individual must submit VA Form 21a, Application for Accreditation as a Claims Agent or Attorney. If an attorney, the application permits self-certification of being a current member in good standing with the bar of the highest court of a state or territory of the United States. The General Counsel will presume an attorney's character and fitness to practice before VA based on State bar membership in good

standing unless the General Counsel receives credible information to the contrary. If the applicant is a non-attorney, the applicant must also take and pass a written examination.

The purpose of requiring accreditation was to ensure that claimants for veterans' benefits have responsible, qualified representation. The sole purpose of the VA's accreditation examination for non-lawyers is to determine objectively whether an agent has the qualifications necessary to provide competent representation before the Department. The examination was developed to fairly express the minimum practice before the Department.

The additional requirement for accreditation is that the accredited individual must obtain no less than three hours of qualifying CLE within the first 12 months of accreditation and then another three hours within every 24 months thereafter.
The problems with accreditation and proposed solutions:
(1) **(a) Problem:** The VA has stated that it has neither the authority nor jurisdiction to sanction non-accredited agents from assisting claimants with claims before the VA. The standard response is: (i) for non-lawyers, report them to the state bar for unauthorized practice of law (which is not successful if it is a financial advisor selling financial products) and (ii) for lawyers, if they are not accredited "then there is nothing we can do."

(b) Solution: The VA needs statutory authority to issue (a) injunctive orders and (b) cease and desist orders. The VA can collaborate with other federal agencies to minimize abuse of non-accredited agents from assisting claimants, such as (i) state insurance commissioners, (ii) state bars, and others. In addition, Veteran Service Organizations (VSOs), attorneys, and others should be allowed to file requests for investigation to the VA General Counsel's office. Thus, when a person files a complaint to the VA, the VA can enlist the assistance of the other agencies to investigate whether the practices the individual employed were appropriate for the client and situation or if alternative action is necessary.
(2) **(a) Problem:** The VA does not have the staff or resources to verify attorneys are members in good standing of a state bar upon initial accreditation or upon annual re-certification.

(b) Solution: Hire three full time employees or independent contractors to verify the standing of lawyers on an annual basis. This can be verified by going directly to the state bar websites or calling the bar. Also, the VA can collaborate with the state bars to receive a list each year of attorneys who have been reprimanded, suspended or disbarred.

(c) Solution: Enlist one accredited attorney from each state to do a year-end status report of all accredited attorneys in the state.
(3) **(a) Problem:** The application for VA accreditation is unclear as to whether a member in good standing of a state bar would be stripped of accreditation if the member had a reprimand on his or her record. Specifically, question 20 directly asks about reprimands; however, an attorney may receive a reprimand and still be a member in good standing of his or her bar.

(b) Solution: (i) clarify whether a reprimand would be cause for losing accreditation; (ii) if so, when the annual verification in (1)(b) is implemented, then verify this information as well; (iii) if not, then remove the question as it relates to "reprimand" from the application for accreditation.
(4) **(a) Problem:** Financial advisors are permitted to take the accreditation exam. Once accredited, they are permitted to assist with the preparation, presentation, and prosecution of claims (for free). Many of the abusers creating harm to veterans are financial advisors, both accredited and non-accredited, who sell the claimant inflexible financial products that then have

a probability of making it difficult or impossible for the veteran to afford long-term care in a skilled nursing home. The financial advisor tells the claimant he or she will "do the application for free" but the claimant must invest all their assets with the advisor's company, wherein the advisor receives commissions or fees from the management of assets.

(d) Solution: Do not allow any financial advisors or insurance sales professionals to become accredited agents.

(5) **(a) Problem:** Many people "help" claimants with their applications under the guise of "education" about the process, but do not actually assist with the preparation of the application or represent the person before the VA. These "helpers" are not accredited and do not believe they need to be because they are only "educating" the claimant on how to fill out a claim, but are not actually completing the claim.

(b) Solution: Add a question on the VA application forms, such as, "If you are not using a Veteran Service Organization (VSO) or accredited lawyer as your 21-22a Representative, list all persons who gave you information or assisted you in any way with the preparation of your VA application process for benefits."

(6) **(a) Problem:** To maintain accreditation, only 3 hours of continuing legal education is required within the first 12 months, and then only 3 hours thereafter every 24 months. Three hours is barely sufficient to learn the basics of complicated VA claims issues regarding applications and appeals.

(b) Solution: Most state bars require a certain number of continuing legal education credits. Increase the number of hours required on an annual basis to be no less than three hours annually (instead of bi-annually).

Case Scenarios

It has been questioned why claimants need to seek the advice from an attorney when filing a claim for benefits, specifically, improved pension. Pointedly, can't the claimants get the assistance they need from available Veteran Service Organizations (VSO's)? NAELA recognizes that VSOs are helpful and necessary to the veteran population; however, there are more claimants than can be adequately served by VSOs. Moreover, VSOs appear to be trained to assist service connected veterans with claims and appeals, and many are not fully trained in or fully informed about the improved pension program. Further, elder law attorneys are also knowledgeable about other benefits programs, such as Medicaid, and can advise clients when other programs may be more appropriate for the client, or on the interplay between programs. Listed below are just a few real situations that show the importance and necessity for accredited, trained lawyers to be available and of assistance to veterans, particularly with regard to the improved pension benefit.

1. Overall, VSOs are great with appealing service-connected disability claims. However, they are widely unaware of the Improved Pension program and often will either tell a possible claimant that benefits do not exist or give information that will actually harm the claimant. In the best case scenario, they are application compilers who then forward the applications to the VA.
2. VSO advised client who was applying for VA Improved Pension with A&A that the spouse's income did not have to be reported. Result: overpayment by the VA, demand repayment.

3. VSO advised client that the sale of a home place would not jeopardize VA Improved Pension with A&A. Result: Sale of the home place created excess assets and claimant's benefits were terminated.
4. VSO not being aware of the VA Fast Letter issued October 2012 regarding treatment of unreimbursed medical expenses. Result: Claimant did not provide sufficient medical evidence to verify the need. Claim denied due to excess income (due to the VA not counting permissible medical deductions).
5. VSO advised an elderly veteran (over age 65) who was healthy and independent, but had a spouse living in a nursing home, that there were no benefits available to the veteran. Result: Loss of $1,359 per month ($16,340 per year) of income from the VA to help offset the cost of the veteran's spouse's nursing home costs (Improved Pension).

How Gray Areas in Existing Pension Rules Attract "Scammers"

As stated earlier, NAELA fully supports this committee's interest in protecting veterans from scammers and agree that change in the existing VA pension rules is necessary. Rather than making it more difficult for veterans or their surviving spouses to qualify (and in addition to the suggestions that we have made regarding accreditation), we suggest changes to the existing VA pension rules that will eliminate "gray areas" that allow scammers to take advantage of veterans. By eliminating these confusing provisions, you will be addressing the root of the problem. The following are examples within the existing VA pension rules that we consider "gray areas" or "problem areas" that should be corrected.

Problem Area 1: There is currently no limit on the amount of assets a veteran or surviving spouse can own and yet qualify for VA pension. Instead, a subjective test is used, the criteria of which are not published, to determine whether the claimant has sufficiently few assets to qualify for help from the VA.

The applicable rules defining net worth are as follows: 38 CFR §3.274 which states, "Pension shall be denied or discontinued when the corpus of the estate of the veteran and veteran's spouse are such that, when considering annual income, it is reasonable that some part of the corpus be consumed for the veteran's maintenance."

38 CFR §3.275, which defines corpus of the estate as, "Market value, less mortgages or other encumbrances, of all real and personal property owned by the claimant, except the claimant's dwelling, including a reasonable lot area, and personal effects consistent with claimant's reasonable mode of life."

This type of vague definition of net worth leaves veterans and their surviving spouses with no clue about what level of assets would allow them to be eligible for a VA pension. This, in turn, leaves them vulnerable to unscrupulous scammers wishing to take advantage of unclear rules, perhaps resulting in the veteran purchasing a financial product that may or may not be exempt as an asset, or being convinced to invest more money into a financial product than they can really afford. Moreover, the vague definition of net worth exacerbates the backlog problem because those claimants with excess resources, if they knew what the excess resource limit was, would

not prematurely or unnecessarily apply for benefits. The result would be fewer claims being filed and quicker adjudication of eligible claims.

Solution: Set an appropriate limit on assets for an unmarried veteran or surviving spouse, and an appropriate limit on assets for a married veteran.

Problem Area 2: Specific assets that may be countable (because they are outside the exemptions mentioned in 38 CFR §3.275) are not defined anywhere in the United States Code or Code of Federal Regulations. For example, retirement assets are currently treated as income and as an asset by Pension Management Centers, despite no current regulation that supports this position. Annuities that have no principal value but are paying out a set amount of income and principal each month are being treated as an asset, although there is no current rule or regulation to support this position. As a result of this type of ambiguity in the rules, veterans or their surviving spouses cannot readily verify information provided to them by outside sources, thus making them vulnerable to unscrupulous scammers.

Solution 2: Provide clear definitions of countable and non-countable assets within the United States Code and Code of Federal Regulations.

Problem Area 3: Unless a veteran or surviving spouse was aware of and knew how to obtain General Counsel Opinions, he or she would have no knowledge of the fact that a self-settled special needs trust is considered a countable asset by the VA for pension purposes. Likewise, he or she would have no knowledge of the fact that a life estate interest in real property will be ignored for VA pension purposes. A self-settled special needs trust and a life estate interest in property are commonly-used tools in estate planning, but can be very harmful to the unknowing veteran or surviving spouse given the current position of the VA.

Solution 3: Consider a rule that will make a properly drafted self-settled special needs trust for a disabled person an exempt resource for VA purposes. Also, add an additional provision (perhaps as part of Solution 2) that makes it clear in the federal regulations and United States Code that a life estate interest in property will be counted as a fee simple interest.

Conclusion

In conclusion, we commend this committee for recognizing and working to eliminate fraud against veterans. S.748 does not address the core problems with the program, but NAELA has thoughtfully analyzed and proposed alternatives that will strengthen the bill for veterans if a lookback period of *any* time frame is included. That language, along with the solutions proposed above, will greatly lessen the potential for financial abuse of veterans and surviving spouses of veterans.

Thank you.

PREPARED STATEMENT OF SCOTT LEVINS, DIRECTOR, NATIONAL PERSONNEL RECORDS CENTER, NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Thank you, Chairman Sanders, for giving me the opportunity to discuss S. 674, Accountability for Veterans Act of 2013. The National Archives and Records Administration (NARA) is deeply committed to serving our Nation's veterans and supporting the needs of the Department of Veterans Affairs (VA).

NARA's National Personnel Records Center (NPRC) provides storage and reference services on the military personnel and medical records of nearly 60 million veterans. The center responds to approximately 5,000 requests each day. Most requests come directly from veterans and their next of kin; however, NPRC receives approximately 1,250 requests per day from the VA for the temporary loan of original records needed to adjudicate claims.

The VA has a liaison office co-located at the NPRC facility and the two offices work closely to ensure VA's prompt access to essential records. During the first 35 weeks of fiscal year 2013 NPRC responded to nearly 218,000 requests from the VA. The average response time has been 2.2 workdays.

Recognizing the importance of providing timely access to records, NPRC has worked with the VA to develop a process that enables the electronic transmission of requests, prompt delivery of responsive records, bar code tracking of records, and electronic status updates. Our systems are designed to accommodate the receipt and processing of bulk electronic files created by the VA, which include hundreds (sometimes thousands) of new requests each day. The VA is also able to submit individual requests electronically. Automatic email notifications are sent to acknowledge the receipt of new requests. If our systems determine that a responsive record is temporarily unavailable, the request is placed on backorder for thirty days or until the record is returned to file, whichever is sooner. In instances where a responsive record is not immediately available (approximately 5% of requests), electronic notifications are made to the VA.

In addition to providing status updates through an electronic portal available to VA users, we also provide the VA with direct access to our production system. This access enables VA staff to delve deeper into order fulfillment details concerning specific requests and to run ad hoc queries and reports concerning work volumes and response times.

NPRC also has a staff member appointed to serve as a liaison with the VA to ensure continuous, effective communication concerning fluctuations in workload, troubleshooting system issues, or any other issues involving service delivery to the VA.

NPRC is already exceeding the response time and notification standards outlined in S. 674 and should be able to continuously meet the requirements going forward.

NPRC is committed to serving America's veterans and proud of its efforts to effectively support the VA in doing the same. We hope this information is helpful; we appreciate your interest in this important subject.

PREPARED STATEMENT OF NATIONAL GOVERNORS ASSOCIATION

On behalf of the nation's governors, thank you for the opportunity to comment on an issue of great importance to leaders at all levels of government – supporting our nation's veterans and their families. Governors are leading the way to strengthen and improve veterans' access to benefits and services they have earned while protecting our country, and they appreciate the opportunity to provide input on legislation pending before the Committee.

VETERANS AND THEIR FAMILIES DESERVE BETTER

In recent years, thousands of men and women have returned from overseas deployments in Iraq and Afghanistan and are making the transition back to civilian life. Unfortunately, many returning service members are experiencing difficulty accessing the benefits and services intended to assist them with the transition.

For instance, although veterans and returning members of the military bring valuable and unique experience to the civilian workforce, federal data shows that unemployment rates for veterans who served after September 2001 are higher than unemployment rates for non-veterans. This is a reversal of historic trends that show veterans discharged before September 2001 with a lower rate of unemployment than non-veterans. At the same time, a multitude of existing programs to assist veterans and their families in areas such as workforce development, education and health care face significant challenges with federal red-tape, poor records management and insufficient coordination between agencies at all levels. The Administration, Congress and governors all have taken notice and initiated efforts to help veterans find and maintain employment, but numerous challenges remain.

GOVERNORS ARE LEADING THE WAY

Across the country, governors are leading statewide efforts to address the considerable challenges many veterans and their families face after they leave military service. They have initiated important legislative and policy changes to remove barriers and ease the path to educational opportunities and employment for veterans and their spouses.

The National Governors Association (NGA) is working to support governors' efforts and to identify and share state best practices to address veterans' workforce and education issues head-on. In June 2011, NGA surveyed states and territories regarding support programs offered to members of the military and their families during both their active military service and during their transition to civilian life. Many of these programs were specifically aimed at combating veteran unemployment and providing them with technical assistance after their discharge. Several surveys conducted in the intervening period have similarly shown significant progress at the state level to better serve veterans and address some long-standing deficiencies in benefit programs at all levels of government.

Through this research, it is clear that states are dedicating resources to assist veterans and integrating state-level programs to provide more localized and personal services. Across the country, governors are proposing a host of new or improved state programs to facilitate veterans' access to state and federal benefits and services, address housing and homelessness, meet the specialized needs of those with disabilities and enable access to long-term employment and educational opportunities.

A report detailing states' survey responses and examples of state programs is attached.[1] Highlights from the report include:

- **Facilitating Employment Transition -** Service members on active duty are the beneficiaries of extensive high-quality training that prepares them to perform a wide range of occupational specialties, some of which have direct equivalents in the civilian workforce. Several states have enacted laws to help transitioning service members attain the corresponding civilian credentials and licenses in their occupational field. For instance, in **New York**, Governor Andrew Cuomo asked the New York State Department of Motor Vehicles to waive the road test requirement for veterans who were seeking to obtain a commercial driver's license and had prior experience driving trucks during their military service. **Illinois**, **Louisiana**, **Oklahoma**, **Washington** and **Wisconsin** all have created similar programs to aid licensing and skill transfer in a variety of industries.

- **Supporting Military Spouses** - Military spouses face similar occupational licensing impediments as they relocate from one state to another because of a military transfer. Governors in many states, including **Kansas**, **Maryland**, **Nevada** and **Wisconsin** have created new laws or programs to streamline credentialing processes and remove barriers preventing military spouses from transferring occupational licenses to their new state of residence. More than half of states have enacted or proposed legislation that provides temporary licenses for a military spouse while they complete additional requirements or await verification. In addition, most states also provide unemployment compensation for military spouses who are unemployed as a result of a military transfer.

- **Addressing Housing Needs** - An increasing problem facing many states has been the unique housing needs of veterans and their families and those at-risk for homelessness. To assist those facing these difficult challenges, a number of states have created or expanded comprehensive support programs for homeless veterans. Similar to new programs in **New Jersey** and **Virginia**, **Illinois** Governor Pat Quinn recently committed $4 million to build a housing development that will provide housing and supportive services, including job training and coaching, for up to 80 homeless veterans using a variety of state and federal funding sources. The **Delaware** State Housing Authority recently concluded a "Loans for Heroes" program where qualified U.S. veterans received a one-half percentage point reduction in their mortgage interest rate.

[1] For additional information please see the attached NGA report on state veteran initiatives compiled by NGA's Center for Best Practices.

- **Improving Outreach to Veterans** - For many veterans or those about to exit from active duty, simple improvements in outreach and access to information about the education programs and employment opportunities available to them would provide the means for a successful transition. To better connect veterans to the civilian workforce, many states have launched or expanded career services. **Connecticut**, **Maryland** and **Oklahoma** all created web-based job portals specifically for veterans. To foster employment opportunities, many states also have created programs and proposals to incentivize employers to hire veterans. **Alabama**, **Illinois** and **New Mexico** now offer a tax credit to employers who hire a veteran, and other states are considering creating or expanding state veterans hiring preference.

These examples, as well as those discussed in the attached report, illustrate that just as each veteran has unique needs, each state is facing different challenges to better serve veterans. As governors take steps to improve veterans' benefit programs and services, they are prioritizing actions based on the individual's needs and resources available in their state or territory.

It is worth noting that the majority of states have a central coordinating entity to address veterans' issues. While there is no "one-size-fits-all" governance solution, in comparison to federal programs, states have cleaner lines of authority, higher expectations for meaningful collaboration and governance structures aligned to achieve shared services.

FEDERAL ACTION REQUIRED TO SUPPORT STATE EFFORTS

NGA supports governors' efforts to better serve veterans through several initiatives to identify and promote productive federal solutions to accelerate and support state-led policy.

For example, NGA is a member of the U.S. Department of Labor's Advisory Committee on Veterans Employment, Training, and Employer Outreach (ACVETEO), which is tasked with providing recommendations to the Secretary of Labor about how to improve employment outcomes for the nation's veterans. NGA serves as chair of the ACVETEO Subcommittee on Federal Coordination through which it is leading efforts to highlight federal barriers to veterans' employment and providing recommendations for legislative and regulatory solutions.

In October 2011, NGA reached out to governors to solicit feedback on their federal priorities to address remaining service gaps. As part of that outreach, governors were asked to identify their specific federal requests and priorities to better serve the employment and training needs of veterans.

In August 2012, NGA deployed a comprehensive "Veteran's Survey" to all states to gather key information on effective state best practices, inform federal advocacy efforts to reduce red tape that is a barrier to serving veterans and devise federal solutions to

scale, accelerate or replicate effective state best practices. NGA asked respondents to answer questions regarding definitions, governance, funding, state priories, federal barriers, federal solutions and emerging areas of interest.

As a result of the extensive feedback NGA received and in conjunction with the 2012 survey, the ACVETEO Subcommittee on Federal Coordination developed a list of nine key recommendations for federal actions that can help eliminate, reduce and streamline federal red tape and bureaucracy to better serve the employment and training needs of America's veterans:

- There should be a single definition for what constitutes a veteran for purposes of qualifying individuals for basic services (e.g., home loans, tuition, access to health care).

- Federal agencies serving veterans, such as the Department of Defense (DoD), Department of Labor, and Veterans' Affairs Administration (VA), should identify areas where enhanced collaboration would reduce administrative and regulatory barriers and create greater efficiencies for veterans' services.

- The federal government should maintain accurate and up-to-date veteran records in one central location that may be shared easily between DoD and VA, as well as other relevant agencies, including state veterans departments and workforce agencies.

- Federal agencies should be required to provide detailed quarterly reports to Congress and the Administration on the total number of veteran's claims filed and total number of claims processed, disaggregated by state, race, gender, age and length of processing.

- Congress and the Administration should fully restore the 15 percent set-aside in the Workforce Investment Act so states may continue to use funds for critical employment and training services to veterans, their families and businesses that hire veterans.

- Congress and the Administration should work to de-compartmentalize and authentically align veterans' services across all federal agencies to ensure veterans are receiving the best assistance available and to reduce redundancy and inefficiencies within federal agencies.

- The federal government, starting with the Transition Assistance Program, should work with states and communities to enhance outreach to veterans, including providing a comprehensive electronic database with accurate and up-to-date listings of federal benefits, job opportunities and educational resources.

- Federal training programs should be aligned with state or industry certifications and licenses to keep veterans competitive in the workforce. In addition, DoD

should share their training methods so that states and other accrediting bodies can identify gaps in training and develop programs to bridge military training with civilian credentials and licenses.

- States should be given increased flexibility with regard to Disabled Veterans Outreach Program (DVOP) and Local Veterans' Employment Representative (LVER) resources to fully meet the needs of veterans, including allowing resources to be used for spouses and veterans' families.

These recommendations will serve as the basis for a report to the Secretary of Labor and Congress on the specific strategies to improve the employment outcomes for veterans.[2]

PRINCIPLES FOR FEDERAL ACTION IN SUPPORT OF STATE EFFORTS

Today's committee hearing will review a number of legislative proposals that address many of the issues reflected in the nine recommendations above. As the Committee considers these bills, governors ask that several key principles for federal action are kept in mind to help ensure that federal legislation enables further progress at the state and local level and does not reverse gains already made.

- **Veterans' needs are not "one size fits all."** Through NGA's work in this area, it is clear that veterans need and deserve additional federal training and support to be equipped to compete in today's job market. Yet, there is no easy solution to the challenges faced by veterans and a "one-size fits all" approach at the federal level will not adequately meet veterans' needs. For these reasons, it is essential that changes to programs take place with the understanding that the support required by each veteran is unique to each individual. State and local leaders and businesses are best situated to assist veterans in this regard. Diverse needs require diverse solutions and veterans' needs change based on a number of key factors including both demographics and location. Federal policy changes should provide states with increased flexibility to create efficiencies and achieve results.

- **Avoid shifting costs to states and unfunded mandates.** While it is important to encourage states to take steps to address these challenges in the near-term, federal legislative proposals that include withholding federal grant funding in order to compel state action are ill-advised. Continuing fiscal challenges at the state level and reductions in federal funding has put significant financial pressure on these programs. Congressional lawmakers should also be aware of the adverse impact of passing unfunded mandates to the states. Any new unfunded or under-funded federal mandates would simply put further pressure on already stretched state budgets and could have an adverse impact on the progress already being made.

[2] For additional information please see the attached memo from NGA and the National Association of State Workforce Agencies (NASWA), to the Secretary of the Department of Labor.

- **Congress should exercise "legislative restraint."** With all of the positive actions taking place to improve programs for veterans at the state and local level, the nation's governors ask that Congress and this Committee exercise "legislative restraint" and craft federal policies with an eye for the future. Federal legislative actions should address broad-based issues of efficiency, effectiveness and accountability of veterans programs and related issues. This includes providing better coordination between federal and state agencies in the management and administration of programs. More importantly, states can vastly improve their support of veterans and their families by receiving better access to accurate and timely information and efficient and rapid transfer of records and processing of claims.

It is important that federal legislation not rush to address problems identified in a few states at the expense of productive efforts in many other states. Prescriptive federal mandates are not a recipe for success for the long-term when what states require is a framework that is flexible and allows further innovation and improvement at the level where veterans and their families are served. Serving our veterans is a partnership among governments at every level, and federal legislation should encourage the most productive and collaborative federal, state and local relationship possible. These issues can be further illustrated upon a review of two key issues the NGA would like to highlight as part of its testimony.

PROVIDING APPROPRIATE LICENSING & CREDENTIALING FLEXIBILITY

Veterans are often prevented from holding civilian jobs similar to those they were trained for and held in the military because they lack specific civilian certifications or licenses. For example, a service member with direct and relevant aircraft mechanic experience may be prevented from working for an airline simply because they lack Federal Aviation Administration certification. Similarly, a military nurse or field medic is given similar, if not more extensive, medical training than is required of their civilian counterparts, yet that training does not always count toward certification for employment purposes.

Federal training programs should be aligned to offer veterans the opportunity to obtain state or industry certifications in order to keep them competitive in the job market. Flexibility to ease license requirements in certain circumstances also should be granted. **While states must reserve the right to establish their own licensure and certification standards**, where federal standards exist, military training must be aligned to ease soldiers' re-entry into the workforce. Furthermore, DoD must make public and/or share directly with states and national accrediting bodies, information about the programs of instruction for certain military occupation specialties. This information would allow states and certifying bodies to identify gaps in training and develop programs to bridge military training with civilian credentials and licenses. This basic lack of information creates an unnecessary hurdle for state, local and industry leaders.

With regard to S.492 and S.495, NGA is working with governors and states to gather feedback. NGA looks forward to providing further information to the Committee in the

weeks ahead. While states were encouraged by the intent of the legislation, states also raised concerns that, as written, the bills would stifle state innovation, undervalue veterans training experience for industry certifications and, for some states, actually create hurdles and barriers for veterans to be employed in a specified field.

Several states forwarded concerns that the requirements of S.492 and S.495 do not provide flexibility to states based on their unique and separate licensure requirements for different occupational fields. For instance, some states do not require an actual examination for certain occupational licenses and credentials. Therefore, states question if a requirement for an examination for all occupational fields, as the bill language currently requires, is either necessary or appropriate.

Likewise, several states also have raised concerns with the bill's 10-years of relative military experience minimum eligibility requirement. As proposed, this standard exceeds several existing state requirements and would exclude a significant number of veterans from the benefits of the legislation. The 10-year limit should be a ceiling, not a floor, for determining eligibility.

In contrast, many states have enacted laws that are more expansive than those proposed in S.492 and S.495. In fact, in recent years, governors are making great strides to push legislation or executive orders to further address state licensure and certification barriers in state law:[3]

- Forty-one states already have passed legislation or have measures in place to address service member licensing. This includes allowing state licensing boards to recognize active credentials from another state and waive gaps in training requirements.

- Thirty-six states already have passed legislation on addressing licensing for military spouses. This includes providing temporary licenses for military spouses while they complete additional requirements or await verification.

NGA also continues to support state efforts to address this issue through its NGA Center for Best Practices (NGA Center). The NGA Center is partnering with the Department of Labor Veterans Employment Services (VETS) on a two-year veterans licensing and certification project. Working with a small group of states, this project is intended to identify and eliminate barriers to the transfer of veterans' skills gained in military service to civilian work. Although the scope of the project is limited to just six states, the goal of this new and exciting research demonstration will be to inform other states and federal policy with the best practices to address licensing and credentialing challenges of veterans and their spouses. This project will be a unique opportunity for policymakers at the state and federal level to understand the challenges in this area and how legislative and policy solutions can be better tailored to meet the unique requirements of each state's licensing and credentialing process.

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[3] Updated figures on state legislature activity provided by Office of the Deputy Assistant Secretary for Defense for Military Community and Family Policy.

THE IMPORTANCE OF RESTORING THE WIA 15 PERCENT SET-ASIDE

Across the country, veterans and their families rely on the federally supported Workforce Investment Act (WIA) one-stops to receive much needed employment and training services and supports. From coast to coast, states report that the WIA 15 percent set-aside has been essential to provide services and supports to veterans, their families, and to attract businesses committed to hiring this nation's veterans. For example, **California** used the WIA 15 percent set-aside to provide training and specialized employment services to more than 2,200 veterans. **Massachusetts** used the WIA 15 percent set-aside to provide direct services to 7,742 veterans. **Washington** used the WIA 15 percent set-aside to attract a new manufacturer, Profile Composites, committed to hiring veterans and individuals with disabilities. Of the veterans who finished the program, 81 percent found work and are now receiving paychecks and civilian benefits in high-wage jobs in clean energy and other growing industries.

Unfortunately, in recent years, Congress and the Administration significantly reduced the 15 percent to 5 percent, a reduction of more than 70 percent for most states. In 2012, the tide turned as Senate and House appropriators, sought to correct this error. Those efforts were undone in the Continuing Resolution (CR).

Though bicameral, bipartisan support for reestablishing the set-aside is evident, the reduction in flexible federal funds has already negatively impacted state services to veterans. The reduction resulted in the elimination of employment and training services to jobseekers, including veterans, at a time when those services are critically needed. Veterans' family members and potential employers have been impacted, programs were downsized, and ultimately, some programs were terminated in states. The WIA 15 percent set-aside for statewide activities supports state innovate and critical employment and training services to veterans, their families and businesses that hire veterans.

While governors appreciate the growing recognition by Congress and the Administration of the value that the WIA 15 percent set-aside holds for job seekers and businesses, governors continue to call on Congress to fully restore the 15 percent set-aside in the FY 2014 appropriations bill or the next CR. This simple action must be part of solution to help veterans.

ESTABLISHING A PARTNERSHIP FOR OUR VETERANS' FUTURE

Across the country, state and local leaders are working together to redesign government, balance budgets and ensure that the skills and assets of the nation's veterans are put to work back home. Regardless of where they reside, governors firmly believe all veterans must have equal access to federal benefits and services and that the federal government must collaborate with states to achieve this goal.

Our veterans need a stronger, better-coordinated and more efficient federal-state-local partnership to meet their growing and challenging employment needs. The current stand-alone, disconnected and fragmented federal programs spread across multiple agencies,

must be integrated, aligned and consolidated to ensure that the customer – veterans – truly get the support and services they deserve.

Now is a critical time to redesign and reform the federal government's employment and training services for the nation's veterans. Yet, there is no easy solution and a "one size fits all" approach at the federal level will not adequately meet veterans' needs. Instead, federal policy should support, accelerate or advance state-based policy solutions and provide governors with more flexibility to improve or expand the programs and services offered to veterans in their states.

Governors view the federal legislation being discussed today as the beginning, not the end, of the process and their efforts on behalf of veterans and their families will continue. This includes working closely with this Committee as it considers legislation to make the nation's veterans' programs more efficient, accountable and responsive.

Attachments:

1. National Governors Association Veterans Initiatives in the States Report; November 2012
2. Department of Labor ACVETEO Subcommittee on Red-tape Reduction Memo on Committee Report - Key Recommendations to Eliminate Federal Red Tape; December 7, 2012

ATTACHMENTS:

Summary of Veterans' Initiatives in the States

As thousands of men and women return from overseas deployments in Iraq and Afghanistan, states have launched and expanded programs to help veterans transition to civilian life. Ensuring a smooth transition requires that veterans find meaningful employment, have access to proper physical and mental health services, and that their families receive the support they need to adjust to the transition. New state initiatives in the last year have emphasized these needs by focusing on the transfer of technical skills, access to higher education, housing, career guidance and support, and hiring incentives for employers.

In response to an initiative by the Department of Defense, five states have enacted laws to facilitate veterans' transfer of skills to the civilian workforce. In New York, Governor Cuomo asked the New York State Department of Motor Vehicles to waive the road test requirement for veterans who were seeking to obtain a commercial drivers license and had prior experience driving trucks during their military service. Illinois, Louisiana, Oklahoma, Washington, and Wisconsin have all created similar programs to aid licensing and skill transfer in a variety of industries. Wisconsin, Kansas, and Nevada, have also created new laws or programs to help military spouses transfer their skills between states.

In order to make new skill acquisition easier and ensure access to higher education, Iowa, Louisiana, and Virginia have recently enacted or proposed programs to provide in-state tuition assistance for veterans. In both Virginia and Louisiana, legislation currently pending in committees would ease in-state tuition residency requirements for veterans. And in Colorado, House Bill 1350 was signed by the Governor on June 8th to provide in-state tuition for active duty dependents.

Three states created or expanded comprehensive support programs for homeless veterans. Similar to new programs in New Jersey and Virginia, Illinois Governor Pat Quinn recently committed $4 million to build a housing development that will provide housing and supportive services, including job training and coaching, for up to 80 homeless veterans using a variety of state and federal funding sources. The Delaware State Housing Authority launched a new "Loans for Heroes" program. Qualified U.S. veterans will receive a one-half percentage point reduction in their mortgage interest rate.

To better connect veterans to the civilian workforce, five states have launched or expanded career services for veterans. Connecticut, Oklahoma, ad Maryland all created web based job portals specifically for veterans. And in order to ensure opportunities, many states have also created programs and proposals to incentivize employers to hire veterans. Alabama, New Mexico, and Illinois now offer a tax credit to employers who hire a veteran and other states are considering creating or expanding state veterans hiring preference.

As detailed below in the index where state initiatives are listed with a short description, states have also created a number of more unique initiatives. Examples include New Jersey, where the state launched an initiative to tailor rehabilitative services to veterans who have entered the criminal justice system, and Wisconsin, where the Governor created a start-up seed fund for veterans businesses.

Index of Veterans' Initiatives in the States

The following index of information was compiled from a combination of general media research and the NGA survey on veterans' initiatives. The number of states active in any given domain is not comprehensive in the event that the state was not captured in either the survey or our media research. The narratives within each section are organized alphabetically.

Transfer of Skills

Alaska has legislation pending, as of July 2012, relating to the transfer of training and education gained in the military to civilian certification.

Source: NGA survey.

California Veterans Employment Program to Include Social Services in California, The **California** Employment Development Department (EDD) announced the winners of $5 million in new grants to help veterans transition from military life into high-wage jobs and civilian careers. The programs receiving the grants are expected to help over 1,200 veterans. Besides education and job placement, veterans in need will receive mental health assistance and wrap-around services such as referrals for housing, transportation, medical care and substance abuse, job coaching, and case management. They will be prepared for careers in a variety of industries, including professional, scientific and technical services, health care, transportation, security, and the utility and energy sectors. Funding for the grants is drawn from the Governor's discretionary fund and the 25 Percent Dislocated Worker portions of the federal Workforce Investment Act monies under the administrative authority of the California Labor and Workforce Development Agency's EDD.

Source: http://www.edd.ca.gov/About_EDD/pdf/nwsrel12-20.pdf

Hawaii intends to introduce "legislation that will enable critical certifications and licensing to transfer from the military to the civilian sector."

Source: NGA survey

Iowa "HF 2403 helps returning veterans qualify for jobs by allowing the Iowa Department of Transportation to waive the driving skills test for a commercial driver's license if a service member can prove related active-duty training. The applicant must still pass a knowledge skills test and have a safe driving record to receive a CDL. Signed by Governor Branstad on 4-4-12."

Source: NGA survey

Illinois Governor Pat Quinn recently signed legislation making it easier for veterans to join the Illinois State Police (ISP). Senate Bill 1587 waives certain education requirements for individuals who have been honorably discharged with a campaign medal after serving in Afghanistan or Iraq. Waived requirements include a rule that ISP officers successfully complete two years of law enforcement studies if they are less than 21 years old. Also, a rule preventing ISP officers under the age of 21 from carrying firearms or having power of arrest is waived for veterans. Veterans are still required to undergo a 12 month probationary period from the date of appointment.

Source: http://www.ilga.gov/legislation/ilcs/fulltext.asp?DocName=002026100K9

Louisiana Governor Bobby Jindal signed legislation establishing procedures for crediting specialized military training into equivalent non–military licenses and certifications. The law was designed to speed up the transfer of out–of–state professional licenses and certifications for families and veterans relocated by the military to Louisiana by establishing reciprocity with other states.

Source: http://gov.louisiana.gov/index.cfm?md=newsroom&tmp=detail&articleID=3440

Maryland is currently working on the development of a CDL test waiver process for military veterans in accordance with recent Federal Motor Carrier Safety Administration (FMCSA) rule updates. Maryland's standards for this program will be consistent with the recommendations of the American Association of Motor Vehicle Administrators (AAMVA) which were developed with input and feedback from the military. It is anticipated that the MVA will begin implementation of this test waiver process in early 2013, in conjunction with other Administration initiatives geared toward military veterans.

Michigan is considering or has introduced legislation to aid the transfer of skills for barbers, security guards, electricians, and plumbers.

Source: NGA survey

New York Announcing the "Experience Counts" campaign, Governor Cuomo called on the New York State Department of Motor Vehicles (DMV) to make it easier and less costly for military members who have gained experience driving trucks and heavy equipment during their military service to obtain a New York commercial driver license by waiving the road test requirement.

Source: http://www.governor.ny.gov/press/20912-experience-counts

Oklahoma The Oklahoma National Guard is developing a new employment program for active military members and veterans. The Employment Coordination Program aims to connect service members and veterans to state employment opportunities by translating their military experience to the civilian world. The program is designed to ease the transition for returning soldiers.

Source:
http://www.ok.gov/triton/modules/newsroom/newsroom_article.php?id=223&article_id=6226

Oregon passed HB 4063 (2012) requiring specific state agencies and boards to consider prior military training and education if it is substantially equivalent to the education required for licensing.

Source: http://www.leg.state.or.us/12reg/measpdf/hb4000.dir/hb4063.en.pdf

Utah The Utah Department of Workforce Services started operating the Accelerated Credentialing to Employment (ACE) program starting in the summer of 2012 to reach Utah National Guard and Reserve veterans who are generally underserved by other programs. The program aims to help veterans use their prior training and experience to obtain employment and related training and includes extensive outreach efforts through program specialists.

Source: NGA Survey

Vermont Vermont's Apprenticeship State Council is updating their plan to match the Federal guidelines which emphasizes reciprocity of credentials across states. Otherwise, no direct transfer of skills/education from military to civilian certifications. Transfer of skills to either electrical or plumbing trades is completed on a case by case basis.

Source: NGA Survey

Virginia Through the new *Troops to Trucks* program, the Virginia Department of Motor Vehicles (DMV) is working with military installations to certify veterans as third party testers to train more personnel to operate commercial motor vehicles and obtain jobs in the transportation industry. Effective July 1, 2012, DMV will utilize a new federal regulation to waive the road skills test requirement for military CDL holders two years immediately preceding their application with safe driving experience. These applicants will still need to take the DMV written exam.

Source: http://www.governor.virginia.gov/News/viewRelease.cfm?id=1257

Washington The state has directed boards to waive training if a military member already has training that's comparable to the state's requirement.

Source: http://www.defense.gov/news/newsarticle.aspx?id=67290

West Virginia The Legislature of West Virginia passed House Bill 4037 on March 1, 2012. "H.B. 4037 requires consideration and appropriate acceptance of military education, training and experience for qualification for professional licensure, providing rule-make authority for licensing or registration boards; providing exceptions; and requiring the extension of licenses and the waiver of certain requirements for licenses or registration of certain persons and accompanying spouses on active duty in the armed forces of the United States."

Source: NGA Survey

Wisconsin Senate Bill 550, signed by the Governor in April, will make it easier for military spouses to receive reciprocal licenses from other states. In addition, Senate Bill 338 waives fees for occupational and professional licenses for qualified veterans. And Senate Bill 369 gives employers extra incentive to hire an injured veteran by providing a $4,000 tax credit in the first year of hiring a veteran full-time.

Source: http://www.wisgov.state.wi.us/Default.aspx?Page=692d2bf8-3eff-4332-8ab5-acaf2db465f9

Career Services, Training and Employment

Colorado (Thursday, May 24, 2012)Gov. John Hickenlooper today announced a new resource, "Hire A Colorado Vet," offered by the Colorado Department of Labor and Employment (CDLE) "created a website, www.hireacoloradovet.gov, where veterans can post résumés, job-search and learn about new job postings before the general public. Additionally, employers are able to post job openings or search for qualified veteran applicants on this website.

Source: http://www.colorado.gov/cs/Satellite?c=Page&childpagename=GovHickenlooper%2FCBONLayout&cid=1251623005751&pagename=CBONWrapper

Connecticut The state is launching a new website to connect job-seeking military veterans with employers. The site seeks to address the difficulty many veterans experience searching for jobs by providing an online appointment scheduler to meet with a veteran employment representative; information about veteran apprenticeship and on-the-job training programs; instructions on how to apply for training and manufacturing grants and make use of the Work Opportunity Tax Credit; and direct access to other services provided by veteran employment and business services representatives at the Connecticut Department of Labor. The site is part of the state's Hire Vets First! Initiative which is meant to support veterans as they transition back to civilian life after serving.

Source: http://www.ctvets.org/

Hawaii intends to create a Hawaii Hires Heroes (H3) program similar to the National Hiring Our Heroes.
Source: NGA survey.

Illinois (July 2012) Gov. Pat Quinn signed SB 3689 which makes employment and job training organizations eligible to receive grants through the Veterans Assistance Fund, effective immediately.
Source: State Net Capitol Journal

Maryland The state launched the Mil2FedJobs Web portal, located on the Maryland Workforce Exchange, to directly match transitioning service members with careers in the federal government. The Mil2FedJobs portal uses veterans' military occupational codes (MOC) to query federal openings that match their qualifications on the USAJOBS web tool. In addition, Mil2FedJobs allows civilian hiring managers to identify specific military occupations that share attributes with specific jobs in their agencies. The Mil2FedJobs portal was developed by the Maryland Department of Labor Division of Workforce Development and Adult Learning. It was funded through the U.S. Department of Labor Veterans Employment and Training Service to help connect transitioning veterans with the tens of thousands of federal jobs moving to Maryland because of Base Realignment and Closure (BRAC).
Source: http://www.dllr.state.md.us/whatsnews/mil2fed.shtml

New Jersey The state is expanding Helmets to Hardhats, a national program administered through the National Guard which assists veterans with obtaining apprenticeships and careers in the building and construction industry.
Source: http://nj.gov/governor/news/news/552012/approved/20120321b.html

New Jersey created a 36-month teacher preparation pilot program, called the "VETeach Pilot Program," at Richard Stockton College for veterans who served in the armed forces on or after September 11, 2001. Created by legislation in early 2012, veterans who successfully complete the program will receive a bachelor's degree and satisfy the requirements to apply for a certificate to teach grades kindergarten through eight, and in certain secondary education fields. Tuition for eligible students will be covered entirely by the federal "Post 9/11 Veterans Educational Assistance Act," which provides 36 months of tuition benefits.
Source: http://www.state.nj.us/governor/news/news/552012/approved/20120405.html

North Dakota Job Service North Dakota (JSND) was awarded a $2 Million demonstration grant this year. This two year grant targets training programs for the oil industry and building trades and has a priority to serve Veterans and Native Americans. The grant includes provisions for outreach to veterans and employers, career counseling, and training to fill skill gaps. Support services will be used to help eligible and suitable job seekers find a job in ND. Consortium development, resource leveraging and long-term planning will address other challenges of connecting workers to ND employment opportunities, such as housing shortages, infrastructure, and other barriers to employment.

Michigan, The Michigan Department of Transportation (MDOT) introduced a new program focused on helping wounded military veterans transition into the civilian workforce. The program offers "wounded veterans paid internships at MDOT facilities throughout the state and is federally funded by the Federal Highway Association."
Source: http://www.michigan.gov/mdot/0,4616,7-151--279844--,00.html

Oklahoma The state is setting up a veterans specific web site along with a workforce portal. www.OKMilitaryconnection.com serves as the landing page for the military portion of the workforce portal.

Source: http://www.ok.gov/governor/documents/Governor%20Fallin%202012%20Agenda%20-%20Workforce%20%26%20Education%20FINAL%202.pdf

Tennessee The state intends to develop collaboration between the Tennessee Department of Labor, Tennessee Department of Economic and Community Development and the Tennessee Department of Veterans Affairs to create effective on-line resources to connect veterans with jobs, training and education.

Virginia Governor Bob McDonnell has unveiled several initiatives aimed at ensuring that service members can afford college and secure employment. Under the Virginia Veterans Re-Employment Initiative, the Virginia Department of Veterans Services will work with state and private organizations to help veterans find employment after they are discharged from service.

Source: https://www.governor.virginia.gov/news/viewRelease.cfm?id=1080

Wisconsin Governor Scott Walker launched an initiative centered on specialized services at the Department of Workforce Development's Job Center for veterans seeking employment. A call center is staffed by employment service specialists including the Veterans Services staff to help veterans find employment. Employers interested in hiring veterans can call the Job Center to receive assistance with veteran recruitment. Additional state support included 14 job fairs that were targeted specifically for veterans, and a preference setting for employers on the state's online employment site, JobCenterofWisconsin.com, to indicate their preference to hire veterans.

Source: http://walker.wi.gov/journal_media_detail.asp?prid=5999&locid=177

Wisconsin The Wisconsin Economic Development Corporation has dedicated $100,000 for seeding approximately 15 start-up companies run by veterans. Another $50,000 will help market the fund to potential contributors.

Source: http://ssti.us2.list-manage.com/track/click?u=3b83ca94cd43c0588e1cc5785&id=aca6b87926&e=c4c16afbf3

Housing and Homelessness

Alabama intends to conduct a feasibility study to locate homeless veterans and refer to existing services. The challenge is to identify state capabilities and resources to fill any holes and seams in order to eliminate veterans homelessness.

Source: NGA Survey

California Veterans Employment Program to Include Social Services in California, The **California** Employment Development Department (EDD) announced the winners of $5 million in new grants to help veterans transition from military life into high-wage jobs and civilian careers. The programs receiving the grants are expected to help over 1,200 veterans. Besides education and job placement, veterans in need will receive mental health assistance and wrap-around services such as referrals for housing, transportation, medical care and substance abuse, job coaching, and case management. They will be prepared for careers in a variety of industries, including professional, scientific and technical services, health care, transportation, security, and the utility and energy sectors. Funding for the grants is drawn from the Governor's discretionary fund and the 25 Percent Dislocated Worker portions of the

federal Workforce Investment Act monies under the administrative authority of the California Labor and Workforce Development Agency's EDD.
Source: http://www.edd.ca.gov/About_EDD/pdf/nwsrel12-20.pdf

Colorado intends to "increase housing for 300 homeless Veterans in 2012" and "encourage six regional strategies via a coordinated state plan by January 2013," while creating "housing and accessible services for homeless Veterans by January 2015 and create housing and accessible services for homeless youth and families, the chronically homeless, and other populations by January 2020" according to the Pathways Home Colorado Initiative supported by the Governor.

Delaware The Delaware State Housing Authority (DSHA) announced the launch of its new "Loans for Heroes" program, a product that will provide qualified U.S. veterans with mortgage financing through participating lenders. Any qualified veteran who obtains financing will receive a reduction of one-half percentage point below the current mortgage rate through this new DSHA program.
Source: http://news.delaware.gov/2012/05/02/new-program-for-veterans/

Illinois Governor Pat Quinn recently committed $4 million to build a housing development that will provide housing and supportive services, including job training and coaching, for up to 80 homeless veterans using a variety of state and federal funding sources.
Source: https://www.governor.virginia.gov/news/viewRelease.cfm?id=1080

Maryland The Department of Housing & Community Development is actively working on a partnership with Freddie Mac to train Maryland's statewide network of housing counselors to deal with veteran-specific issues as it relates to delinquency and foreclosure. Training is expected to commence in early 2013.

The Department of Housing & Community Development has implemented a Maryland Homefront program which has made $50 million available to provide mortgages to armed services members at 50 basis points below the prevailing Maryland Mortgage Program rate. As of October 14th, 39 loans have been made (36 reserved, 3 purchased) for a total of $8.4 million. In addition, nearly $400,000 has been committed to those borrowers for down payment and closing cost assistance.
Maryland created a collaboration between the Maryland Department of Human Resources (DHR), Maryland Department of Housing and Community Development, and the United Way to form the Maryland Statewide Homeless Data Warehouse (MSHDW). The MSHDW will facilitate consistent data collection and sharing between the State and providers, allowing jurisdictions to better understand the actual number of individuals, including veterans, in need of housing services, and both leverage and direct resources accordingly.
Source: NGA Survey

New Jersey Governor Chris Christie has announced expansion of the Veterans Haven Program, which provides homeless veterans with long-term rehabilitation resources, to northern New Jersey. Administered through the New Jersey Department of Military and Veterans Affairs, the Veterans Haven Program will provide housing, health services, social, and vocational rehabilitation to an additional 50 homeless veterans.
Source: http://nj.gov/governor/news/news/552012/approved/20120321b.html

Virginia Governor Bob McDonnell has unveiled several initiatives aimed at reducing homelessness among Virginia veterans. The Virginia Homeless Veterans Initiative provides $197,000 for programs to reduce homelessness, and will coordinate efforts through the Department of Veterans Services so that communities maximize resources.

Source: https://www.governor.virginia.gov/news/viewRelease.cfm?id=1080

Data Collection and Management

Alaska will improve its data collection process related to veterans with the introduction of veterans status on driver's licenses in March 2013.

Source: NGA survey

Maryland In September 2011, the Governor's Office began convening VetStat meetings to discuss the seven strategies that had been identified as essential to helping Maryland's Veterans. VetStat is part of Governor O'Malley's StateStat program – a performance-measurement and management tool implemented to make state government more accountable and efficient. VetStat meetings are held quarterly and involve a review of data in areas such as workforce development, Veterans benefits, links to public mental health and VA health services, incarcerated veterans, and no-interest loans to disabled veterans.

Source: NGA Survey

Minnesota is currently developing a new IT system to unite state and county databases

Source: NGA Survey

New Hampshire is in the process of linking a new veteran's drivers license to data collection efforts to identify veterans in the state, in conjunction with DD Form 214 and wartime bonus payment tracking.

Tennessee The Tennessee Department of Veterans Affairs has identified the development of a database of all veterans in the state as a top priority.

Source: NGA Survey

Utah The state is required under a new statute to collect and house a database identifying veterans in the state. This new innovative program became functional April 18, 2012 and currently contains half of all Utah veterans in the database.

Source: NGA Survey

Vermont The Vermont Department of Labor is now flagging all veterans who open new benefit claims and ensuring that they are registered in the Vermontjoblink system. The department is now able to share this data with field staff to conduct targeted outreach to these unemployed veterans.

Source: NGA Survey

Facilitating Access to Federal Benefits

Maryland developed a new interagency agreement to share data on veterans who are receiving medical Assistance or Long-term Care benefits to identify veterans who may be eligible for U.S. Department of Veterans Affairs benefits.

Source: NGA Survey

Michigan is interested in developing a consolidated location for veterans to access state and federal benefits and is the process of developing a program to offer campus counseling at universities and community colleges.

Source: NGA Survey

New Hampshire Increased funding for outreach to inform veterans of their eligibility for benefits is a top priority for the state.

Source: NGA Survey

North Carolina Veterans applying for Social Security benefits are able to transfer their complete medical records within 72 hours, down dramatically from a prior average of five weeks. During the trial 579 wounded warrior claims were processed in North Carolina by DHHS staff who determine Social Security benefits eligibility. North Carolina was selected to participate in the project after federal and state officials recognized the need for a centralized Department of Defense (DOD) medical record repository. Previously, veterans in search of their medical records often found them to be scattered, incomplete or unattainable. Medical records are required by the Social Security Administration (SSA) before a DHHS examiner can determine if a veteran is eligible for benefits. DHHS partnered with the DOD and SSA during the pilot, which wrapped up this spring.

Source: http://www.ncdhhs.gov/pressrel/2012/2012-06-22_vets_social_security.htm

Higher Education & In-state Tuition

Alabama , through pending legislation, intends to save "millions" in their state Dependent Education Scholarship fund budget by removing "out of state" tuition fees for veterans family members that the state of Alabama provides scholarships for. "The Alabama G.I. Dependent Scholarship currently pays the tuition/fees for any significantly disabled Alabama veteran who served honorably during a wartime period."

Source: NGA Survey

Colorado House Bill 1350 gives statutory authority to higher education governing boards to provide in-state tuition for active duty dependent and was signed by the Governor on June 8th, 2012.

Source: http://www.leg.state.co.us/CLICS/CLICS2012A/csl.nsf/fsbillcont3/BE5F0CABF0CD59D6872579E2004CDBF8?Open&file=1350_ren.pdf

Iowa The first measure to hit Republican Governor Terry Branstad's desk this year added $1.3 million to a tuition assistance program for National Guard troops returning from deployment.

Source: http://www.military.com/veteran-jobs/career-advice/military-transition/states-helping-veterans-find-jobs.html

Iowa intends to develop a task force to look at the readjustment of veterans for when and how veterans with disabilities should be returned or enrolled in Iowa colleges and universities. From the perspective of Iowa Department of Education officials, there is a disconnect in the system now that seems to be encouraging many disabled veterans to enroll in college for therapeutic reasons. Doing so is creating a tremendous problem for everyone, but particularly for many Iowa colleges and universities, especially because veterans with certain disabilities may not be

ready for college, but their disabilities or prescription history is not transparent to college personnel.
Source: NGA Survey

Louisiana Governor Bobby Jindal is supporting legislation that would "grant in–state tuition at Louisiana colleges and universities to honorably discharged veterans, members of the National Guard, reserve enlistees previously called into service, and former cadets or midshipmen at one of the United States Armed Forces service academies." The bill is currently pending in an education committee.
Source: http://legiscan.com/gaits/view/401080.

Maryland The Maryland Dream Act, passed in the 2011 legislative session, extends the time in which honorably discharged veterans may qualify for in-state tuition rates. The law extends the time after honorable discharge that Veterans can qualify for in-state tuition from one year to four years.
Source: NGA Survey

Massachusetts The VALOR act makes it easier for children of military personnel to transfer between school districts and states.
Source: http://www.mass.gov/governor/pressoffice/pressreleases/2012/2012531-governor-signsvalor-act.html

North Dakota is developing a VetsCorp program through AmeriCorp to have a person at ever higher education institutions to work with veterans with barriers to education, including both physical and mental health disabilities.
Source: NGA Survey

Tennessee The state intends to develop collaboration between the Tennessee Department of Veterans Affairs and the Tennessee Board of Regents and technical schools to develop more educational opportunities for veterans and their dependents to help them compete for higher paying and technical positions
Source: NGA Survey

Texas The College Credit for Heroes program includes an Individual Education Plan that has enrolled more than 90 current veteran participants and the establishment of accelerated paths to surgical technician and emergency medical service technician certification.
Source: http://www.texasinsider.org/?p=62730

Virginia A proposed bill, currently pending in appropriations, would waive the one-year residency requirement for members of the Virginia National Guard as well as the requirement to prove domiciliary intent if the individual enlists after moving to Virginia from another state.
Source: http://lis.virginia.gov/cgi-bin/legp604.exe?121+sum+SB508%20)

Hiring Incentives and State Preference

Alabama The Heroes for Hire Act provides an additional $1,000 tax credit for job creation to employers who hire recently deployed, and now discharged, unemployed veterans. The Act also creates a $2,000 income tax credit to recently deployed, and now discharged, unemployed veterans who start their own businesses.
Source: http://governor.alabama.gov/news/news_detail.aspx?ID=6334

Colorado increased the hiring preference for veterans.
Source: Colo. Const. Art. XII, Section 15 (2012); http://www.gazette.com/articles/preference-137872-state-veterans.html

Idaho The state launched a Hire One Vet program last April that gives a sliding-scale income tax credit to employers who pay $12 to $15 an hour or more plus benefits, and meet other criteria.
Source: http://labor.idaho.gov/publications/HIREONEVET.pdf

Illinois A recently enacted law provides up to $5,000 in tax credits for employers that higher post-9/11 veterans.
Source:
http://www.illinois.gov/PressReleases/ShowPressRelease.cfm?SubjectID=3&RecNum=10280

Massachusetts "the VALOR Act affords greater opportunities for service-disabled veterans to participate in public projects [Section III: The Mass. Supplier Diversity Office shall "promulgate regulations to encourage and facilitate participation on public projects for service-disabled veteran-owned small businesses interested in and capable of 18 providing construction and design services on public construction and design projects"]
Source: http://www.malegislature.gov/Bills/187/Senate/S02254
Source: http://www.mass.gov/governor/pressoffice/pressreleases/2012/2012531-governor-signs-valor-act.html

Minnesota Governor Mark Dayton wants to give a $3,000-per-employee tax credit to businesses that hire veterans.
Source: http://mn.gov/governor/images/Jobs-Proposal.pdf

Missouri, (July 2012) "Under HB 1680, Show-Me Heroes adds an On-the-Job (OJT) training component for returning National Guard, Reservists and recently-separated active-duty service members that Show-Me Heroes employers agree to hire. Through an OJT program, employers would be reimbursed for 50 percent of the Show-Me Heroes participant's wages during a contracted training period. The wage reimbursement will serve as an incentive for Show-Me Heroes employers to hire and train returning National Guard, Reservists or recently separated active duty personnel."
Source: http://showmeheroes.mo.gov/News/PR1680.aspx

New Mexico The state enacted a $1,000 tax credit for employers who hire veterans returning home from deployment A new state law will offer a tax break to encourage businesses to hire veterans who recently left the military and New Mexico also will give an advantage to veteran-owned businesses bidding on government contracts.
Source:
http://www.governor.state.nm.us/uploads/PressRelease/191a415014634aa89604e0b4790e4768/veteranrelease.pdf

Oregon intends to introduce a tax credit in the 2013 legislative sessions to help employers hire veterans.
Source: NGA survey

Tennessee The Tennessee Excellence Accountability and Management (TEAM) Act-In 2012, Governor Bill Haslam proposed changing the state's civil service hiring system. The previous system gave veterans points for military service, however if their points did not accumulate to put them in the top five of

applicants, they were not interviewed for available positions. The TEAM Act passed and became effective on October 1, 2012. Under the TEAM Act: Veterans are guaranteed an interview for available state positions that suit their qualifications and veterans and their spouses will receive interview preferences for both appointments and promotions. If there are two candidates with equal qualification, knowledge, skills, etc., preference will be given to the veteran. Veterans' surviving spouses will also be guaranteed an interview for positions that meet their qualifications if they have been a Tennessee resident for more than 2 years and their veteran spouse received 100% service connected disability or died in the line of duty. Also, if a supervisor passes over an eligible veteran and selects a non-veteran for a position, they must record their reasons in writing. The record will be made available for the veteran to view. Tennessee also intends to develop inter-agency collaboration to increase recruitment of veterans for state jobs.

Utah The Utah Patriot Partner program, initiated by DWS on 5/21/2011, allows employers to sign a pledge that they will consider hiring qualified veterans to meet their business needs. Participation in the program allows all of the participant's job orders to be identified as a 'veteran friendly' job order within UWORKS, Utah's labor exchange system, which provides quick identification for veteran job seekers. To date, over 200 employers have signed the Pledge.

Source: NGA Survey

Virginia Extended the Commonwealth's veterans hiring preference to active members of the Virginia National Guard.

Source: http://leg1.state.va.us/cgi-bin/legp504.exe?121+sum+HB384

Washington In 2012, Governor Chris Gregoire directed executive agencies to hire veterans whenever possible for openings within state agencies. In addition, a team of her cabinet directors has convened a work group to better coordinate with our state's military installations to help service members find employment as they transition off active duty.

Source: NGA Survey

Assistance for Military Spouses Transferring Licenses

Colorado The governor signed legislation making it easier for spouses of veterans to transfer occupational licenses granted in other states. The law allows military spouses to use their out-of-state professional licenses in Colorado for one year.

Source:
http://www.colorado.gov/cs/Satellite?c=Page&childpagename=GovHickenlooper%2FCBONLayout&cid=1251624338216&pagename=CBONWrapper

http://www.leg.state.co.us/CLICS/CLICS2012A/csl.nsf/fsbillcont3/4FED46616B6701DD87257981007DCEA6?Open&file=1059_enr.pdf

Kansas A new law makes professional licensing easier for military spouses based on reciprocity.

Source: http://governor.ks.gov/media-room/media-releases/2012/03/01/new-law-designed-to-assist-military-spouses-get-jobs

Missouri "Gov. Jay Nixon today visited Broyles Transfer and Storage in Kirksville to sign House Bill 1680, which strengthens and expands the Show-Me Heroes program. Missouri's Show-Me Heroes program was established by Gov. Nixon in 2010 to expand employment opportunities for Missouri's military

veterans and spouses. The legislation also expands the eligibility of financial assistance to the spouses of active-duty service members in addition to the spouses of National Guard and Reservists who are currently eligible. The financial assistance in this legislation includes payment of overdue bills; transportation and day care costs when pursuing employment; and vocational counseling and subsidized employment."

Source: http://showmeheroes.mo.gov/News/PR1680.aspx

Nevada Gov. Brian Sandoval said most state boards and commissions are responding positively to his executive order that requires them to give state professional licenses to qualified spouses of military members who are transferred to Nevada.

Source: http://www.lvrj.com/news/sandoval-reports-positive-feedback-to-licensing-program-for-military-spouses-150700285.htm

Tennessee In 2012, the TN General Assembly passed an amendment to require each health related or regulatory board to establish a procedure to expedite the issuance of a license, certification or permit to perform professional services regulated by the board for military dependents certified or licensed in another state to perform professional services.

Source: NGA Survey

Corrections and Public Safety

Alabama intends to create a (presumably statewide) Veterans Treatment Court. "The Court Authority has approved a seven county pilot program to develop and operate trial veterans courts starting in Sep 2012."

Source: NGA survey.

Hawaii intends to create a Veterans Treatment Court.

Source: NGA Survey.

Illinois: (August 2012) "Gov. Quinn signs HB 4926, which among several things increases access to veterans' criminal justice treatment records to better identify criminally charged veterans that may have mental health or substance abuse problems."

Source: State Net Capitol Journal

Maryland The Maryland General Assembly passed a law in 2012 to establish a Task Force on Military Service Members, Veterans, and the Courts. The mission of the Task Force is: 1) to study ways the courts may address the incidence of violence, substance abuse, and crimes committed by veterans and active duty military members – especially those crimes that are a result of post-traumatic stress; and 2) to make recommendations regarding the establishment of a special court for veterans and active duty military members. The Task Force shall report its findings to the Governor, the Chief Judge of the Maryland Court of Appeals, and the General Assembly on or before December 1, 2013.
Maryland's Department of Public Safety & Correctional Services (DPSCS) is working with the U.S. VA on the Veterans Re-Entry Service Search (VRSS) as one of 6 pilot sites to identify if an inmate is a Veteran. All correctional intakes will electronically be sent to the VA to be matched against their records, and a yes or no indicator will be sent back to DPSCS that will populate the agency's Offender Case Management System.
The recently initiated American VetDogs program allows incarcerated veterans to train puppies that will become service dogs for wounded and disabled Veterans.

Source: NGA Survey

Massachusetts: The VALOR ACT commissioned a study on Veterans and the court system: Section 18, "The court administrator shall consult with the United States Department 823 of Veterans Affairs and the department of veterans' services, to conduct a study to examine the 824 intake and review process and disposition, including treatment and diversion options, of 825 veterans, persons on active service in the armed forces of the United States and persons with a 826 history of military service in the armed forces of the United States who face criminal complaints 827 in the courts."
Source: http://www.malegislature.gov/Bills/187/Senate/S02254

New Jersey The state is connecting veterans who have entered the criminal justice system with human service agencies and an retired or active veteran as a personal mentor. The Veterans Pilot Initiative is available to veterans in Atlantic County who are facing criminal charges and whose criminal actions are believed to stem from substance abuse or mental health issues.
Source: http://www.nj.gov/oag/newsreleases11/pr20111109a.html

North Dakota is developing a veterans' court, pending approval by the state supreme court.

Tennessee The Tennessee Department of Veterans Affairs, the Tennessee Veteran Caucus and the state court system are proposing legislation to create a Veterans Court in Tennessee. The Veteran Court would hear cases involving Veterans who may be coping with combat traumas such as Post-Traumatic Stress Disorders (PTSD).
Source: NGA Survey

Financial Assistance

Iowa "SF 2097 expands eligibility for the Iowa National Guard Civil Relief Act by reducing the required days of active duty from 90 to 30. That means our active-duty soldiers won't have to worry about lease termination, eviction or the disconnection of gas, electric and other services. The legislation also requires a study on allowing military training to help Iowans qualify for professional or other occupational certifications. Signed by Governor Branstad on 4-12-12."
Source: NGA Survey.

Massachusetts The VALOR ACT "expands supports from the Massachusetts Military Family Relief Fund to Gold Star Families. The relief fund, which derives its funding from a voluntary tax check off on income tax returns, is used to defray the costs of food, housing, utilities, medical service and other expenses borne by Massachusetts National Guard and reserve service members and their families."
Source: http://www.mass.gov/governor/pressoffice/pressreleases/2012/2012531-governor-signs-valor-act.html

Maryland (July 2012) –Lt. Governor Anthony G. Brown announced a new Maryland Mortgage Program initiative to benefit veterans and military families. The program gives qualified current and former military members a discounted mortgage interest.
Source: http://www.governor.maryland.gov/ltgovernor/pressreleases/120703.asp

New Hampshire The development of a program that provides short term financial assistance to veterans is a top priority for the state.
Source: NGA Survey

New Jersey New Jersey residents will be able to contribute to a veterans' assistance fund by checking a box on their annual income tax forms. Donations accrued through this program will provide financial support and peer counseling to military veterans and their families.

Source: http://nj.gov/governor/news/news/552012/approved/20120321b.html

Disability Services

Maryland is working towards changes that will expand access to federal and state funding for all Marylanders with brain injuries, including veterans with traumatic brain injuries. The effort includes increased staffing for case management, increased training for service providers and medical personnel, and increased access to treatments and technology.

Vermont The Vermont Division of Vocational Rehab has recently signed an MOU with the U.S. Department of Veterans Affairs to help better serve veterans in the U.S. Department of Veteran's Affair's Vocational Rehabilitation and Employment VetSuccess Program. Both agencies are able to share resources in order provide for the needs of these veterans. As well, United States Customer and Immigration worked with the Vermont Division of Vocational Rehabilitation, and Vermont Department of Labor to organize and facilitate resume workshops specifically designed to assist disabled veterans with federal grant applications. These agencies worked together to set up site tours for disabled veterans.

Source: NGA Survey

Miscellaneous

Illinois will increase collaboration between organizations working with veterans by introducing an online member portal and working group, set to launch in November 2012. Called "Illinois Joining Forces," the umbrella organization is sponsored by the Illinois Departments of Military Affairs and Veterans' Affairs that uses the convening power of the state to bring together the 500+ non-profit and public entities serving military members and veterans in Illinois.

Source: NGA Survey

(July 2012) Gov. Pat Quinn signed three bills that impact Prairie State veterans: SB 2837, which will place a unique distinction on their driver's license; HB 4586, which makes unemployed veterans and Illinois National Guard members between the ages of 15 and 25 eligible for employment in the Illinois Conservation Corps; and SB 3689, which makes employment and job training organizations eligible to receive grants through the Veterans Assistance Fund. The license measure takes effect in January, 2015, while the others are effective immediately

Source: State Net Capitol Journal

Iowa The Iowa Department of Veterans Affairs and Iowa Department of Transportation are in the process of implementing the Veteran Designation on the Drivers License. Legislation granting this authority was passed during the last legislative session, and implementation is expected to be complete by November 2012. Also, HF 2404 (signed by the governor April of 2012) makes it easier for veterans to receive a six-month extension of their Iowa driver's license. The bill declares that a Department of Defense common access card is proof of current service, and a certificate of release from active duty is satisfactory evidence of previous service and honorable discharge.

Source: NGA Survey

Maryland created a veterans status notification for driver's licensed, enacted by legislation signed by the Governor in April 2012.

Source: http://mlis.state.md.us/2012rs/chapters_noln/Ch_50_sb0276T.pdf

Maryland's Department of Health & Mental Hygiene partnered with the University of Maryland School of Public Health to launch the Veterans Resilience Initiative. The project will:

- Establish a Veterans Resilience Initiative Advisory Council with a broad panel of representatives to identify gaps in services, coordinate training across the state, and communicate critical mental health information to veteran families.
- Conduct an online survey with Maryland primary care and behavioral health professionals to assess training needs and capacity for delivering services that are sensitive to military culture and veterans' needs.
- Train health professionals and clergy to effectively serve veterans and their families in both urban and rural communities using a combination of in-person and video conferencing formats.
- Develop peer support networks for veterans returning to the community, beginning in community college and university settings.

Source: NGA Survey

Louisiana HB 977 was enacted to expand the eligibility of National Guardsman and Reservists applying for the state's Military Family Assistance Fund. Under the new law, veterans can now receive assistance for financial hardships caused indirectly by military service (previously only direct hardships were eligible), such as an inability to perform emergency home repairs while on active duty.

Source: http://gov.louisiana.gov/index.cfm?md=newsroom&tmp=detail&articleID=3440

Mississippi Governor Phil Bryant recently reestablished the Mississippi Military Communities Council, which will promote Mississippi's military missions at the national level and advise the governor on issues that impact military communities that support military operations. Senior members of the legislature will serve on the council, and the governor appoints council leadership positions. Former Adjutant General of the Mississippi National Guard Bill Freeman will serve as council chairman.

Source: http://www.new.ms.gov/webcontent/partnerSite.html

New Hampshire Funding a legal assistance program for veterans is a top priority for the state.

New Mexico Governor Susana Martinez signed legislation that expands the definition of a veteran to grant New Mexico National Guardsmen and Reserve members eligibility for state veterans' benefits after six years of service. The state had previously defined a veteran as someone who served a minimum of 90 consecutive days on active-duty status.

Source: http://www.governor.state.nm.us/uploads/PressRelease/191a415014634aa89604e0b4790e4768/veteranlegislationrelease.pdf

North Dakota The state's top priority for veterans' initiatives is to improve the coordination and collaboration of veterans' services in the state. As part of this effort, the state intends to develop a shared calendar and website for organizations working on veterans' issues in the state.

Source: NGA Survey

Rhode Island The state organized a Veterans' Forum on Behavioral Healthcare.
Source: http://www.ri.gov/press/view/16455

South Dakota "The 2012 Legislature passed the law, which gives honorably discharged veterans the option of adding the word "Veteran" to the front of their South Dakota driver license. Including that designation on the driver license will make it easier for those who have served in the military to verify their veteran status"

Source: http://news.sd.gov/newsitem.aspx?id=13133

Virginia: The Department of Motor Vehicles now offers a Veterans ID card to facilitate discounts offered to veterans. Various proposal would provide free hunting and fishing licenses, facilitate voting rights, and work to ensure honorable burial to unclaimed cremains of veterans.

Sources: http://www.governor.virginia.gov/news/viewRelease.cfm?id=1274
https://www.governor.virginia.gov/news/viewRelease.cfm?id=1080

Washington In 2012, Governor Chris Gregoire signed legislation that requires community mental health providers to undergo additional training in suicide assessment and treatment. WDVA also provides veteran cultural competency training to first responders, higher education employees and other community members who serve veterans in our communities.

Source: NGA Survey

Jack Markell
Governor of Delaware
Chair

Mary Fallin
Governor of Oklahoma
Vice Chair

Dan Crippen
Executive Director

December 7, 2012

M E M O R A N D U M

To: U.S. Secretary of Labor Hilda Solis
Advisory Committee on Veterans Employment, Training, and Employer Outreach

From: Joan Wodiska, Chairman, Subcommittee on Red Tape Reduction, National Governors Association
Bob Simoneau, Member, Subcommittee on Red Tape Reduction, National Association of State Workforce Agencies

Re: Committee Report - Key Recommendations to Eliminate Federal Red Tape

As the Advisory Committee on the Veterans Employment, Training, and Employer Outreach, Subcommittee on Red Tape Reduction, we submit the following key recommendations to eliminate, reduce and streamline federal red tape and bureaucracy to better serve the employment and training needs of America's veterans.

The Red Tape Reduction Subcommittee identified a host of federal barriers, inefficiencies, redundancies and burdens that are negatively impacting our nation's ability to help service men and women transition from active duty to civilian life and re-enter the workforce. However, per the instructions of the Advisory Committee, we limited our response to the most commonly repeated responses and added miscellaneous recommendations at the end. We look forward to a future opportunity to work on these additional recommendations and views.

Executive Summary: Findings of Key Federal Barriers to Veteran's Employment Success

- Uneven and inconsistent federal definition of veteran
- Lack of federal agency integration, coordination and organization
- Lack of accuracy, coordination and ownership of veterans records
- Significant and substantial delays to process veterans claims
- Federal barriers and information gaps to credentialing and licensing
- Severe reduction of governors' WIA 15% set-aside to 5% for statewide employment and training activities
- Rigid restrictions on use of federal employment and training funds
- Inadequate federal outreach to employers on the benefits of hiring veterans
- Underutilization of DVOP and LVERs to serve veterans and their spouses
- Federal government making states pay for federal employees

Every Veteran, Every State is Unique

Veterans and returning members of the military bring valuable and unique experience to the civilian workforce. Governors are dedicated to our nation's veterans and are committed to providing the assistance needed as they reintegrate into civilian life. Across the country, governors are dedicating

resources to assist veterans and integrating state-level programs to provide more localized and personal services.

Process to Formulate Recommendations

In June 2011, NGA surveyed all 55 states and territories of programs offered to active members of the military and veterans to aide their transition into civilian life. Many of these programs were specifically aimed at combating veteran unemployment and providing them with technical assistance. Despite the number of steps that states have taken, numerous gaps remain in providing the best possible assistance to service men and women. As a result, in October 2011, NGA once again reached out to governors to solicit feedback on their federal priorities to address remaining service gaps. As part of that outreach, governors were asked to identify their specific federal requests and priorities to better serve the employment and training needs of our nation's veterans.

In August 2012, NGA deployed a comprehensive "Veteran's Survey" to all states to (1) gather key information on effective state best practices; (2) inform federal advocacy efforts to reduce red tape that is a barrier to serving veterans and devise federal solutions to scale, accelerate or replicate effective state best practices; and (3) serve as a basis for this report to Secretary Solis and Congress on the specific strategies to improve the employment outcomes for veterans. NGA asked respondents to answer questions regarding: definitions, governance, funding, state priories, federal barriers, federal solutions, and emerging areas of interest.

Supplemental Resources

In addition to the federal recommendations offered, the Subcommittee recommends the following supplemental resources for veterans' services:

- State-Led Solutions for Veterans
- NGA National Guard and Reserves Survey
- List of pending federal veteran's legislation
- The National Labor Exchange (http://naswa.org/nlx/). The National Labor Exchange (NLX), administered by the National Association of State Workforce Agencies (NASWA), collects and distributes job openings exclusively found on corporate career websites and state job banks. All job openings are unduplicated, currently available, and from vetted employers.

The recommendations below are based on the past years' surveys and outreach to Governors, Chiefs of Staff, State Workforce Directors, Adjutants General, State Directors of Veterans Affairs, Education Policy Advisors to Governors, and other staff, including state responses to the NGA Survey on Veterans. **For the purposes of this document, the term "states" is defined as "states and territories."**

Based on this extensive outreach, the Subcommittee on Red Tape Reduction urges the ACVETEO to accept the following federal recommendations to better serve the employment and training needs of veterans:

Who is a Veteran? New Fair and Common Definition Needed

Under current federal law, a "veteran" is any person who served on active duty in the Army, Navy, Air Force, Marine Corps or Coast Guard and was discharged under conditions other than dishonorable. This definition extends to members of the National Guard and Reserve forces who are called into active duty by the President for more than a certain amount of time, generally 180 days. In order to be considered a veteran, a service member must be discharged or otherwise completely separated from the military.

However, this federal definition is not universal to all veterans and all veterans' services. Eligibility for veteran benefits such as home or business loans or tuition assistance often depends on other factors, such as period of service and length of deployment. Also, while a veteran is defined as a service member "discharged under conditions other than dishonorable," the Department of Veterans Affairs requires additional review for any application for benefits for a service member who has not received an "Honorable Discharge" and not all applications are guaranteed to be approved.

In addition, the federal definition often excludes members of the National Guard and Reserves from receiving federal benefits. Since the terrorist attacks on September 11, 2001, the National Guard and Reserves have been continuously deployed on active duty to support the nation's overseas mission. However, when they return from overseas, members of the National Guard often do not separate from service and therefore, are not eligible for the majority of benefits provided to veterans. Members of the National Guard who are injured and disabled as result of active duty service are only eligible for benefits if they have served for longer than 180 days. Despite their service to their country, these service members are not eligible for federal benefits. As a result, many states provide their own benefits to members of the National Guard and Reserves, but without any federal assistance.

> ***Recommendation:*** There should be a single definition for what constitutes a veteran for purposes of qualifying individuals for basic services, such as home loans, tuition assistance and employment benefits. The definition should include members of the National Guard or Reserves who have served in Title 10 status. Qualification as a veteran should not require members of the National Guard or Reserves to formally separate from service since many Guard members remain affiliated with the Guard for several years. Finally, any service member, National Guard member or Reservist injured or disabled while in active federal service, and regardless of duration of service, should qualify as a veteran. This common definition does not preclude restricting certain programs or benefits to specific classes of veterans, but such qualifications should be in addition to the baseline definition of what constitutes a veteran.

Strategically Target and Eliminate Federal Bureaucracy

In January 2011, President Obama issued Executive Order 13563 directing agencies and departments to produce plans to eliminate red tape and to streamline current reporting requirements and mandates among all federal departments and agencies. The mismatch of federal regulations and reporting requirements for veterans programs, as well as veteran job training programs and services, place an undue burden on states and state agencies. Most concerning, the federal bureaucracy diverts funds and personnel from providing care and assistance to veterans. States, in partnership with locals, are doing more with less, combining programs, and alleviating barriers to serve veterans. The federal government should follow the lead of states, and in doing so, better support all veterans. Much can be and should be done through federal statute reform and administrative action. Even so, the federal government must undergo a culture shift to "own" and be held accountable to better serve our nation's veterans.

> ***Recommendation:*** Per President Obama's Executive Order on red tape, federal agencies should identify areas where cross-federal agency collaboration would reduce administrative and regulatory barriers in the next 6 months, and once identified, agencies should implement those changes. More work must be done to streamline the federal bureaucracy to refocus services on veterans and not the system itself. Specifically, DoD, DOL, VA, ED, HHS and other agencies serving veterans must work to identify opportunities for greater efficiency and swiftly eliminate and reduce paperwork, reporting, and regulatory burdens. The federal red tape reform should

also advance new flexibilities to effectively use federal resources across multiple programs serving within states. In addition, federal departments and agencies should be incentivized to seek out and eliminate instances of federal waste, fraud and abuse.

Deploy a Strategy to Fix Veteran's Records

The first gateway to help a veteran is the veteran's records. The U.S. Departments of Defense and Labor keep records of the numbers of veterans, their locations, their placement numbers, and types of assistance. However, these records are often duplicative, incomplete, or kept by one agency and not the other. Without complete accurate records, veterans are unable to access their full benefits, such as education or vocational assistance. Incomplete or inaccurate records also prevent employers from receiving full or proper hiring incentives for which they may be eligible. Additionally, veterans seeking assistance or copies of their records are often unsure of whom to contact and are re-directed multiple times to multiple people and federal agencies. Having this information available in one central location reduces, and could possibly eliminate, the amount of federal red-tape preventing accessibility to full and proper benefits.

In addition, it is important for federal agencies to better coordinate with state and local entities. Often due to confidentiality regulations, records are unable to be shared with other agencies. However, state and local communities are best able to provide accessible, low-cost services to veterans and are closest to employer needs in their state and locale. Without access to reliable and complete records, states and locals are unable to provide veterans with the technical assistance and training needed for employment. Increased coordination and the sharing of records will better equip assistance programs to determine the specific training needs of certain veterans and where those services are located within a state or community.

It is worth noting that the majority of states have a central coordinating entity to work on veterans' issues. While there is no "one-size-fits-all" governance solution, in comparison to federal programs, states have cleaner lines of authority, higher expectations for meaningful collaboration, and governance structures to aligned to achieve shared services.

Recommendation: To improve services to veterans, the federal government should maintain accurate and up-to-date records in one central location. At the request or permission of the individual veteran, these records should be able to be easily and quickly shared by DoD or VA with other relevant federal agencies, as well as state veterans departments and workforce agencies. Furthermore, federal agencies should work with states to devise and implement record sharing protocols to improve access to state and local veterans assistance programs. Improved access to service members DD-214 would help states with their outreach efforts.

Marshal the Forces: Eliminate Delays to Process Federal Veteran's Records

Once veterans' records are accurate, veterans' must clear the minefield of delayed claims at the U.S. Department of Veterans. Despite efforts to reduce the records delays at the U.S. Department of Veterans Affairs, unacceptable delays remain to process paperwork for our nation's veterans. For example, processing times for claims related to health services or other benefits remain lagging. Claims have gone unprocessed in excess of 300 days to over a year. Such inaction and delays by the federal government are impacting our veterans, their families and loved ones. For example, the delay in processing a health claim can be the difference between receiving necessary medical assistance or returning to work. Because of the federal government's delay to process records, veterans may have to take out loans to afford

healthcare treatment or pay tuition. The time lag also has an adverse effect on disability determination for veterans. Exemptions or benefits that exist at the state or local level are held up until a disability determination is made at the federal level.

> ***Recommendation:*** The U.S. Department of Veterans Affairs should provide quarterly reports to the President, Congress, state officials, and the public on the total number of veterans' claims, detailed and disaggregated data on the length of time to process claims by state, race, gender, age, and disability, detailed and disaggregated data on the number of claims completed and successfully processed. Many states have taken measures to increase the transparency of state programs and initiatives and such transparency can inform public discussion and drive accountability. Moreover, such reports should include the number of appeals, number of claims processing positions filled and turnover rate of claims examiners. Like the reporting on unemployment numbers, the U.S. Department of Veterans Affairs should publicly report on claims processing. The Department should review all claims within 30 calendar days or better. To this end, the VA should work to eliminate duplicative efforts, forms, and redundant services by establishing one central database that would serve as an automated hub for veterans to access forms and claims. The U.S. Department of Veterans Affairs should also work with state veterans' affairs officers and veteran services organizations to improve training for claims agents.

Fully Restore the 15% Set-Aside for Statewide Employment and Training Services

Across the country, veterans and their families rely on the federally supported Workforce Investment Act one-stops to receive much needed employment and training services and supports. For example, Massachusetts used the 15% set-aside to provide direct services to 7,742 veterans. Washington used the 15% set-aside to attract a new manufacturer, Profile Composites, committed to hiring veterans and individuals with disabilities. And, California used the 15% set-aside to provide training and specialized employment services to more than 2,200 veterans. Of the veterans who finished the program, 81percent found work and are now receiving paychecks and civilian benefits in high-wage jobs in clean energy and other growing industries. From coast to coast, states report that the WIA 15% set-aside has been essential to provide services and supports to veterans, their families, and to attract businesses committed to hiring our nation's veterans.

Unfortunately, in recent years, the Administration and Congress significantly reduced federal support for these much needed services by reducing the Governors' 15% set-aside for statewide activities from 15% to 5%. This has negatively impacted innovations in serving veterans. States voiced strong concern with this reduction that has resulted in the elimination of critical employment and training services to jobseekers, including veterans, at time when those services are critically needed. Veterans' family members and potential employers were also impacted by the loss of funding.

> ***Recommendation:*** Fully restore the WIA 15% set-aside funding for statewide activities to ensure that states may continue to innovate and use these funds for critical employment and training services to veterans, their families, and businesses that hire veterans.

Operate Federal Programs as a Unit, Not as Individual Service Members

States expressed serious frustrations and concerns with employment and training programs offered by the U.S. Department of Labor and the corresponding inability to provide effective training and employment programs to veterans. In particular, the ability to improve the employment and training outcomes of veterans is limited by:

- Fragmented, uncoordinated, and excessive federal programs;
- Varied accountability, accessibility, allowable usages, etc.;
- Too many competing interests and narrowly offered programs;
- Funding that compartmentalizes services into silos, which do not allow for system integration, economies of scale, or efficiencies; and
- Even if veteran's needs are identified, they must be sent to another program to receive services.

Recommendation: The federal government should reinforce and strengthen governors' authority to integrate services and programs for veterans. To this end, Congress and the Administration should ensure enhanced coordination across all federal agencies to de-compartmentalize services. This will ensure that veterans are receiving the best assistance available, regardless of agency, and that the federal government is operating its programs effectively and efficiently as a comprehensive unit.

Target the Mission at Home: Veteran and Employer Outreach

There are a number of programs at the federal, the state and local level, which are available to veterans and employers of veterans. Before the enactment of the *VOW to Hire Heroes* Act, separating service members were given the opportunity to participate in the Transition Assistance Program (TAP), which provided participants with information on educational and employment opportunities. While TAP is now mandatory, it is still not uniform across the separate military branches and does little to provide service members with more localized services. Moreover, the lack of a clear, concise, and consistent federal cross-agency view of all the federal benefits to veterans remains a substantial barrier to effective employment and education. Veterans are often unsure of which programs are available to them and where these programs can be found in their communities, including Yellow Ribbon and Wounded Warrior events. Constant outreach is necessary to ensure veterans are informed of available opportunities in their area. Locally-based outreach also aids veterans' reintegration as a whole as it helps them feel less like outsiders and more like active members of their communities.

The federal government should increase outreach to employers. Many employers are unaware of incentives and benefits available to them for the preferential hiring of veterans. Incentivizing employers not only increases veteran employment, but can also provide employers with a skilled workforce not otherwise available. Employers must also be educated on the special needs of veterans. Many employers have programs designed for education focused on workers with special needs, races, or gender issues. However, these programs also need to take into account the special needs of a veteran workforce.

Recommendation: The federal government must provide more educational materials to separating service members on programs that are designed to help them utilize their benefits for better education and employment opportunities. DoD should also de-centralize its contracting process and permit states to decide contracting services to ensure veterans are better connected to state assets. The federal government should work with states and community providers to ensure that basic outreach efforts to veterans are consistent and complete.

The federal government should also create a comprehensive electronic database accessible to veterans and states that provides an accurate and up-to-date listing of all federal benefits available, along with of where and how to access such services and benefits. This database should

be fully integrated with all federal agencies to allow for the processing of claims, access to veterans' records, updated health information, and serve as the one gateway to all federal benefits and services for veterans. The federal groups should work with employer groups, like the U.S. Chamber of Commerce, to inform members of incentives and benefits available for the hiring of veterans.

Credentialing/Licensing

Veterans are often prevented from obtaining certain jobs because they lack specific civilian certifications or licenses, despite more than adequate training or experience from their military service. For example, a service member with aircraft mechanic experience may be prevented from a job due to lack of a proper FAA certification. A military nurse or field medic is given similar, if not more extensive, medical training than is required by federal standards. While states must reserve the right to establish their own licensure and certification standards, where federal standards exist, military training must be aligned to ease soldiers' re-entry into the workforce.

Recommendation: Federal training programs should be aligned to offer veterans the opportunity to obtain state or industry certifications in order to keep them competitive in the job market. Flexibility to ease license requirements in certain circumstances should also be granted. While states must reserve the right to establish their own licensure and certification standards, where federal standards exist, military training must be aligned to ease soldiers' re-entry into the workforce. Furthermore, DoD must make public and or share directly with states and national accrediting bodies, their programs of instruction for certain military occupation specialties. This information would allow states and certifying bodies to identify gaps in training and develop programs to bridge military training with civilian credentials and licenses.

Additional Federal Recommendations to Help Veterans Find Jobs

Allow LVER and DVOP staff to serve spouses of veterans	**Grant states greater flexibility to use WIA funding**
Allow spouses of veterans to be eligible for all the same employment and training services as a Veteran	**Provide greater flexibility to LVER and DVOPs, allow DVOPs to employer outreach, allow both to do case work, add ability to carry out additional duties to fully meet the needs of veterans and their spouses**
Allow states to tailor career counseling based on the age and need of the veteran	**Ensure that ALL federal agencies comply with the Uniformed Services Employment and Reemployment Rights and Act of 1994 (USERRA)**
Allow states to submit one consolidated application for all federal job training and employment to facilitate training and employment	**Expand telemedicine – Contract with local providers in rural communities**
DOL should pay for federal agency staff assigned to a state, versus taking money out of the states' federal allocation	**Address federal programmatic barriers at DOL and ED**
Centralize VASH resource pool with states	**Modify WIA performance measures to include services provided to veterans to assist in connecting them to eligible federal benefits**
DOL grantees should be required to provide hiring preference to veterans	

Conclusion

Based on our work, it is clear that veterans need additional, enhanced, and coordinated federal training to be equipped to compete in today's job market. Moreover, there is no easy solution to the challenges faced by veterans and a "one size fits all" approach at the federal level will not adequately meet veterans' needs.

Veterans are the backbone of our national and economic security. Now is a critical time to seize the opportunity to step-up, redesign, and reform the federal government's employment and training services to our nation's veterans. Across the country, governors and other state and local leaders are working together to redesign government, balance budgets, and ensure that the skills and assets of our nation's veterans are put to work back home. At the same time, a large and growing number of military forces are returning from overseas operations. Once home, returning soldiers and veterans are confronted by limited job prospects, skills gaps, and strained local and state resources.

Our nation's veterans need a stronger, coordinated, and more efficient federal-state-local partnership to meet these growing and challenging employment needs. The stand-alone, disconnected, and fragmented federal programs, spread across multiple agencies, must be integrated, aligned, and consolidated to ensure that the customer – our nation's veterans – truly get the support and services they deserve from our grateful nation.

Governors firmly believe all veterans must have equal access to federal benefits and services, regardless of where they reside, and that federal government must collaborate with states to achieve this goal. States should not be expected to provide these services alone and, as a result, there is strong consensus supporting the need for better state-federal coordination.

PREPARED STATEMENT OF PETER J. DUFFY, COL., US ARMY (RET.), LEGISLATIVE DIRECTOR, NATIONAL GUARD ASSOCIATION OF THE UNITED STATES

Thank you for all you have done for our veterans since 9/11 and for this opportunity to present this statement for the record.

BACKGROUND—UNIQUE CITIZEN SERVICEMEMBER/VETERAN

The National Guard is unique among components of the Department of Defense (DOD) in that it has the dual state and Federal missions. While serving operationally on Title 10 active duty status in Operation Iraqi Freedom (OIF) or Operation Enduring Freedom (OEF), National Guard units are under the command and control of the President. However, upon release from active duty, members of the National Guard return as veterans to the far reaches of their states, where most continuing to serve in over 3,000 armories across the country under the command and control of their Governors. As a special branch of the Selected Reserves they train not just for their Federal missions, but for their potential state active duty missions such as fire fighting, flood control, and providing assistance to civil authorities in a variety of possible disaster scenarios.

Since 9/11, over a half a million National Guard members have deployed in contingency operations to gain veteran status. When they return from deployment, they are not located within the closed structure of a 24/7 supported active military installation, but rather reside in their home town communities where they rely heavily on the medical support of the Veterans Administration (VA) when they can overcome time and distance barriers to obtain it.

Using the National Guard as an operational force requires a more accessible mental health program for members and their families post-deployment in order both to provide the care they deserve as veterans and to maintain the necessary medical readiness required by deployment cycles. It cannot be a simple post-deployment send off by the active military of "Good job. See you in five years." To create a seamless medical transition from active duty to the VA, an improved medical screening of our members before they are released from active duty is essential to identify the medical issues that will be passed to the VA. The Department of Defense must also recognize its responsibility of sharing the burden with the VA in funding mental health care for our National Guard members between deployments.

The Department of Defense must also be called to task for the mishandling and disappearance of National Guard medical records in the OIF/OEF theaters and the shoddy administration of Guard and Reserve demobilization. Statistics published last year by the VA show that the VA denies National Guard and Reserve disability benefit compensation claims at four times the rate of those filed by active duty veterans. Lacking clear records to establish the service connection for their injuries, our Guard members face failure when they later file their VA disability claims for undocumented physical and behavioral injuries. This is a blot on the integrity of our Federal Government in its treatment of our veterans. This Committee must seriously and separately in another hearing consider legislation to establish a presumption of service connection for certain war common injuries of National Guard and Reserve veterans who later file disability benefit compensation claims based upon those injuries.

Military service in the National Guard is uniquely community based. The culture of the National Guard remains little understood outside of its own circles. When the Department of Defense testifies before Congress stating its programmatic needs, it will likely recognize the indispensable role of the more cost efficient National Guard as a vital operational force, but it will say little about, and seek less to, redress the benefit disparities, training challenges, and unmet medical readiness issues for National Guard members and their families at the state level before, during, and after deployment. We continue to ask Congress to give the Guard a fresh look with the best interests of the National Guard members, their families, and the defense of the homeland in mind.

CORRECT THE DISPRPORTIONATE DENIAL RATE FOR RESERVE COMPONENT VETERANS' DISABILITY BENEFIT COMPENSATION CLAIMS WITH SERVICE-CONNECTION PRESUMPTIONS FOR KEY INJURIES

According to Veterans Administration statistics published in May 2012, it is denying adjudicated disability benefit compensation claims for Reserve Component (RC) Global War on Terror at four times the rate of active duty GWOT veterans according to a published VA May 2012 report.

Years of neglect in the Office of the Secretary of Defense with the demobilization process for RC members returning home from GWOT deployment and the inadequate capturing of theater medical records for the RC have come home to roost.

Area theater commands in Operation Iraqi Freedom and Operation Enduring Freedom did not establish a reliable method for preserving in-theater records of the RC. Congress heard testimony during the peak years of OIF in 2007 that some medically evacuated RC members sometimes returned stateside with medical records resting on their supine chests.

Moreover, too many members of the Guard and Reserve have been allowed to slip through the medical cracks at demobilization stations resulting in widespread under identification of service-connected injuries at that critical separation point.

A variety of reasons were at play to include inadequate screening by medical personnel at the demobilization site; the reluctance of returning members to report disabling injuries at distant demobilization sites to avoid the risk of further separations from home after lengthy deployments; or simply the late onset of symptoms after discharge from exposures to chemical hazards, Traumatic Brain Injury or Post Traumatic Stress Disorder.

The six most frequent injuries for which the VA awards disability benefit compensation are tinnitus; back or cervical strain; PTSD; leg flexion limitations; degenerative spinal arthritis; of the spine; and migraine. Service connection presumptions for these injuries presented for RC GWOT veterans would help to mitigate the disproportionate denial rate afflicting Guard and Reserve disability benefit compensation claims.

PASS S. 629 TO BESTOW VETERAN STATUS ON NATIONAL GUARD AND RESERVE MILITARY MEMBERS WITH 20 YEARS OF SERVICE

NGAUS in concert with The Military Coalition has long sought legislation authorizing veteran status under Title 38 for National Guard and Reserve members of the Armed Forces who are entitled to a non-regular retirement under Chapter 1223 of 10 U.S.C. but were never called to title10 active service other than for training purposes during their careers—through no fault of their own.

Many Members of Congress may not know that a reservist can complete a full Guard or Reserve career but not earn the title of "Veteran of the Armed Forces of the United States," unless the member has served on Title 10 active duty for other than training purposes.

Drill training, annual training, and title 32 service responding to domestic natural disasters and defending our Nation's airspace, borders and coastlines do not qualify for veteran status.

Reserve-component members who served 20 years gave the government a blank check to send them anywhere in the world but through no fault of their own were never deployed or in some cases even allowed to be deployed.

Yet, an active-duty member whose entire short-term enlistment tour is spent in less rigorous domestic assignments to domestic posts and bases on Title 10 status will fully qualify, not just for veterans status, but for all veterans' benefits. This disparity is unfair and must end.

S. 629 would not bestow any benefits other than the honor of claiming veteran status for those who honorably served and sacrificed as career reserve component members but were never ordered to Title 10 active service. They deserve nothing less than this recognition. Authorizing veteran status for career RC service would substantially boost the morale of the RC without a cost consequence.

Opposition to this bill in the past has been grounded in a myth that passage would open the floodgates of new veteran benefits for this group. That is just not the case or even allowable under the law. S. 629 explicitly guards against this possibility. Moreover, "pay go" laws in effect bar the default triggering of any new entitlements. It is time to move past the unfounded "camel's nose under the tent" fear that has held back this legislation. Its companion bill , H.R. 679, is poised to pass the House imminently.

FULLY LEVERAGE THE VET CENTER MODEL

For behavioral support, Guard veterans often look to the stellar Vet Centers located throughout the country where they and their families can obtain confidential peer to peer counseling as well as behavioral treatment from on site clinicians; telehealth programs; or from referrals to fee based clinicians paid for and pre approved by the Vet Centers.

Confidentiality is vital in bringing our veterans still serving in the Guard to treatment in order to assuage real concerns about the sharing of medical records with the Department of Defense which VA medical centers are authorized to do. The fee

basing of referred care by the Vet Center to community providers establishes a model for this Committee to consider expanding to close the treatment gaps in our rural communities. A voucher program administered by the Vet Centers authorizing paid for treatment to qualified community providers would maximize scheduling flexibility and plug direct access gaps to care for our Guard veterans.

PASS S. 927 AND EXPAND ITS OUTREACH TO FUND COMMUNITY-BASED MENTAL HEALTH CARE

S. 927 pending before this Committee reflects the need for the VA to better leverage and fund existing community resources in caring for our veterans. It warrants immediate passage with an expanded feature that would fund veterans' access to community based care. Too often that care has relied on pro bono service providers or state/community care facilities stressed for funding.

The issues of veterans' unemployment and mental health maintenance cannot be separated. Before veterans can maintain gainful employment in a challenging job environment, they must be able to maintain a healthy mental status and establish supportive social networks.

In 2007, the Rand Corporation published a study titled, "The Invisible wounds of War." It found that at the time 300,000 veterans of Operation Iraqi Freedom and Operation enduring Freedom suffered from either PTSD or major depression. This number can only have grown after five more years of war. The harmful effects of these untreated invisible wounds on our veterans hinder their ability to reintegrate with their families and communities, work productively, and to live independently and peacefully.

Rand recommended that a network of local, state, and Federal resources centered at the community level be available to deliver evidence-based care to veterans whenever and wherever they are located. Veterans must have the ability to utilize trained and certified services in their communities. In addition to training providers, the VA must educate veterans and their families on how to recognize the signs of behavioral illness and how and where to obtain treatment.

VA and Vet Center facilities are often located hundreds of miles from our National Guard veterans living in rural areas. Requiring a veteran, once employed, to drive hundreds of miles to obtain care at a VA facility necessitates the veteran taking time off from work for reasons likely difficult to explain to an employer. Most employees can ill afford to miss work, particularly after an extended absence from deployment in the case of our Guard veterans. The VA needs to leverage community resources to proactively engage veterans in caring for their mental health needs in a confidential and convenient manner that does not require long distance travel or delayed appointments.

To facilitate the leveraging of mental health care providers in our communities, the VA through its Office of Mental Health Services or through its highly effective Vet Centers can actively exercise its authority to contract with private entities in local communities, or creatively implement a voucher program that would allow our veterans to seek fee-based treatment locally with certified providers outside the brick and mortar of the Veterans Administration facilities and even the Vet Centers.

The Vet Center in Spokane for example serves an area as big as the state of Pennsylvania. It is not practical for veterans in this catchment area to drive hundreds of miles to seek counseling or behavioral clinical care. That Vet Center pre screens fee based providers to whom it will refer veterans for confidential treatment in its management area. It also monitors the process to make sure the veteran is actually receiving care paid for by the Vet Center. This system already works. However, a voucher process would improve efficiencies by relieving the Vet Center of its scheduling burden by allowing the veteran to directly make his or her own appointment with providers as needed.

The VA and Vet Centers also need to fully leverage existing state administrative mental health and veteran networks. Working with the state mental health care provider licensing authorities, community providers certified by the VA or Vet Center to treat veterans could be identified at the state agency level with vouchers to pay for treatment by those providers. The various state departments of veterans affairs are often in a better position to effectively administer such outreach programs given the more extensive lists of veterans in their sates than those possessed by the VA or Vet Centers.

Several of our veterans have fallen through the cracks of the VA health care system, and will continue to do so. According to the Vietnam Veterans of America, last year only 30% of our veteran population had enrolled in VA medical programs. Many veterans end up in the care of state social service programs in cooperation with state and national veteran organizations. The VA has the authority to assist

in maintaining this safety net of care for veterans in a stressful economic climate for our states with a voucher program or expanded contracting with private entities. It needs to act.

HIPPA CONFIDENTIALITY MUST BE OBSERVED WITH MENTAL HEALTH CARE

Most of our National Guard veterans of OIF/OEF eligible for VA care post-deployment are still serving with their units and subject to redeployment. Given the evolving electronic medical records interoperability between the VA and the Department of Defense (DOD), a confidentiality issue exists relative to mental health treatment records for these veterans who remain in the military who do not want their records shared by the VA with their military commanders for fear of career reprisals.

It is essential that HIPPA confidentiality be maintained by the VA for the mental health treatment records of these veterans to encourage their treatment with VA providers. Our Vet Centers already operate with full confidentiality which makes them the service center of choice for Guard members who want to maintain confidentiality of their mental health counseling records to protect against perceived negative repercussions in their units. HIPPA rules pragmatically require observance of confidentiality but draw the line with patients who are dangers to themselves or their communities whose cases must be reported.

It is critical that confidentiality be established as soon as possible legislatively with the VA much the same as it is currently observed in Vet Centers. We believe that the VA is operating under advice from its legal staff that all VA medical records can be transferred to DOD. Lack of confidentiality will chill the treatment process and is likely contributed to the under utilization of VA medical care by our veterans.

REQUIRE THE VA TO FULLY IMPLEMENT SECTION 304 OF THE CAREGIVERS AND VETERANS OMNIBUS HEALTH SERVICES ACT 0F 2009, PUBLIC LAW 111–163, TO PROVIDE MENTAL HEALTH SERVICES TO VETERANS OF OIF/OEF AND THEIR IMMEDIATE FAMILY MEMBERS VETERANS USING PRIVATE ENTITIES

Post-deployment, our National Guard members and their families heavily rely on the VA for mental health care. Congress recognized as much in passing The Caregivers and Veterans Omnibus Health Services Act of 2009, Public Law 111–163, enacted May 6, 2010, now requires the VA to reach out not just to veterans but to their immediate families as well to assist in the reintegration process.

The law also urged the VA Secretary to contract with community mental health centers and other qualified entities to provide the subject services in areas the Secretary determines are not adequately served by other health care facilities or Vet Centers of the Department of Veterans Affairs. It is not clear how thoroughly the VA has fully taken advantage of this authority to contract with private entities to deliver community based mental health services.

Section 304 of the Family Caregiver Act required the VA to make full mental health services available also to the immediate family members of OIF/OEF veteran for three years post-deployment. However, the VA delayed for at least two years in making the full range of its Office of Mental Health Services (OMHS) programs available to immediate to families as required by Section 304. It is not clear today that the program has been fully implemented.

Section 304 was enacted on May 6, 2010. For many, the three year post-deployment period will begin to lapse in 2013. The VA OMHS needed to fully comply with Section 304 in a timely manner. Because the VA's unreasonably delayed implementation of this important program, this Committee needs to consider extending the subject three year post-deployment limitation period another three years to allow family members to access their care.

It also needs to lean harder on the VA to fully utilize its contracting authority to better leverage private entities and to use a voucher system described above to make community based treatment more accessible and convenient. Our veterans and their immediate families may be a small subset, but they are worth it.

THE DEPARTMENT OF DEFENSE MUST COOPERATIVELY WORK WITH THE VA IN SCREENING BEHAVIORAL HEALTH CARE NEEDS OF OUR MEMBERS BEFORE THEY ARE RELEASED FROM ACTIVE DUTY

At all stages of PTSD and depression, treatment is time sensitive. However, this is particularly important after onset, as the illness could persist for a lifetime if not promptly and adequately treated, and could render the member permanently disabled. The effects of this permanent disability on the member's entire family can be devastating. It is absolutely imperative that members returning from deployment be screened with full confidentiality at the home station while still on active duty

by trained and qualified mental health care providers from VA staff and/or qualified health care providers from the civilian community. These providers could include primary care physicians, physician assistants, and nurse practitioners who have training in assessing psychological health presentations. Prompt diagnosis and treatment will help to mitigate the lasting effects of mental illness. This examination process must be managed by the VA in coordination with the National Guard Director of Psychological Health for the respective state, and the state's Department of Mental Health to allow transition for follow up treatment by the full VA and civilian network of providers within the state.

As an American Legion staffer at Walter Reed once stated, the main problem for Reserve Component injured servicemembers is that they are "rushed out of the system" before their service-connected injuries and disability claims have been resolved. Our injured members should not be given the "bum's rush" and released from active duty until a copy of their complete military medical file, including any field treatment notes, has been transferred to the VA, their discoverable service-connected military medical issues have been identified, any service-connected VA disability physicals have been performed similar to what is provided to the active forces before they are released from active duty, and the initial determination of any service-connected VA disability claim has been rendered. Unless medically not feasible, our members should be retained on active duty in their home state for treatment to discourage them from reporting injures out of fear of being retained at a distant demobilization site.

It is absolutely necessary to allow home station screening for all returning members by trained health care professionals who can screen, observe, and ask relevant questions with the skill necessary to elicit medical issues either unknown to the self-reporting member, or unreported for fear of being retained at a far removed demobilization site. In performing their due diligence before the issuance of an insurance policy, insurance companies do not allow individuals to self assess their health. Neither should the military. If geographical separation from families is causing some to underreport, or not report, physical or psychological combat injuries on the PDHA, then continuing this process at the home station for those in need would likely produce a better yield at a critical time when this information needs to be captured in order for prompt and effective treatment to be administered.

Please see the copy of a November 5, 2008 electronic message to NGAUS from Dr. Dana Headapohl set forth in the Appendix that still pertains. Dr. Headapohl strongly recommended a surveillance program for our members before they are released from active duty. Dr. Headapohl opined then the obvious in stating that *inadequate medical screening of our members before they are released from active duty is "unacceptable to a group that has been asked to sacrifice for our country."* (emphasis added)

CONCLUSION

Thank you for that you have done for our veterans since 9/11. Please view our efforts as part of a customer feedback process to refine and improve the ongoing vital and enormous undertaking of the VA. Our National Guard veterans, both still serving and separated, will remain one of your largest base of customers who will continue to require your attention. Thank you for this opportunity to present.

PREPARED STATEMENT OF ANGELA BAILEY, ASSOCIATE DIRECTOR, EMPLOYEE SERVICES, AND CHIEF HUMAN CAPITAL OFFICER, U.S. OFFICE OF PERSONNEL MANAGEMENT

Thank you for the opportunity to provide this statement for the record related to the June 12, 2013 hearing on pending veterans benefits legislation. Specifically, the Committee has requested the Office of Personnel Management's (OPM's) input on section 2 of S. 495, the Careers for Veterans Act of 2013.

Our Nation's veterans have sacrificed tremendously in service to our country, and we have an obligation to support them upon their separation from the Armed Forces. This Administration has supported that obligation repeatedly through the years, and OPM has been a proud partner in the efforts to employ greater numbers of veterans in the Federal workforce. While OPM believes that S. 495 is a well-intended bill, it is important to highlight existing work being carried out to employ veterans with the Federal Government.

Presently, when applying for Federal employment, veterans may take advantage of special hiring authorities for veterans. For example, a veteran applying for Federal employment may do so under the Veterans' Recruitment Appointment (VRA). It is an excepted authority that allows agencies to appoint eligible veterans without

competition at any grade level up to and including GS–11 or equivalent. VRA provides the opportunity for eligible veterans to train for two years in a position. Additionally, the Veterans Employment Opportunity Act of 1998 (VEOA), a competitive service appointing authority used when filling permanent, competitive service positions, affords veterans the opportunity to compete with current Federal employees. Veterans who are 30 percent or more disabled may be appointed non-competitively. Disabled veterans may also use Schedule A appointing authority for an excepted service appointment. Finally, disabled veterans who are eligible for training under the Department of Veterans Affairs (VA) vocational rehabilitation program may enroll for training or work experience at an agency under the terms of an agreement between the agency and VA.

In addition to the special hiring authorities, veterans have also been subject to targeted outreach by the Administration. As part of these efforts, on November 9, 2009, President Barack Obama signed Executive Order 13518, Employment of Veterans in the Federal Government, which establishes the Veterans Employment Initiative (VEI). The VEI is a strategic approach to helping the men and women who have served our country in the military find employment in the Federal Government. Under the VEI, OPM and partner agencies developed the Government-wide Veterans' Recruitment and Employment Strategic Plan for FY 10–12, an important tool in the implementation of the President's Executive Order. The plan outlined strategies the Federal Government subsequently used to improve employment opportunities for veterans in the executive branch. Presently, the Veterans' Recruitment and Employment Strategic Plan for FY 13–15 is under development. Additionally, Veteran Employment Program Offices have been established in the 24 agencies covered under Executive Order 13518. Further, OPM has created the Feds Hire Vets Web site to provide a single point for providing veterans' employment information to veterans, their families, and hiring managers. OPM has also created a Government-wide marketing campaign on the value of our veterans and toolkits were provided to Federal agencies to aid in their efforts to hire veterans. Finally, OPM conducted the Veterans Employment Symposium which provided essential learning to human resources professionals and hiring managers. This symposium was followed by web-based training applications in the areas of veterans' appointing authorities and veterans' preference.

OPM has worked with other agencies on the implementation of the VOW (Veterans Opportunity to Work) To Hire Heroes Act of 2011 ("the VOW Act"). The VOW Act, which requires Federal agencies to treat active duty servicemembers as veterans, disabled veterans, or preference eligibles for purposes of appointment in the competitive service when these servicemembers submit a certification of expected discharge or release from active duty under honorable conditions along with their applications for Federal employment, was passed in the last Congress and is another tool in assisting veterans in obtaining Federal employment.

The efforts of OPM and other Federal agencies, through the Council on Veterans Employment, to employ veterans in Federal service are already paying dividends. In FY 2012, veterans accounted for 28.9 percent of all new hires in the Federal Government which is the highest percentage of veteran new hires in the past twenty years and exceeds FY 2011 which was the previous all-time high. Additionally, the number of veterans in Federal employment has steadily grown from 25.8 percent of the Federal workforce in FY 2009 to 29.7 percent in FY 2012. Since FY 2009, 263,754 new hires in the Federal Government have been veterans.

OPM welcomes efforts that support employment of veterans, and is actively engaged with agencies to increase the number of veterans in the Federal workforce. This Administration's efforts in this regard are already showing results in numbers well beyond the goals set forth in S. 495. We are concerned that the planning and reporting requirements contained in the legislation would increase the workload for agencies and detract from efforts already underway. OPM looks forward to continuing to work with this Committee on legislation that aims to assist veterans in obtaining employment following their service for our country as members of the Armed Forces.

PREPARED STATEMENT OF CAROLYN N. LERNER, SPECIAL COUNSEL, UNITED STATES OFFICE OF SPECIAL COUNSEL

Chairman Sanders, Ranking Member Burr, and Members of the Committee: Thank you for the opportunity to submit written testimony on behalf of the Office of Special Counsel (OSC) in connection with today's legislative hearing. OSC protects the merit system for over 2 million civilian employees in the Federal Government. Congress has tasked OSC with four distinct mission areas. First, we protect

Federal employees from prohibited personnel practices, especially retaliation for whistleblowing. Second, we provide a safe and secure channel for employees to disclose waste, fraud, abuse, and threats to public health or safety. Third, we enforce the Hatch Act, which keeps the Federal workplace free from political coercion and improper partisan politics. Finally, we are the primary enforcement agency for Federal sector claims under the Uniformed Services Employment and Reemployment Rights Act (USERRA).

USERRA protects the civilian employment and reemployment rights of those who serve the United States in the Armed Forces, including the National Guard and Reserves. OSC plays a critical role in enforcing USERRA and helps to fulfill Congress' directive that the Federal Government serve as a "model employer" under the law. This is especially important because the Federal Government is the largest civilian employer of National Guard and Reserve members.

OSC receives referrals from the Department of Labor for representation of servicemembers and prosecution of USERRA violations. In addition, in August 2011, OSC took on new responsibilities for USERRA enforcement under a "Demonstration Project." Under the project, OSC investigates over half of all Federal sector USERRA claims. OSC recently piloted a novel, expeditious and low-cost approach to resolving USERRA cases by using alternative dispute resolution. OSC has achieved a 100% success rate using mediation to resolve servicemembers' claims.

S. 6—"PUTTING OUR VETERANS BACK TO WORK ACT OF 2013"

OSC strongly supports S. 6, the "Putting Our Veterans Back to Work Act of 2013." Section 303 of S. 6 clarifies OSC's authority to subpoena the attendance and testimony of witnesses, as well as the production of documents from Federal employees and agencies. This provision is necessary to assist OSC in determining whether a servicemember is entitled to relief. This section also sets forth a streamlined and more efficient process for enforcement of subpoenas against Federal executive agencies or their employees by order of the Merit Systems Protection Board (MSPB). Explicit authority under Title 38 to issue subpoenas to Federal employees and agencies will assist OSC in protecting rights of servicemembers.

PREPARED STATEMENT OF PARALYZED VETERANS OF AMERICA

Chairman Sanders, Ranking Member Burr, and Members of the Committee, Paralyzed Veterans of America (PVA) would like to thank you for the opportunity to present our views on the broad array of legislation impacting the Department of Veterans Affairs (VA) pending before the Committee. These important bills will help ensure that veterans receive appropriate benefits in a timely manner.

S. 6, THE "PUTTING OUR VETERANS BACK TO WORK ACT OF 2013"

PVA supports S. 6, "Putting Our Veterans Back to Work Act of 2013" which would amend the "VOW to Hire Heroes Act of 2011" to extend this career assistance program through March 31, 2016. This program is available for veterans that are unemployed and have exhausted other educational and career assistance benefits. Since the start of the program, July 1, 2012, the number of veterans participating in the program fell short of the anticipated enrollment. Although a large number of veterans have applied and qualified for the program, many have not used the program.

The VA and the Department of Labor, Veterans Employment and Training Service (VETS) must increase outreach to the veterans that have applied for this program. A career counselor can help a veteran decide on the best application of this program to compliment the job skills previously obtained in the military. After discussing options with a counselor, a veteran may decide not to use the program and relinquish the certificate allocated for that veteran. Thus, allowing another veteran to receive employment training.

The bill includes a requirement for the VA to establish a single Web-based employment portal for veterans to access this information. Additional outreach will be needed to reach those veterans not dependent on the internet for their source of information. The VA should strive to fill every available slot for this unique program to help unemployed veterans.

S. 200

PVA does not oppose S. 200, which would amend Title 38, United States Code, to authorize the interment of individuals that served in combat support in the King-

dom of Laos between February 28, 1961 and May 15, 1975 in cemeteries controlled by the VA National Cemetery Administration.

S. 257, THE "GI BILL TUITION FAIRNESS ACT OF 2013"

PVA supports S. 257, the "GI Bill Fairness Act of 2013." This legislation would require public institutions to charge the in-state tuition and fees rate to veterans who use the GI Bill at that institution when the veteran did not originally reside in that state. Although many institutions have changed their policies to allow a veteran to attend a public institution at the instate rate, some continue charging veterans an out-of-state rate for those who once lived in another state before entering service. This legislation will address this shortcoming.

S. 262, THE "VETERANS EDUCATION EQUITY ACT OF 2013"

PVA supports S. 262, the "Veterans Education Equity Act of 2013," which would assist veterans using the GI Bill that have been paying tuitions and fees above the GI Bill amount designated for that state. Many veterans have accumulated thousands of dollars in debt for tuition and fees over the amount paid by the GI Bill. This legislation will allow the veteran to continue in the program of their choice without accumulating extra financial dept.

S. 294, THE "RUTH MOORE ACT OF 2013"

PVA supports S. 294, the "Ruth Moore Act of 2013." According to reports, sexual assault in the military continues to be a serious problem, despite several actions by the Department of Defense (DOD) to combat the issue, including required soldier and leader training. As the military works to reduce the threat and incident of military sexual trauma (MST), it is important that victims of MST, both women and men, have the ability to receive care from the VA and receive timely, fair consideration of their claims for benefits. This is particularly important given the number of MST occurrences that go unreported. While current policies allowing restricted reporting of sexual assaults should reduce the number of incidents which have "no official record," it can still be anticipated that there are those who will not report the incident out of shame, fear of reprisals or stigma, or actual threats from their attacker. To then place a high burden of proof on the veteran, who has experienced MST to prove service-connection, particularly in the absence of an official record, would add further trauma to an already tragic event.

One particular recommendation that PVA would like to make about the proposed language is a clarification of what constitutes a "mental health professional." We would hope that the intent of this legislation is not to limit "mental health professionals" to only VA health care professionals.

S. 373, THE "CHARLIE MORGAN MILITARY SPOUSES EQUAL TREATMENT ACT OF 2013"

PVA has no formal position on S. 373, the "Charlie Morgan Military Spouses Equal Treatment Act of 2013."

S. 430, THE "VETERANS SMALL BUSINESS OPPORTUNITY AND PROTECTION ACT OF 2013"

PVA supports S. 430, the "Veterans Small Business Opportunity and Protection Act of 2013." This legislation would recognize the surviving spouse of a deceased service-disabled veteran who acquires the ownership interest in a small business of the deceased veteran as such veteran, for purposes of eligibility for VA service-disabled small business contracting preference, for a period of 10 years after the veteran's death. This 10 year continuation applies only if such veteran was either 100 percent disabled or died from a service-connected disability. In situations where the veteran was less than 100 percent disabled and did not die from a service-connected disability the eligibility will continue for 3 years. This 3-year period is necessary to continue conducting business that has been awarded and under contract. This time period allows the surviving spouse to develop plans for the future of the business, or plan for the sale of the business.

S. 492

PVA supports S. 492, a bill to amend Title 38, United States Code, to require states to recognize the military experience of veterans when issuing licenses and credentials to veterans without requiring additional training. This Federal legislation is necessary to encourage state license and certifying agencies to acknowledge the years of training and performance veterans may have had in specific career fields. Although some states have recognized this professional training and experi-

ence provided by the Federal Government, most have not. This unwillingness to license or certify qualified veterans can burden the veteran with years of classroom and on the job training before the veteran is allowed to work in a specific field with full pay. This bill will require states to become more active in the process of certifying qualified veterans.

S. 495, THE "CAREERS FOR VETERANS ACT OF 2013"

PVA supports S. 495, the "Careers for Veterans Act of 2013." This legislation combines several issues from other bills previously introduced in the Senate. Those issues are surviving spouses' ownership and continuation of receiving Federal contracts for a business that was owned by a service-disabled veteran, and the requirement of states to issues licenses or credentials in employment trades that a veteran is qualified for and has received training and experience while in the military.

The bill also requires the Sectary of Labor to provide each veteran's one-stop center with a list of Web sites and applications that are beneficial for veterans searching for employment. S. 495 also directs each Federal agency to development a five-year plan to hire qualified veterans with a total employment goal of 10,000 veterans hired in the five year period. PVA supports this legislation and when it is fully implemented, it will help many veterans with their transition to the civilian work force.

S. 514

PVA supports S. 514, a bill to amend Title 38, United States Code, to provide additional educational assistance under the current Post-9/11 Educational Assistance to Veterans programs, who are pursuing a degree in high-demand occupational fields such as engineering, math, or an area that leads to employment in a high-demand occupation. This will eliminate the financial barrier that could arise as a veteran pursues the field of their choice with a STEM focus (science, technology, engineering, or math). Often special programs of these educational fields may cost above an individual state's allowance of the GI Bill. This will accommodate veterans who study in STEM fields.

S. 515

PVA supports S. 515, a bill to amend Title 38, United States Code, to extend the Yellow Ribbon G.I. Education Enhancement Program to cover recipients of the Marine Gunnery Sergeant John David Fry scholarship. This will allow public and private contributions for educational assistance to the child of an individual who dies in the line of duty while serving on active duty on or after September 11, 2001.

S. 572, THE "VETERANS SECOND AMENDMENT PROTECTION ACT"

Regarding S. 572, the "Veterans Second Amendment Protection Act," PVA has no formal position on this legislation.

S. 629, THE "HONOR AMERICA'S GUARD-RESERVE RETIREES ACT OF 2013"

Paralyzed Veterans of America supports S. 629, the "Honor America's Guard-Reserve Retirees Act." This bill incorporates "veteran" into the Guard and Reserve community. PVA supports recognizing and honoring all servicemembers, Guard or Reserve, for their faithful and honorable service in defending the United States of America. Serving in a volunteer force should be credited to the servicemember, not discounted through no fault of their own, because they were never activated.

S. 674, THE "ACCOUNTABILITY FOR VETERANS ACT OF 2013"

PVA supports S. 674, the "Accountability for Veterans Act of 2013" which will require prompt responses from the Department of Defense, the Social Security Administration and the National Archives and Records Administration when the Secretary of Veterans Affairs requests information necessary to adjudicate benefits claims. It is unfortunate that legislation is required in order for government agencies to promptly provide information to adjudicate a veteran's claim. PVA also supports the reporting requirement that will allow better oversight and should identify trends in timeliness of agency responses.

S. 690, THE "FILIPINO VETERANS FAIRNESS ACT OF 2013"

PVA has no official position on S. 690, the "Filipino Veterans Fairness Act." That being said, we have concerns about the provisions of the legislation that address the $0.50-on-the-dollar benefit rate that has long been included in Title 38 U.S.C for

non-resident Filipino veterans. It is our understanding that the legislation would eliminate this benefit rate from statute. This rate was established to reflect the fact that the standard-of-living in the Philippines is significantly less than in the United States. This rate was determined to reflect equitable and fair compensation for Filipino veterans who served alongside U.S. veterans, but who are not U.S. citizens. We see no reason why this rate should be changed (a position supported by the Department of Veterans Affairs in the past).

S. 695, THE "VETERANS PARALYMPIC ACT OF 2013"

PVA supports S. 695, a bill that would reauthorize the Paralympics program that has partnered with the VA to expand sports and recreation opportunities to disabled veterans and injured servicemembers. We believe that this has certainly been a worthwhile program as the need for expansion of these activities is necessary. We appreciate the role that the Paralympics have played in this expansion.

PVA believes that much progress and enhanced cooperation has resulted from the Paralympics Program and its partnership with VA. Under this program, PVA has witnessed improved coordination between our organization, USOC-Paralympics, and other veterans' and community-based sports organizations that has enhanced existing programs and advanced development of new programs in communities that previously had not been served. The overall performance of the partnership between PVA, the USOC-Paralympics and the Department of Veterans Affairs has successfully produced an increased number of sports and recreation opportunities for disabled veterans.

S. 705, THE "WAR MEMORIAL PROTECTION ACT OF 2013"

PVA has no formal position on S. 705, the "War Memorial Protection Act of 2013."

S. 735, THE "SURVIVOR BENEFITS IMPROVEMENT ACT OF 2013"

PVA supports, S. 735, the "Survivor Benefits Improvement Act of 2013" to extend the initial period for increase dependency and indemnity compensation for surviving spouses, to extend benefits for children of certain Thailand service veterans born with spina bifida, and conduct a pilot program on grief counseling for surviving spouses of veterans who die while serving on active duty in the Armed Forces.

S. 778

PVA has no specific position on the proposed legislation that would allow the VA to issue identification (ID) cards to veterans. While we can certainly see the merits of veterans having ID's that specifically indicate their status, we wonder what verification mechanism would be devised to determine whether or not a person is in fact a veteran. Would the VA require a person to apply for the ID card and include a copy of his or her DD214 for verification purposes? We question whether or not the VA can handle the additional administrative burden that might come with implementation of this legislation.

S. 819, THE "VETERANS MENTAL HEALTH TREATMENT FIRST ACT OF 2013"

While PVA understands the concepts outlined in S. 819, the "Veterans Mental Health Treatment First Act," we oppose this proposed legislation. We believe that this legislation tries to draw attention to a concept that the VA ought to be focused on already—the health and wellness of sick and disabled veterans. But this focus should not be at the expense of the veteran. We cannot argue with the importance of proper and effective treatment to address the mental health issues that veterans may face. However, we believe this legislation would simply force near term treatment on veterans in order to save the VA, and by extension the Federal Government, money paid out in compensation in the long term.

First, we would point out that the legislation calls for a "pre-evaluation" of the veteran exhibiting symptoms of Post-Traumatic Stress Disorder (PTSD) to determine if the condition might be related to his or her service. This implies a step the disability claims process should already be taking. Furthermore, it calls for the Secretary to prescribe regulations dictating what constitutes a relationship to military service—a concept already addressed in Title 38 U.S.C. and the Code of Federal Regulations.

Second, the legislation requires the veteran to delay his or her right to file a claim while participating in the program. While we can certainly see the benefit of a veteran participating in a comprehensive treatment program, we see no reason why he or she should not still be able to file a claim concurrently. Otherwise, the process simply is delayed a year. And while we understand the argument that a veteran

would receive a stipend under this program, we do not believe that this is an acceptable method of offsetting the broad range of benefits, along with compensation, associated with adjudication of a claim. Furthermore, depriving a veteran of his or her entitlement to compensation may actually have the unintended effect of providing a financial disincentive to participate in rehabilitation and treatment.

S. 863, THE "VETERANS BACK TO SCHOOL ACT OF 2013"

PVA supports S. 863, the "Veterans Back to School Act of 2013." This legislation will repeal the current time limitations on the eligibility for use of educational assistance and extend eligibility to 10 years after the veteran starts using the program. Section 3 of the bill "Veterans Education Outreach Program" would authorize funding to institutions of higher learning to establish an office for a veterans' education outreach program. To participate in the program an institution must have a minimum of 50 veterans enrolled and match the funding amount provided by the VA from non-Federal funds. Upon passage of the Post-9/11 GI Bill, Secretary Shinseki's public remarks were that he was pleased that young veterans can now attend the finest colleges and universities in the Nation. Our challenge (the VA's and the learning institutions) is to insure they stay in school. This new group of students, many returning from Iraq and Afghanistan, are non-traditional students with non-traditional issues and problems. This legislation should provide on-campus counseling for veterans by veterans, along with support and assistance. The function of fostering communication among veteran students may be the key that helps veterans address this next chapter of life after the military.

S. 889, THE "SERVICEMEMBERS' CHOICE IN TRANSITION ACT OF 2013"

PVA supports S. 889, the "Servicemembers' Choice in Transition Act of 2013."

S. 893, THE "VETERANS COMPENSATION COST-OF-LIVING ADJUSTMENT ACT OF 2013"

PVA supports S. 893, the "Veterans' Compensation Cost-of-Living Adjustment Act of 2013," that would increase, effective as of December 1, 2013, the rates of compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation (DIC) for the survivors of certain disabled veterans. This would include increases in wartime disability compensation, additional compensation for dependents, clothing allowance, and dependency and indemnity compensation for children.

While our economy continues to struggle, veterans' personal finances have been affected by rising costs of essential necessities to live from day to day and maintain a certain standard of living.

S. 894

PVA supports S. 894, a bill to amend Title 38, United States Code, to extend expiring authority for work-study allowances for individuals who are pursuing programs of rehabilitation, education, or training under laws administered by the Secretary of Veterans Affairs, to expand such authority to certain outreach services provided through congressional offices.

S. 922, THE "VETERANS EQUIPPED FOR SUCCESS DURING TRANSITION ACT OF 2013"

PVA supports S. 922, the "Veterans Equipped for Success Act of 2013." This legislation creates a comprehensive employment program that will benefit many veterans by getting them started in the work place, or helping some get back into the workplace. The three year pilot program will enroll 50,000 eligible veterans. The VA will designate the cities, minimum of four geographic areas, which will be available for this program based on veterans' unemployment rates for an area. The program will provide living wages for the veteran with medical care provided by the VA. The legislation specifies that the veteran worker should not be used in place of a full-time employee, or to replace a full time employee that is out on sick leave or has left the organization. This program will be a large undertaking for the VA and the Department of Labor along with helpful oversight from Congress. Employment programs for unemployed veterans have been created in the past, but for various reasons were not successful or properly funded. In this period of a slow economy, this can be a program of tremendous importance for helping many veterans learn job skills and eventually get into the workforce.

S. 927, THE "VETERANS OUTREACH ACT OF 2013"

PVA supports S. 927, the "Veterans Outreach Act of 2013." With the large number of veterans currently in the United States, and the expectation that this number will increase with the current drawdown of the military, outreach becomes critical to ensuring those who have earned benefits are aware of their availability.

However, PVA is concerned with funding the grants for the outreach. Too often additional programs are required of VA with no additional appropriations being provided. It would be unfortunate if Veterans Outreach suffered similarly. While there is a requirement for state entities to provide 50-percent matching funds, grants are provided to other entities including non-profits. With the current restrained fiscal environment, PVA is concerned that this will be another good idea that is never fulfilled due to funding shortfalls.

S. 928, THE "CLAIMS PROCESSING IMPROVEMENT ACT OF 2013"

PVA generally supports the current draft of S. 928, the "Claims Processing Improvement Act of 2013" with a few concerns. First, Section 103 requires that the Secretary "shall not make fewer than two attempts to obtain the records," which may be interpreted by VA that they are only required to make two attempts. This may also permit a decision that only one attempt is necessary if a second would be futile. This wording provides a great deal of subjectivity to the VA in an area that they have been continually challenged to improve.

With regards to Section 201, understanding that the purpose of this legislation is to reduce the backlog, PVA is not supportive of legislation that abridges due process in any way. PVA believes proposing a shorter filing period for Notices of Disagreement from 1 year to 6 months is unacceptable. A year gives the veteran the time to obtain any additional evidence to support the claim, particularly if it is a severely disabled veteran who can often face long hospital stays or rehabilitation. Seeking additional medical information can be a lengthy process. Furthermore, the "good cause" exception to the proposed 180-day period could actually result in much more dispute and litigation because of the broadness of the accepted circumstances of "physical, mental, educational and linguistic limitation." There may be an alternative that would allow claimants to waive the longer filing period if they are sure the needed medical information can be quickly obtained.

PVA supports Section 202 with regards to video conferencing. As long as there is the ability to request an in-person hearing that the Board would be required to honor, we believe this will benefit both the claimant and the Board. At the Veteran Service Organization forums held by the Board, there has been an ongoing emphasis on holding video conferences whenever possible to reduce time lost for no-shows. Additionally, the grant rate for video versus in-person hearings is the same. In fact, PVA has encouraged service officers to hold video conference hearings and the vast majority of PVA hearings are now held via video conference.

Under Section 305 paragraph (c), the proposed legislation supports PVA's position on the Accepted Clinical Evidence Initiative. We are concerned VA may downplay the effectiveness by under-reporting it. The single 15-month pilot took place only at the St. Paul Regional Claims office, which doesn't have a significant backlog, reducing the likelihood of large amounts of data to report. PVA believes VA should have to expand the pilot before reporting on it to allow examination of its true efficacy. Large urban areas or rural areas would benefit most. For example, as of May 6, 2013, St. Paul has 9,553 veterans waiting, with 2,447 waiting more than 125 days and 346 waiting more than one year with an average wait time of 110 days. This is compared to Houston with 36,044 veterans waiting, with 26,331 waiting more than 125 days and 14,480 waiting more than one year with an average wait time of 419 days; or San Diego with 28,467 veterans waiting, with 19,435 waiting more than 125 days and 7,666 waiting more than one year with an average wait time of 319 days.

S. 930

PVA has no formal position on S. 930.

S. 932, THE "PUTTING VETERANS FUNDING FIRST ACT OF 2013"

PVA is pleased to see this legislation put forward by Sen. Begich and fully supports it. This legislation, similar to H.R. 813, the "Putting Veterans Funding First Act of 2013," introduced by House Committee on Veterans' Affairs Chairman Jeff Miller (R-FL) and Ranking Member Mike Michaud (D-ME), requires all accounts of the VA to be funded through the advance appropriations process. It would provide protection for the operations of the entire VA from the political wrangling that oc-

curs as a part of the appropriations process every year. We would also like to see the Committee consider legislation similar to that introduced by Representative Brownley in H.R. 806, the "Veterans Healthcare Improvement Act" that permanently establishes the Government Accountability Office's reporting requirements as a part of VA advance appropriations.

S. 935, THE "QUICKER VETERANS BENEFITS DELIVERY ACT OF 2013"

PVA supports S. 935, the "Quicker Veterans Benefits Delivery Act of 2013." PVA has consistently recommended that VA accept valid medical evidence from non-Department medical professionals. The continuing actions of VA to require Department medical examinations does nothing to further efforts to reduce the claims backlog and may actually cause the backlog to increase.

S. 938, THE "FRANCHISE EDUCATION FOR VETERANS ACT OF 2013"

PVA supports the draft legislation "Franchise Education for Veterans Act of 2013" which would amend Title 38, United States Code, to allow certain veterans to use funding from educational assistance provided by the Department of Veterans Affairs for franchise training. Many veterans are using their Post-9/11 GI Bill to begin, or continue their education to prepare for future careers. This unique benefit will help hundreds of thousands of veterans as they complete their education and move into career positions in government or private sector. For those that choose not to attend college, owning a business franchise can allow a veteran to provide for themselves and their families. Since every franchise has a training program to prepare the future business owner for achieving success, PVA supports the concept of using the veterans' earned benefit, Post-9/11 GI Bill, to help pay for this valuable and required training. The VA should require certain standards of a training program and a history of the parent corporation's success in their field of business along with a pattern of successful franchises. This scrutiny of the training and a review of the business plan of the franchise would be necessary to eliminate organizations that obtain their profits from selling franchises rather that providing a product or service that has a market demand.

S. 939

PVA fully supports this legislation. The claims process is significantly complicated and it is noted that VA often does not properly forward the Notice of Appeal to the Board. This legislation will permit a Notice of Appeal incorrectly sent to VA instead of the Court to be considered as a motion for reconsideration by the Board. This is the fair thing to do where the intent of the veteran clearly was to appeal.

PVA would once again like to thank the Committee for the opportunity to submit our views on the legislation considered today. Enactment of much of the proposed legislation will significantly enhance the benefits services available to veterans, servicemembers, and their families. We would be happy to answer any questions that you may have for the record.

S. 944, THE "VETERANS' EDUCATIONAL TRANSITION ACT OF 2013"

As with S. 257, PVA supports S. 944, the "Veterans' Educational Transition Act of 2013." Because of the unique nature of military service, Veterans deserve an in-state tuition and fees rate when using the GI Bill at public institutions even when the veteran did not originally reside in that state.

PVA would once again like to thank the Committee for the opportunity to submit our views on the legislation considered today. Enactment of much of the proposed legislation will significantly enhance the health care services available to veterans, servicemembers, and their families. We would be happy to answer any questions that you may have for the record.

PREPARED STATEMENT OF RELIGIOUS ACTION CENTER OF REFORM JUDAISM

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Rabbi David Saperstein, Director and Counsel, Religious Action Center of Reform Judaism
Testimony on S. 705 for the Pending Benefits Legislation Hearing
June 12, 2013

On behalf of the Religious Action Center of Reform Judaism, the Washington office of the Union for Reform Judaism, whose more than 900 congregations across North America encompass 1.5 million Reform Jews, and the Central Conference of American Rabbis, whose membership includes more than 2,000 Reform rabbis, I urge you to oppose the War Memorial Protection Act (S. 705), which the Committee will consider at this hearing. S. 705 would allow religious symbols to be included as part of military memorials, undermining our nation's founding principle of separation of church and state as well as threaten our country's commitment to protecting its diverse faith traditions.

There are two deeply troubling implications to this bill. While religious symbols are appropriate when identified with individual graves, their inclusion in public memorials representing all our war dead belies our country's diverse religious fabric. The separation of church and state has allowed American religion to flourish unlike anywhere else in the world. This diversity is reflected in our military; nearly one-third of all members of the armed service identify as non-Christian. Our war memorials must honor all who served, independent of their spiritual affiliation. Unfortunately, this does not meet that goal; it undermines the principle of religious liberty and dishonors the memory of those who sacrificed the most for these very freedoms.

Second, this bill cheapens the powerful symbols themselves by stripping them of faithful meaning. Religious symbols, for example the cross, have the unique ability to convey powerful messages with lasting impressions. As a religious community we value the power of these symbols and their capacity for faithful reflection and connection. Legislating that these symbols are secular icons without religious implications cheapens the deep personal beliefs they reflect. Implying that a religious symbol can shed its sectarian significance when it stands as a memorial ignores the power and history of religious symbols and is an affront to all people of faith.

The First Amendment to the Constitution is the bulwark of religious freedom and interfaith amity. The concept of separation of church and state has lifted up American Jewry, as well as other religious minorities, providing more protections, rights and opportunities than have been known anywhere else throughout history. The prominent display of religious symbols on public land threatens the principle of separation of church and state, which is indispensable for the preservation of that spirit of religious liberty that is a unique blessing of American democracy.

S. 705 undermines our country's historical commitment to the separation of church and state and cheapens the sanctity of religious symbols. I urge you to ensure that this bill does not pass out of your committee.

The Religious Action Center pursues social justice and religious liberty by mobilizing the Jewish community and serving as its advocate in Washington, D.C. The Center is led by the Commission on Social Action of the Central Conference of American Rabbis and the Union for Reform Judaism (and its affiliates) and is supported by the congregations of the Union.

PREPARED STATEMENT OF RESERVE OFFICERS ASSOCIATION OF THE UNITED STATES AND RESERVE ENLISTED ASSOCIATION OF THE UNITED STATES

INTRODUCTION

Mr. Chairman and members of the subcommittee, the Reserve Officers Association (ROA) and the Reserve Enlisted Association (REA) would like to thank the Committee for the opportunity to submit testimony. ROA and REA applaud the ongoing efforts by Congress to address issues facing veterans and serving Reserve Component members such as veteran status, employment challenges, improvements to the education program, claims processing and more.

Reservists are unique as veterans; warriors who, when separated from active duty, are still subject to recall. This creates a different set of challenges for this group, atypical from nonaffiliated veteran concerns.

Though contingency operations in Afghanistan are winding down, currently there are still high levels of mobilizations and deployments for Guard and Reserve members, and many of these outstanding citizen soldiers, sailors, airmen, Marines, and Coast Guardsmen have put their civilian careers on hold while they serve their country in harm's way. As we have learned, they share the same risks as their counterparts on the battlefield in the Active Components. Over 875,000 Guard and Reserve servicemembers have been activated since September 11. Of these one-third have been mobilized two or more times. The United States is creating a new generation of combat veterans that come from its Reserve Components (RC). It is important, therefore, that we do not squander this valuable resource of experience, nor ignore the benefits that they are entitled to because of their selfless service to their country.

Yet there is a group of serving Reserve Component members who have prepared these war veterans, who are not recognized as veterans themselves. Many of these Guard and Reserve members don't qualify for veteran status, because their active duty periods are not long enough. ROA and REA thank the Committee for including Senator Pryor's bill S. 629, "Honor America's Guard-Reserve Retirees Act of 2013," to be included in this hearing.

Unfortunately, unemployment continues to run about 10 percent higher for younger Guard and Reserve members than for non-affiliated veterans. ROA and REA would like to work with this Committee to develop employment solutions that would focus on this age group.

ROA and REA endorse S. 629 (Pryor), S. 6 (Reid), S. 257 (Boozman), S. 262 (Durbin), S. 294 (Tester), S. 430 Heller, S. 515 (Brown), S. 572 (Burr), S. 674 (Heller), S. 695 (Boozman), S. 705 (Burr), S. 735 (Sanders), S. 819 (Burr), S. 893 (Sanders), S. 894 (Sanders), S. 922 (Sanders), S. 927 (Sanders), S. 928 (Sanders), S. 863 (Blumenthal).

The Associations don't necessarily object to legislation that is excluded from this list.

RESERVE ASSOCIATION'S AGENDA SUMMARY

Employer Support:

- Continue to enact tax credits for health care and differential pay expenses for deployed Reserve Component employees.
- Provide tax credits to offset costs for temporary replacements of deployed Reserve Component employees.
- Support tax credits to employers who hire servicemembers who supported contingency operations.

Employee Support:

- Permit delays or exemptions while mobilized of regularly scheduled mandatory continuing education and licensing /certification/promotion exams.
- Seek a credentialing process to recognize military skills
- Continue to support a law center dedicated to USERRA/SCRA problems of deployed Active and Reserve servicemembers.

Uniformed Services Employment and Reemployment Rights Act (USERRA)/Servicemembers' Civil Relief Act (SCRA):

- Improve SCRA to protect deployed members from creditors that willfully violate SCRA.
- Fix USERRA/SCRA to protect health care coverage of returning servicemembers and family for pre-existing conditions, and continuation of prior group or individual insurance.
- Encourage Federal agencies to abide by USERRA/SCRA standards.
- Ensure USERRA isn't superseded by binding arbitrations agreements between employers and Reserve Component members.
- Make the states employers waive 11th Amendment immunity with respect to USERRA claims, as a condition of receipt of Federal assistance.
- Make the award of attorney fees mandatory rather than discretionary.

Veterans Affairs:

- Calculate years of service for disability retired pay for Reserve Component members wounded or injured in combat under section 12732 of U.S.C. Title 10.
- Extend veterans preference to those Reserve Component members who have completed 20 years in good standing.

• Make permanent Reserve Component VA Home Loan Guarantees.
• Eliminate the 3/4 percent fee differential between Active Component and Reserve Component programs on VA Home Loan.
• Support burial eligibility for deceased gray-area retirees at Arlington National Cemetery.
• Continue to seek timely and comprehensive implementation of concurrent receipt for disabled receiving retired pay and VA disability compensation.

INCLUDING RESERVE RETIREES WHO HAVE EARNED VETERAN STATUS

Many Guard and Reserve servicemembers have served admirably for 20 plus years and qualify for retirement without having been called to active duty service during their careers. The Pentagon estimates there are just under 290,000 in this group. At age 60, they are entitled to Reserve military retired pay, government health care, and other benefits of service, including some Veterans' benefits. Yet current law denies them full standing as a Veteran of the Armed Forces. Both ROA and REA support Senator Pryor's bill S. 629, Honor America's Guard-Reserve Retirees Act of 2013 to correct this injustice. It is the right thing to do!

Reserve Component members, as defined in law, who have completed 20 or more years of service are military retirees and eligible once reaching 60 years of age for all of the active duty military retiree benefits. Conversely they are not considered to be "Veterans" if they have not served the required number of uninterrupted days on Federal active duty (defined as active duty other than for training). Yet over 20 years they have sacrificed much in family and civilian employment opportunity and at a minimum have served more than seven years on duty over weekends and annual duty.

Serving Reserve Component members focus on numerous things such as the mission at hand, the job, training and development, the troops, going where needed, and other responsibilities, but not much thought is given by individuals to making sure they had the right kind of duty orders to qualify as a Veteran upon retirement.

Those Reserve Component members that have been called to serve in Operation Enduring Freedom, Operation Iraqi Freedom or Operation New Dawn have undoubtedly qualified as Veterans. Yet, there are many others who stand in front of and behind these men and women—preparing them and supporting them—individuals that are also ready to deploy but because of their assigned duties may never serve in that capacity. Nevertheless they serve faithfully.

Twenty or more years of service in the Reserve forces and eligibility for Reserve retired pay should be sufficient qualifying service for full Veteran status under the law.

This issue is a matter of honor for those, who through no fault of their own were never activated, but served their nation faithfully for 20 or more years.

Hurtles

Seemingly, the biggest hindrance to passing S. 629 to grant Veterans status, is the misconception that passage would have unintended consequences, causing this group of Veterans to receive benefits that they would not otherwise qualify for. The pending legislation would change the legal definition of "Veteran" so that proper acknowledgment and recognition that comes with the designation of "veteran" would be made. BUT it would NOT change the legal qualification for access to any benefits.

Each veteran benefit has a different set of qualifications because each was created at a different time. Every time Congress passes new legislation that is signed into law authorizing new Veteran benefits, the eligibility requirements are determined for that specific benefit. Veteran status depends on which Veteran program or benefit you are applying for. Thus S. 629's language does not generate unintended consequences.

Some have suggested moving such language out of Title 38. If that were to happen, a specific group would be classified as second-class veterans. Such a result would not grant these admirable men and women the honor they deserve for their 20 years plus service, but denigrate it.

No Cost

Reserve Component members with 20 years or more service without qualifying consecutive active duty time, will not be given special access to Veterans Affairs (VA) disability rating. Currently if they are injured while on military orders in the line of duty, they are already eligible for a VA disability rating and VA health care.

In the majority of circumstances these individuals will have other full-time employment in the private sector or as a civilian government employee. Therefore almost all have health care insurance through their employer, and have no need to

rely on VA health benefits. Upon reaching 60 years of age they will be eligible for TRICARE, and at age 65 for TRICARE for Life.

REDUCING GUARD AND RESERVE UNEMPLOYMENT

Employers view USERRA as a negative incentive and would like to see positive encouragement to hire veterans. Reauthorizing the VOW to Hire Heroes Act is a good step, but does not address the problems faced by Guard and Reserve members. For younger Guard and Reserve members unemployment continues to run at about 10 percent higher than non-affiliated veterans. For the most part those between 18 to 24 years old are from the Reserve Component, who in April had an unemployment rate over 14 percent.

After 10 years of war, employers are more comfortable hiring unaffiliated veterans, than those who could be recalled to active duty and with a future risk of an operational call-up once every five years. It is just easier not to hire Guard and Reserve members.

While this may be a violation of the USERRA, stealth discrimination can easily occur if you do not tell the Reserve Component veteran that their military career is why they were not hired. Additional positive incentives are needed for this group of veterans.

Notwithstanding the protections and antidiscrimination laws in effect for veterans and serving members, it is not unusual for members to lose their jobs due to time spent away while deployed. Sometimes employers are going out of business, but more often it is because it costs employers money, time, and effort to reintroduce the employee to the company.

Incentives of various types would serve to mitigate burdens and encourage businesses to both hire and retain Reservists and veterans. Examples include providing employers—especially small businesses—with incentives such as cash stipends to help pay for health care for Reservists up to the amount DOD is contributing. Small businesses are more likely to hire Guard and Reserve veterans if they could afford to hire temporary replacements. A variety of tax credits could be enacted to provide such credit at the beginning of a period of mobilization or perhaps even a direct subsidy for costs related to a mobilization such as the hiring and training of new employees.

Small Business hiring of Guard and Reserve members

Deployment of Guard and Reserve members has the hardest impact on small businesses. Such businesses are the backbone of the American economy, and are expected to do the majority of the hiring in the near future. The Small Business Administration defines a small business (depending on the industry) as a business with fewer than 500 employees. A micro-business is defined as having fewer than 10 employees.

ROA and REA support initiatives to provide small business owners with protections for their businesses while a Reserve Component employee is on deployment. Employer care plans should be developed in a way that will assist with mitigation strategies for dealing with the civilian workload during the absence of the servicemember employee and lay out how the employer and employee would remain in contact throughout the deployment.

If a Reserve Component small business owner is killed in the line of duty, ROA and REA support legislation that would extend veteran entitlements to the surviving spouse as long as she or he maintain a controlling interest.

Recognition of Active Duty experience for civilian employment

There is an ongoing challenge on how to convert military skill sets into credited experience that would be recognized by civilian employers and provide longevity credit during a licensing or credentialing process. Cross-licensing/credentialing would ease the burden of having to acquire new licenses/credentials in the private sector after having gained experience to perform such duties during military service.

ROA and REA encourage the implementation of certifications or a form that would inform employers of skills potential veteran and servicemember employees gained through their military service.

The Associations are concerned about suggested language that would require "no less than 10 years" of experience in a Military Occupation Specialty before such certification could be earned. Many active duty contracts are of a much shorter duration, and experience should not be measured by a calendar. Like educations institutions that provide accreditation for military professional experience, state tests should evaluate the amount of experience of an individual.

EDUCATION

Education improves a veteran's chance for employment, and many returning combat veterans seek a change in the life paths. There is still room for more improvement in the Post-9/11 GI Bill that in the long run can make the program more effective and increase utilization.

Issues that student veterans have raised to ROA and REA in which we recommend include the following:

- Seek in-state tuition for non-resident veterans
- Establish dedicated and well-trained officers for student veterans to speak with via a call center.
- Allow institutions to give more funds to students with stronger merit and need-base under the Yellow Ribbon Program.
- Extend Yellow Ribbon Program to Fry scholarship recipients.
- Align the VA's work-study program for students to work as guidance officers at their institutions to aid other student veterans, to be matched up with institution's academic calendar.
- Safeguard and implement a long term plan for sustaining the Post-9/11 GI Bill.
  - Ensure transferability benefits are protected.
  - Guarantee that any future changes to the program that could have negative effects on benefits will grandfather in current beneficiaries.
- Pass legislation to disallow institutions including benefits in need-based aid formulations.
- Transferring jurisdiction of Montgomery GI Bill for Selected Reserve to Veteran Affairs committees.

One of the most significant problems that link all issues pertaining to the Post-9/11 GI Bill is the lack of effectively trained customer service representatives. One of the many examples came from two of our members that are married, both serving in a Reserve Component. They wanted to transfer their benefits to their children, but were told that only one parent can register the children in the DEERS system and therefore only one of the parents could transfer the benefits. After going through a couple back channels ROA found out that the couple needed to go to a DEERS office and request an 'administrative' account for the purposes of transferring benefits.

There are many stories similar to this one which causes unnecessary stress on the families, some of whom give into the system and give up the benefit because either they are given incorrect and/or incomplete information or the hassles involved are not deemed worthwhile.

It is absolutely necessary that our servicemembers, veterans and families have the ability to access accurate and timely information. ROA and REA urge Congress to insist on the VA and education institutions to properly and effectively train their personnel.

CONCLUSION

ROA and REA appreciate the opportunity to submit testimony. ROA and REA look forward to working with the Senate Veterans' Affairs Committee on solutions to these and other issues. We hope in the future for an opportunity to discuss these issues in person with committee members and their staff.

PREPARED STATEMENT OF CAROLYN W. COLVIN, ACTING COMMISSIONER, SOCIAL SECURITY ADMINISTRATION

Thank you, Chairman Sanders, for giving me the opportunity to discuss S. 674, the Accountability for Veterans Act of 2013. I appreciate this opportunity to discuss several ways in which we help the men and women who have served our Nation. The Social Security Administration (SSA) historically and proudly has been a "can-do" agency. The services we provide to our Nation's veterans illustrate our deep commitment to assisting those in need. I applaud you, Senator, for leading the Committee's efforts in helping the Department of Veterans Affairs (VA) improve the processing of disability compensation applications.

For my statement today, I will focus specifically on the provision in the S. 674 that would require covered agencies, including SSA, to provide VA with information necessary to process a VA claim within 30 days after such information is requested by VA. The vast majority of the information we provide VA is medical records that we gather during the processing of the veterans' claims for Social Security disability benefits.

While the purposes and eligibility criteria for VA and Social Security disability programs differ significantly, the process of determining disability in both programs hinges on medical information provided to adjudicators. Thus, we recognize that having complete and timely medical records is vitally important to both programs. We are proud of the work that we are doing with VA to help ensure veterans get the benefits due them, and we greatly value our mutually beneficial partnership with VA.

In March, the Government Accountability Office (GAO) testified before this Committee on VA's disability compensation claims process. In its testimony, GAO created the impression that we do not promptly reply to the requests for medical records that we receive from VA. That impression is simply wrong. As the data show, we place a high priority on the requests we receive from VA and work very hard on responding to them timely.

In FY 2012, we received nearly 33,000 requests for medical evidence from VA. On average, we responded to those requests in less than a week. We currently have no pending requests that are older than 90 days. For the first quarter of fiscal year 2013, we received over 9,600 requests for medical evidence from VA. On average, we responded to those requests in less than a week, with only four cases taking longer than 60 days, and we responded to all of them in less than 90 days.[1] Moving forward, we should be able to comfortably and consistently meet the requirement in S. 674 if it were enacted. However, even without a statutory requirement, I can assure you that we will continue to work hard to assist our Nation's veterans and VA.

We have taken several steps to ensure that we continue to respond timely to VA's requests. We centralized our process in our National Records Center (NRC) in Independence, Missouri. The NRC receives all requests and provides all records. If the requested records are in a paper file located in a different facility, the NRC requests the file, photocopies the medical records from it, and sends them to VA. By completely centralizing our process, we have greater control over these requests and ensure timely responses to all of them. We have also established processes to expedite Agent Orange and homeless veterans' cases; on average, we send these records in two days or less from the date we receive the requests.

We also maintain good and regular communications with VA about requests for information. SSA had previously asked VA to follow up on requests for medical records after 60 days, but that timeframe was recently reduced to 20 days for a first followup and 35 days for a second followup. Finally, we developed a tracking system to ensure that we do not overlook a single case and have designated a staff person to serve as VA liaison in our NRC facility. Our NRC liaison tracks status and folder location for any request over 35 days old and explains any delays to VA.

We continue to work with VA to streamline the medical records request process. For example, we collaborated with VA to establish the Veterans Administration Regional Office (VARO) Project. Currently, five VARO sites participate in the project. The VARO Project uses a web-based tool that allows VA staff to communicate securely and directly with us. This automated tool significantly improves efficiency. We participate in weekly and monthly conference calls with VA headquarters personnel to discuss record requests, including any problems we have encountered and any improvements that can be made to the process.

Our involvement in VA's disability compensation claims process extends beyond supplying medical records. Through numerous verification and exchange agreements, we also provide VA with verification of names and Social Security numbers, information about Social Security and Supplemental Security Income benefits, employer reports of earnings from our Master Earnings File, and indicators of death reports and prisoner data. VA uses these data for ensuring eligibility and accuracy of VA payments. Recently, we have implemented changes to increase the frequency of the earnings data exchanges from annually to weekly at the request of VA.

Again, thank you for your work on these important issues and for this opportunity to describe the ways we help Veterans. We are proud of our efforts to reach out to the men and women who have served this Nation. We think our partnership with VA is very effective. By working together with Congress, we believe both agencies will continue to make substantial progress toward providing the world-class service that our veterans deserve.

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[1] The current delays in processing VA requests are due to situations in which there are paper files that need to be mailed from another SSA location, such as a local field office or hearing office, to the NRC. As we have shifted from paper to electronic files, any delays should be further reduced as we can access electronic files instantaneously.

PREPARED STATEMENT OF MICHAEL DAKDUK, EXECUTIVE DIRECTOR, STUDENT VETERANS OF AMERICA

Chairman Sanders, Ranking Member Burr, and Members of the Committee: Thank you for inviting Student Veterans of America to submit written testimony regarding pending legislation intended to increase support for military servicemembers and veterans.

Student Veterans of America is the largest and only national association of military veterans in higher education. Our mission is to provide military veterans with the resources, support, and advocacy needed to succeed in higher education and after graduation. We currently have over 800 chapters, or student veteran organizations, at colleges and universities in all 50 states that assist veterans in their transition to and through higher education. SVA chapters are organized as four-year and two-year public, private, nonprofit, and for-profit institutions of higher learning. This diverse and direct contact gives SVA a unique perspective on the needs and obstacles faced by our Nation's veterans as they utilize education benefits in preparation for their future transition into the civilian workforce.

S. 257, GI Bill Tuition Fairness Act of 2013:

The Post-9/11 GI Bill pays the highest in-state tuition and fees. Due to military obligations, many veterans are unable to establish in-state residency for the purposes of enrolling at a public university or college. Ultimately, this becomes a financial burden that leaves veterans vying for additional financial aid due to out-of-state residency status.

This proposed bill would make all student veterans eligible for in-state tuition at public colleges and universities, regardless of their residency status, eliminating the need for veterans seeking a post-secondary credential to find full-time employment or accrue student loan debt while attending a public institution.

The protocol for establishing residency for tuition purposes varies across the spectrum of higher education, leaving many recently-separated veterans unable to satisfy strict requirements due to their service in another state. Nuanced policies and variability between states and university systems are highly complex and penalize veterans with stringent residency requirements they are unable to fulfill due to their honorable military service.

According to a state-by-state landscape analysis conducted by our organization, 12 states already offer in-state tuition to veterans, 8 states offer conditional waivers to veterans under particular circumstances, and another 16 states are currently considering similar legislation.

State leaders from both sides of the aisle have recognized the financial and social benefits veterans bring to their communities. Not only do student veterans diversify the landscape of higher education by bringing their unique experiences and perspectives to public campuses, but many veterans will pursue careers within the same state post-graduation.

Veterans who choose to attend public schools, but are unable to qualify for residency status should not have to shoulder the burden of additional tuition fees. We are proud to be working with the American Legion on a state-by-state initiative to see in-state tuition granted to all veterans. We are also very proud to be aligned with both the American Legion and the Veterans of Foreign Wars (VFW) in seeing this issue resolved in Congress. We recognize that veterans served our Nation in its entirety, not just one state, and as such we hope to see veterans provided the opportunity to use their educational benefits in all states without discrimination.

SVA fully supports S. 257 and hopes the Committee moves quickly to pass this legislation.

S. 262, Veterans Education Equity Act of 2013:

SVA would like to thank Senator Durbin for his attention to the inequity existing within the Post-9/11 GI Bill. While we support the intention of this bill, which seeks to address the same issue as S. 257, we cannot support this legislation.

In an attempt to offset decreasing revenues due to state budget cuts, public colleges and universities have significantly raised the cost of out-of-state tuition. Some institutions have inflated out-of-state tuition to over 300% of the in-state tuition rate, forcing student veterans who are unable to meet residency requirements to fund their education through other means of Federal financial aid, student loans, or full-time employment.

S. 262 proposes to increase compensation received by non-resident veterans attending public colleges and universities.

SVA stands in agreement with the VFW that it would be irresponsible to place additional financial burden on VA and the American taxpayer when we know these schools can deliver a quality education at the in-state rate, and stand with the

American Legion in that S. 262 would encourage inefficiency within the higher education system. SVA thanks Senator Durbin for his serious consideration of the issue and looks forward to working with him to support student veterans.

S. 492, a bill to amend title 38, United States Code, to require States to recognize the military experience of veterans when issuing licenses and credentials to veterans, and for other purposes:

This bill ensures that professional military personnel have the opportunity to sit for licensing exams, allowing veterans the opportunity to successfully translate their military expertise and effectively integrate into the civilian workforce.

SVA stands with VFW and the American Legion in support of this legislation.

S. 495, Careers for Veterans Act:

SVA supports S. 495, which incentivizes the private sector to hire and retain veterans, provides veterans with Federal employment opportunities, and extends additional protections for surviving spouses of veteran entrepreneurs.

S. 863, Veterans Back to School Act of 2013:

Currently, veterans have 10 years upon separation from the military to use their Montgomery GI Bill (MGIB) benefit. Military veterans are nontraditional students, and often do not enter a higher education environment immediately after military service. In fact, many nontraditional students start and stop school at various times during their academic careers. By initiating the MGIB clock once the veteran begins using the benefit, we provide these nontraditional learners with a better opportunity for academic success and ultimately post-graduation employment. Additionally, these veterans have made financial contributions to the MGIB. They made the investment to better themselves through higher learning and we have an obligation to honor that investment.

SVA is also pleased to see a veteran outreach component to this bill. By providing institutions of higher learning with support to increase outreach efforts, student veterans will ultimately be better served. Programs and services dedicated to veterans on campus are absolutely critical to retention, graduation, and post-graduation employment.

S. 514, a bill to amend title 38, United States Code, to provide additional educational assistance under the Post-9/11 educational Assistance to veterans pursuing a degree in science, technology, engineering, math or an area that leads to employment in a high-demand occupation, and for other purposes:

This bill stands to provide additional financial support to student veterans pursuing a degree in the fields of science, technology, engineering, math, or an area that leads to employment in a high-demand occupation. SVA has long supported the intent of such legislation, seeing as the demand for jobs in these fields are high and veterans, with their unique experiences and training, stand to significantly contribute to these industries.

Because high tuition costs and long paths to graduation are often associated with these degrees, SVA supports giving the Secretary the discretion to distribute additional funds to student veterans participating in such programs as deemed appropriate.

S. 6, Putting Our Veterans Back to Work:

SVA supports this bill, which focuses on transitioning recently-separated veterans and student veterans into the civilian workforce through an extension of the VRAP program and additional protections under the Uniformed Servicemembers Employment and Reemployment Rights Act (USERRA).

S. 430, Veterans Small Business Opportunity and Protection Act of 2013:

SVA supports this bill, as well as similar language in S. 495, that would allow survivors of veteran entrepreneurs to continue operating their business as if the entity remained veteran-owned. We encourage the Senate to take swift action on this either as stand-alone legislation or through S. 495.

S. 515, a bill to amend title 38, United States Code, to extend the Yellow Ribbon GI Education Enhancement program to cover recipients of Marine Gunnery Sergeant John David Fry scholarship, and for other purposes:

As it stands eligible dependents of a servicemember killed in action are excluded from additional educational benefits through the Yellow Ribbon Program. S. 515 will provide Fry Scholarship recipients the same benefits as other Chapter 33-eligible beneficiaries. SVA stands with the VFW and American Legion in strong support of this legislation.

S. 894, a bill to amend title 38, United States Code, to extend expiring authority for work-study allowances for individuals who are pursuing programs of rehabilitation, education, or training under laws administered by the Secretary of Veterans Affairs, to expand such authority to certain outreach services provided through congressional offices, and for other purposes:

Although SVA did not have adequate time to review the text of S. 894, we do offer our support of the legislation's intention to extend expiring work-study allowances for individuals pursuing programs of rehabilitation, education or training. Many student veterans use the work-study program as a supplement to pay for their bills and other costs not covered by primary VA educational programs. SVA strongly supports the VA work-study program.

Draft bill, a bill to provide in-state tuition to transitioning veterans:

SVA did not receive a draft of this bill in time to offer comment; however, we believe that S. 257 is the appropriate and comprehensive way to offer equitable funds to veterans using the Post-9/11 GI Bill.

SVA was not provided the text of the following legislation in adequate time to review and offer comment:

S. 674, Accountability for Veterans Act of 2013

S. 893, Veterans' Cost-of-Living Adjustment Act of 2013

S. 928, Claims Processing Improvement Act of 2013

S. 922, Veterans Equipped for Success During Transition Act of 2013

Draft bill, Veterans Outreach Act of 2013

SVA finds the following bills outside the scope of our mission and does not wish to offer comment at this time:

S. 200, a bill to amend title 38, United States Code, to authorize the interment in national cemeteries under the control of the National Cemetery Administration of individuals who served in combat support of the Armed Forces in the Kingdom of Laos between February 28, 1961, and May 15, 1975, and for other purposes.

S. 294, Ruth Moore Act of 2013

S. 373, Charlie Morgan Military Spouses Equal Treatment Act of 2013

S. 572, Veterans Second Amendment Protection Act

S. 629, Honor America's Guard-Reserve Retirees Act of 2013

S. 674, Accountability for Veterans Act of 2013

S. 690, Filipino Veterans Fairness Act of 2013

S. 695, Veterans Paralympic Act of 2013

S. 705, War Memorial Protection Act of 2013

S. 735, Survivor Benefits Improvement Act of 2013

S. 748, Veterans Pension Protection Act

S. 819, Veterans Mental Health Treatment First Act of 2013

Thank you Chairman Sanders, Ranking Member Burr, and distinguished Members of the Committee for allowing Student Veterans of America to present our views on legislation focused on supporting veterans, military servicemembers, and their families.

PREPARED STATEMENT OF SERVICE WOMEN'S ACTION NETWORK

Chairman Sanders, Ranking Member Burr and distinguished Members of the Committee: Thank you for the opportunity to submit written testimony for the record and thank you for your continued leadership on veteran's issues and for convening this hearing today.

The Service Women's Action Network (SWAN) is a non-profit, non-partisan veterans led civil rights organization. SWAN's mission is to transform military culture by securing equal opportunity and freedom to serve without discrimination, harassment or assault; and to reform veterans' services to ensure high quality health care and benefits for women veterans and their families.

We challenge institutions and cultural norms that deny equal opportunities, equal protections, and equal benefits to servicemembers and veterans. SWAN is not a membership organization, instead we utilize direct services to provide outreach and assistance to servicemembers and veterans and our policy agenda is directly informed by those relationships and that interaction.

SWAN extends opportunities to and promotes the voices and agency of service women and women veterans without regard to sex, gender, sexual orientation or gender identity or the context, era, or type of their service.

SWAN welcomes the opportunity to share our views on two bills before the Committee today: S. 294 the Ruth Moore Act of 2013; and S. 373 the Charlie Morgan Military Spouses Equal Treatment Act of 2013.

S. 294

SWAN strongly supports S. 294, the Ruth Moore Act. Veterans who are partially or fully disabled from an injury suffered while serving in the military are entitled to disability benefits. Currently VA policy requires a veteran applying for disability benefits to demonstrate three things: A diagnosis of a medical or mental health issue; Proof that an event (stressor) happened while in the service; and a link between the stressor and the medical/mental health issue, provided by a VA examiner. The Ruth Moore Act allows a statement from the survivor to be considered sufficient proof that an assault occurred.

SWAN has been advocating for changes to the VA claims process for several years. We actively supported the 2010 change to the claims process for PTSD-claims related to "fear of hostile military or terrorist activity" and have provided testimony many times to both House and Senate committees on issues and challenges facing women veterans at both the VHA and VBA, and the unique challenges faced by veterans filing Military Sexual Trauma (MST) claims.

According to VA, PTSD is the most common mental health condition associated with MST. For women veterans, MST is a greater predictor of PTSD than combat. Studies also indicate that sexual harassment causes the same rates of PTSD in women as combat does in men. And 40 to 53% of homeless women veterans have been sexual assaulted while in the military. The Committee should also be aware that this is not just an issue for women veterans, but that many men suffer from the effects of military sexual violence. According to the Department of Defense, 12% of all unrestricted sexual assault reports are made by men. Simply put, MST has negatively affected the entire veterans' community.

Veterans who suffer from the debilitating effects of Military Sexual Trauma face unique challenges in obtaining disability compensation from the VA. In 2011, SWAN and the American Civil Liberties Union (ACLU) filed a Freedom of Information Request with the VA for data on MST claims. The data obtained through litigation showed that during FY 2008, 2009 and 2010, only 32.3% of MST-based PTSD claims were approved by VBA compared to an approval rate of 54.2% of all other PTSD claims during that time. As a point of comparison, data obtained by Veterans for Common Sense indicates that 53% of Iraq and Afghanistan deployment related PTSD claims through October2011 were approved.

Looking more deeply at the MST data, SWAN discovered that among veterans who had their MST- PTSD claims approved by VA, women were more likely to receive a 10% to 30% disability rating, whereas men were more likely to receive a 70% to 100% disability rating.

These findings indicate that veterans who file a PTSD claim based on MST have only a 1 in 3 chance of getting their claim approved. Also, data suggests a strong gender bias in VA's MST PTSD disability ratings process.

SWAN has presented our data to the VA Secretary Eric Shinseki and to the Under Secretary for Benefits Allison Hickey and asked for changes to VA regulations on MST claims. After a series of conversations with SWAN, Undersecretary Hickey decided not to change the regulation, but instead issued a memo in June 2011 providing further guidance to claims officers and instituting training requirements for processing MST claims. However, examination of both the letter and the training revealed it simply reinforced the existing regulation which places a double standard on MST claimants. Recently VA has released statistics that show a near miraculous increase in MST claims approvals, presumably due to this training memo. Both SWAN and the New York Times have asked to see the data behind these numbers and VA has refused to provide it.

Additional responses from VA on this issue have not been adequate either. At a House Veterans' Affairs subcommittee hearing in 2012, VA admitted that their current regulation had not been applied properly by claims officials and stated they would be sending letters to previously rejected MST claimants to offer to re-adju-

dicate their claims, but after a year this has not been accomplished. Most recently Allison Hickey testified before Congress that VA was designating one person, specifically a woman, in each regional office as the sole reviewer of MST cases. This action by VA clearly demonstrates the inadequacies of their 2011 guidance memo and training efforts and reveals more of VA's MST gender bias in adjudicating MST claims. SWAN is extremely concerned that this action will create a bottleneck or MST claims, increasing delays in adjudications and creating larger issues for the overall claims inventory and backlog crisis.

The regulation has to change. Even with "secondary markers" the current language fails veterans for a variety of reasons. First, sexual assault and sexual harassment in the military are notoriously under-reported. According to the Pentagon's Sexual Assault Prevention and Response Office (SAPRO), 86.5% of sexual assaults go unreported, meaning that official documentation of an assault rarely exists. Second, prior to the new evidence retention laws passed in the 2011 National Defense Authorization Act, the services routinely destroyed all evidence and investigation records in sexual assault cases after 2 to 5 years, leaving gaping holes in MST claims filed prior to 2012. Last, the allowance for secondary evidentiary described in the regulation does not take into consideration the reality that many victims do not report the incident(s) to anyone, including family members, for a variety of legitimate reasons, including shame, stigma, embarrassment, or disorientation associated with sexual trauma.

Additionally, although sexual assault increases the chance of adverse emotional responses and behaviors, it does not mean that all MST claimants will experience these symptoms. In fact, SWAN has spoken to many assault survivors who demonstrate changes in behavior that are not included in the regulation, such as improved job performance as a means of coping with the trauma.

In the MST community, the failures of the VA claims process are well known. SWAN has spoken with veterans who suffer PTSD related to both MST and combat—what veterans cynically call the "double whammy." These veterans chose to abandon their MST claims and submit a claim only for combat related PTSD, as they felt their combat claim was more likely to be approved, and that the uphill battle to file an MST claim wasn't worth the agony.

It is well past time for VA to admit that the current MST claims process is broken. VA's PTSD policy discriminates against veterans who were sexually assaulted or harassed while in uniform by holding them to an evidentiary standard which is not only higher than that of other groups of veterans suffering from PTSD, but also completely unrealistic for the majority of survivors to meet. It has not been able to train its way out of this issue by enforcing a bad regulation, and VA's recent responses to the crisis are creating more problems than they are solving.

It is not enough for Congress just to tell VA to improve the regulation. It must specifically state what needs to be done. VA has proven they cannot do this on their own, they need the help of Congress. Ask any MST survivor and they will tell you that the only way to fix this problem is to change the regulation, and that is what the Ruth Moore Act does.

S. 294, the Ruth Moore Act of 2013 amends the current regulation so that it correctly makes the determination of entitlement to service-connected compensation for the resulting disability from the in service trauma a question of medical diagnosis and not question of evidence, it maintains the existing requirements for a proper medical diagnosis, stressor evidence and VA examination, it ends the veteran's endless quest for hard-to-find "secondary markers," and prevents MST survivors from being further re-traumatized by an adjudication process which implicitly questions the veracity of the reported in-service personal assault in the first place.

S. 373

SWAN strongly supports S. 373, the Charlie Morgan Military Spouses Equal Treatment Act of 2013. This bill would change the definition of "spouse" in four areas of U.S. Code related to recognition, support, and benefits for married servicemembers and veterans. The changes—including to provisions in Titles 10, 32, and 38 would ensure that spouses of the same gender are eligible for key military benefits. The bill adds a favorable controlling definition of "spouse" to Title 37 to provide greater uniformity of benefits for same-sex spouses.

Importantly, the bill extends dozens of important spousal benefits and support programs to same-gender spouses, including coverage under TRICARE insurance, an increased housing allowance and survivor benefits, and it closes the benefit gaps left after the limited extension of same-sex spousal benefits signed by former Secretary of Defense Leon Panetta.

Since the repeal of "Don't Ask, Don't Tell" there have been two classes of servicemembers in this country—one that receives the Nation's full recognition, support and benefits and one that does not. The law as it currently stands perpetuates this second-class solider syndrome which harms all servicemembers, prevents commanders from taking care of their troops and weakens the force. The integration of openly gay servicemembers into the military has been seamless and they continue to serve our country well. It is well past time to welcome the spouses and families who support them into the ranks as well.

Again, we appreciate the opportunity to offer our views on these very important bills and we look forward to continuing our work together to improve the lives of veterans and their families.

PREPARED STATEMENT OF CHARLIE HUEBNER, CHIEF OF PARALYMPICS, UNITED STATES OLYMPIC COMMITTEE

S. 695, THE VETERANS PARALYMPIC ACT OF 2013

Chairman Sanders, Ranking Member Burr, and Members of the Committee, my name is Charlie Huebner and I am the Chief of Paralympics, for the United States Olympic Committee ("USOC"). Thank you for the opportunity to submit a statement and testify before this Committee in support of S. 695, which extends the authorization for the highly successful, innovative and cost effective partnership between the USOC and the Department of Veteran Affairs to provide Paralympic sports and sustainable physical activity opportunities for disabled veterans at the community level.

I would like to thank the sponsors of this legislation, Senators Boozman and Begich, as well as the co-sponsors who sit on this Committee, Senator Murray, the former Chairman, and Senators Tester, Hirono, and Johanns. I would also like to acknowledge are partner organizations that have worked so hard with the USOC and the VA to make this program a success. S. 695 is supported by national organizations such as the American Legion, BlazeSports America, the Blinded Veterans Association, Disabled Sports USA, the Iraq and Afghanistan Veterans of America, the Paralyzed Veterans of America, the USO and the National Recreation and Parks Association, as well as by hundreds of local, community-based organizations such as Bridge II Sports in Durham, North Carolina, Challenge Alaska, and Greater Metro Parks in Tacoma, Washington. A letter of support from these organizations, among others, is attached as Exhibit A.

Paralympic programs are sports for physically disabled athletes. It was founded and exists because of Veterans from World War II. Research has proven that Paralympic sport and physical activity is an impactful aspect of successful rehabilitation for disabled Veterans.

Research-based outcomes from consistent physical activity for disabled Veterans include higher self-esteem, lower stress levels and secondary medical conditions and higher achievement levels in education and employment.

At the beginning of U.S. combat operations, the USOC expanded its service to injured members of our Armed Forces and Veterans by providing training, technical assistance and Paralympic ambassadors to installations and military medical centers. As combat escalated, Congress reached out to the USOC asking for us to do more!

I applaud the leadership in Congress, which realized that collaboration between the public and private sector, between Government agencies, non-profit organizations, and the private business sector could expand expertise and capabilities, and program awareness in a cost effective manner.

The legislation you created in Fiscal Year 2010, allowed the USOC and VA to significantly grow the capabilities and reach of physical activity programming to thousands of disabled Veterans today in communities throughout America. Since 2010, the cumulative number of veterans served has been over 16,000. We estimate that annually up to 5,000 veterans are being served by our partner organizations, and we have made it a priority to increase the numbers of veterans we reach through this program.

The authorization for this program expires at the end of Fiscal Year 2013. It is imperative that Congress act to extend the authorization for this program to ensure there is no interruption in the services being provided to our disabled veterans, and just as importantly, develop enhanced programming in collaboration with the private sector where there are significant needs.

The USOC, which itself was created by Congress, is one of only four National Olympic Committees that manage both Olympic and Paralympic sport. We are one

of only a handful of National Olympic Committees that are 100% privately funded, with our major competitors outspending us often as much as 5-to–1. Innovation, collaboration and cost efficiencies are core to our organizational success and critical to this continued USOC and VA partnership.

Injured military personnel and Veterans are the soul of the Paralympic movement. When discussing the Paralympic Movement, we have two primary objectives. One: pursue excellence at the Paralympic Games. As a result of Paralympic Veteran role models and ambassadors such as Navy Lt. Brad Snyder, Army Veteran Melissa Stockwell, and Marine Veteran Oz Sanchez, the USOC and VA have been able to reach millions of Americans with stories of Veteran achievements and excellence. Second, and more importantly, the VA and USOC collectively have reached thousands of disabled Veterans and their families with stories of hope, and a roadmap to being healthy, productive and contributing members of society.

With partners such as PVA, IAVA, Disabled Sports USA and USA Hockey to name a few, the VA and USOC have created significant, sustainable and cost effective regional and local physical activity opportunities for disabled Veterans to pursue competitive excellence, but most significantly, for a majority of the thousands of physically disabled Veterans in the US these opportunities are ways to simply re-engage into society by being physically active with their sons, daughters, families, and friends.

It is as simple as skiing with your buddies again, or as one double amputee Army Ranger stated "I want to be able to run with my son."

This Committee, Congressional leaders, and Veteran and Military organizations asked the USOC to lead this effort due to our powerful, iconic, and inspiring brand; our expertise in physical activity and sport for persons with physical disabilities; and our significant infrastructure of member organizations. We have accepted the responsibility and opportunity to serve those who have served us. And because of your leadership in developing and providing funding for this USOC and VA partnership, we are able today to report the first phase of significant program success and expansion in less than three years of this legislation. Since June 2010, the VA and USOC have:

- Distributed more than 350 grants to community sport organizations to develop sustainable physical activity programs for disabled Veterans returning to their hometowns.
- These community programs are investing millions of dollars in private resources, combined with grants from the VA—USOC grant pool, to reach thousands of Veterans with a focus on sustainable and consistent physically activity at the local level.
- The VA and USOC have emphasized and led an effort to promote collaboration between the DOD, VA and community sport organizations to recognize and enhance programmatic and financial efficiencies. To date, grant recipients have collaborated and partnered with 85 VA medical centers in 39 states and military treatment facilities across the country.
- Created the Paralympic Resource Network, an online database of Paralympic programs nationally which is designed to link individuals with physical and visual disabilities to sports programs in their communities. There are now 340 organizations listed. This is over 35% more than the targeted goal of 250 organizations.
- Created consistent national and regional training, technical assistance and sharing of best practices to expand availability of sustainable programming at the community level.
- Distributed training stipends to over 115 Veteran athletes; 43 of these athletes have met the national team standard in their respective sports.
- Implemented regional and national public relations and communications strategies resulting in major national media campaigns and news stories that have reached millions of Americans with stories of Paralympic Veterans as national ambassadors.
- Significantly expanded and implemented, accountability and oversight processes that include USOC-led internal audits of grantees, upgraded reporting and monitoring of sub-grantees, consistent USOC site visits and weekly USOC-VA grant monitoring calls.
- Two staff members implementing this program are individuals with physical disabilities, one being a Veteran.

Humbly, we work for an organization that has one of the most inspiring brands in the world. A brand that motivates people and organizations to get involved and to collaborate. I can't emphasize the collaboration point enough, because collaboration also leads to significant cost efficiencies and impact!

Today, more than 350 USOC partner organizations in 46 states and the District of Columbia are investing millions in private resources, staff, and facilities to cost effectively implement these programs. As part of our commitment to deliver services in the most cost efficient manner possible, the USOC has not accepted the 5% allowance for Administrative Costs and has instead contributed its own administrative resources to maximize funding.

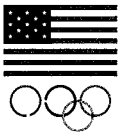
One specific new example of USOC—VA innovation, impact, cost-efficiency, collaboration and enhanced awareness was the development of the regional and local Valor Games series in Chicago. Through partnership with a USOC leadership organization—World Sport Chicago—the USOC and VA identified a partner that could plan, implement, provide a majority of the funding and promote the importance and impact at a regional event for physically disabled Veterans with the primary objective and outcome being the connecting of these Veterans to everyday physical activity programs in the region. This was done with limited VA-USOC financial investment and only one USOC staff and one VA staff member involved.

In closing, the need in this Country is great. More physically disabled members of our Armed Forces are returning to America's communities, urban and rural, as heroic Veterans. Many of them are simply trying to reintegrate with their friends and families. Some want to compete. The power of sport is one tool in the rehabilitative process that allows for our Nation's heroes to take a small step to normalcy. Research has proven that!

I would like to thank the Committee, the VA leadership, particularly Secretary Eric Shinseki; Assistant Secretary Tommy Sowers, Mike Galloucis, Executive Director of the Department of Veterans Affairs Office of Public and Intergovernmental Affairs; I would like to especially commend Marine Veteran and VA leader Chris Nowak, a physically disabled Veteran who is driving change in collaboration with the VA and USOC with a primary focus on impacting Veterans in a cost effective manner. Mr. Nowak is a Marine Veteran making a difference!

I can simply say that you have led a collaborative and cost effective effort. You, too, are making a difference. A difference in the lives of those that have given our Nation so much!

EXHIBIT A



UNITED STATES OLYMPIC COMMITTEE
1100 H St. NW
Suite 600
Washington, DC 20005

March 8, 2013

The Hon. Bernard Sanders, Chairman
The Hon. Richard Burr, Ranking Member
U.S. Senate Veterans' Affairs Committee
Washington, DC 20510

Dear Chairman Sanders and Ranking Member Burr:

We are writing to express our strong support for the bill being introduced by Senators John Boozman (R-AR) and Mark Begich (D-AK), to extend the provision contained in the Veterans Benefits Improvement Act of 2008 authorizing the Department of Veterans Affairs to award grants to the United States Paralympics to "plan, develop, manage, and implement an integrated adaptive sports program for disabled veterans and disabled members of the Armed Forces" to 2018. Under current law, this provision will expire in 2013 and our organizations believe it is critical that the program be reauthorized and extended this year to avoid any interruption in providing these important services to our veterans.

The program initiated funding in June of 2010 and had as its primary focus to expand the availability of consistent physical activity programs at the community level for disabled Veterans. As a result of this legislation, to date the VA Paralympic Adaptive Sport program has reached more than 5,000 participants in more than 150 communities in 46 states and has successfully collaborated with 85 VA Medical Centers in 39 states to provide adaptive sports programs to veterans in their local communities through outreach programs, training, practices, camps, clinics, and competitions.

This program has also made grants to over 100 organizations serving our disabled veterans, which have enabled local programs to leverage private sector support. Through the VA's leadership in partnership with the United States Olympic Committee, over 100 grantees, in addition to over 200 other Paralympic Sport Club and community partners that have come together to provide this important service to thousands of our disabled veterans. The program has emphasized local collaboration and invested significant additional resources, including those of local partner agencies, in support of disabled veterans and wounded, ill, and injured members of the Armed Forces.

Not only do these Paralympic programs provide vital community-based services, but as a result of them, there are now 57 veteran athletes who are developing into U.S. National Team prospects, and 45 veterans who have already qualified for the U.S. National Team in their

respective sport, some of whom have a good chance to represent the U.S. at the 2014 Paralympic Games in Sochi, Russia. 17 disabled veteran athletes and three active duty service members qualified and competed in the 2012 London Paralympic Games. Those 20 accounted for a total of 12 U.S. medals won.

The Paralympic Movement began after World War II to assist physically disabled veterans in returning to an active and healthy lifestyle. In 2008 Congress honored this great tradition by authorizing the VA to create a veterans' Paralympics program. Our organizations have been proud to participate in this effort, and we urge you to extend the reauthorization of this important program that helps so many before Congress adjourns for the year.

Sincerely,

American Legion, Peter S. Gaytan, Executive Director
BlazeSports America, Ann Cody, Director of Policy and Global Outreach
Blinded Veterans Association, Thomas Zampieri, Ph.D., Director of Government Relations
Bridge II Sports, Durham, North Carolina, Ashley Thomas, Founder, Executive Director
Challenge Alaska, Elizabeth Edmands, CEO
Disabled American Veterans, Barry A. Jesinoski, Executive Director
Disabled Sports USA, Kirk Bauer, Executive Director
Greater Metro Parks, Tacoma, Washington, Shon Sylvia, Director
Iraq and Afghanistan Veterans of America, Paul Rieckhoff, Executive Director and Founder
National Recreation and Parks Association, Stacey Pine, Vice President, Government Affairs
Paralyzed Veterans of America, Bill Lawson, President
United Service Organizations (USO), Sloan Gibson, President
United States Association of Blind Athletes, Mark Lucas, Executive Director
United States Olympic Committee, Charlie Huebner, Chief of Paralympics
University of Central Oklahoma, Steve Kreidler, Executive Vice President
World Sports Chicago, Scott Myers, Executive Director

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