

HEARING ON PENDING BENEFITS LEGISLATION

HEARING BEFORE THE COMMITTEE ON VETERANS' AFFAIRS UNITED STATES SENATE ONE HUNDRED TENTH CONGRESS

FIRST SESSION

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HEARING ON PENDING BENEFITS LEGISLATION

WEDNESDAY, MAY 9, 2007

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

The Committee met, pursuant to notice, at 9:29 a.m., in room 418, Russell Senate Office Building, Hon. Daniel K. Akaka, chairman of the Committee, presiding.

Present: Senators Akaka, Murray, Obama, Brown, Tester, Webb, Sanders, Craig, and Isakson.

OPENING STATEMENT OF HON. DANIEL K. AKAKA, CHAIRMAN, U.S. SENATOR FROM HAWAII

Chairman AKAKA. The hearing on pending benefits legislation of the Committee on Veterans' Affairs will come to order.

Good morning and Aloha. Welcome everyone to the Committee's hearing on pending benefits legislation. We have a comprehensive agenda today and I will make my opening remarks quite brief so that we can get started.

The ongoing conflicts in Iraq and Afghanistan have brought the needs of veterans and their families to the forefront and, as a result, there are many bills on the agenda. Many of these bills focus on the needs of the highest priority veterans—those with service-connected disabilities. Recognition of the special needs of these veterans is a necessary measure of gratitude afforded to those veterans whose lives were irrevocably altered by their service to this country.

There are also a number of bills before us this morning that we have seen in prior Congresses and others that are new. These may reflect the change in leadership in the Senate. My belief is that the Committee should look at all items except for those that have had no support in previous years. Thus, we have a full schedule today. I am pleased that so many have taken an active interest in the well-being of our Nation's finest citizens.

I want to speak very briefly about the items on the agenda that I have introduced:

First, S. 423, Veterans' Compensation Cost-of-Living Adjustment Act of 2007, which I introduced with my good friend and Ranking Minority Member, Senator Craig, and five other Members of this Committee on January 29, would increase the rates of compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for the survivors of cer-

tain disabled veterans, among other benefits, effective December 1, 2007.

Many of these more than three million recipients of those benefits depend upon these tax-free payments not only to provide for their own basic needs, but those of their spouses, children and parents as well. Without an annual COLA increase, these veterans and their families would see the value of their hard-earned benefits slowly diminish, and we, as a Congress, would be in dereliction of our duty to ensure that those who sacrificed so much for this country receive the benefits and services to which they are entitled.

Disbursement of disability compensation to our Nation's veterans constitutes one of the core missions of the Department of Veterans Affairs. It is a necessary measure of gratitude afforded to those veterans whose lives were irrevocably altered by their service to this country.

Second, S. 1163, Blinded Veterans Paired Organ Act of 2007, which I introduced along with three other Members of this Committee, would amend the eligibility requirements for two specific benefits provided to veterans with a service-connected disability due to blindness.

I have also introduced two bills intended to address needs of veterans with respect to various insurance programs:

S. 643, the Disabled Veterans Insurance Act of 2007, would increase the maximum amount of supplemental life insurance available to totally disabled veterans, under the Service Disabled Veterans Insurance program, from \$20,000 to \$40,000, bringing the total value of this benefit for totally disabled veterans up to \$50,000.

S. 1315, the Disabled Veterans Insurance Improvement Act of 2007, would increase the maximum amount of Veterans' Mortgage Life Insurance that a service-connected disabled veteran may purchase from the current cap of \$90,000 to \$200,000. This provision would ensure that this important benefit, that helps secure the financial future of many veterans and their families, keeps pace with changes in the economy. This legislation would also establish a new life insurance program for disabled veterans that provides up to a maximum of \$50,000 in level-premium term life insurance coverage. Importantly this program would be based on the 2001 Commissioners Standard Ordinary Basic Table of Mortality rather than the 1941 mortality table that the Service-Disabled Veterans Insurance program is based upon.

Finally, S. 1215 would make a number of small but necessary changes in existing laws relating to education and employment. It would raise the funding cap for State Approving Agencies and update various reporting requirements for employment and unemployment statistics collected by the Department of Labor. In addition it would provide for a waiver of the residency requirement for State Veterans' Employment and Training directors and a two-year extension of a rate increase for on-the-job and apprenticeship training.

As is the case every Session, the biggest hurdle for implementation of these bills into law is cost. I am working to find appropriate offsets within the Committee's jurisdiction.

I thank the witnesses from VA and other organizations for coming today to share their views. I am sympathetic to the fact that the number of measures before us this morning is unusually large and that a number of them may have been added to the agenda only recently. Witnesses may not have had an opportunity to review them and formulate positions. Therefore, the Committee will hold the record of this hearing open for two weeks so that witnesses can submit supplemental views on any legislative item. It is important that we have your input well in advance of our mark up that is tentatively scheduled for June.

I look forward to hearing from each of you this morning.
Now I will call on Senator Craig for his statement.

**STATEMENT OF HON. LARRY E. CRAIG, RANKING MEMBER,
U.S. SENATOR FROM IDAHO**

Senator CRAIG. Well, thank you very much, Mr. Chairman. Holding this hearing and moving these pieces of legislation, I think is critical to our veterans agenda here in the Senate. You have introduced a variety, as have I. There are six of these pieces of legislation that I have introduced and I will mention them briefly.

S. 225 expands eligibility for retroactive benefits under the traumatic injury protection under Servicemembers' Group Life Insurance program and that is going to be extremely important as it relates to the type of coverage, because right now, that is only in the theater. This allows out-of-theater. In fact, it is my understanding we have a young man in the audience today who would benefit from this, Toshiro Carrington, who lost a hand in an explosive event. It occurred outside the war zone, so he is not eligible. This would allow eligibility of the kind that would fit his particular injury and I think that is important. No matter where you serve, if you are serving our country and you are injured traumatically, the benefit should be available to you.

S. 1265 expands eligibility for Veterans' Mortgage Life Insurance to include servicemembers receiving specially adapted housing assistance.

S. 1266 increases aid to States in interring veterans by increasing the plot allowance paid to States by VA, repealing the time limitation within which States must apply for reimbursement from VA, and expanding VA's ability to provide grants to States to operate State cemeteries.

S. 1289 modifies the salary terms and recall rules affecting the judges of the Court of Appeals for Veterans Claims. Let me stop there for a moment, Mr. Chairman, and say over my Chairmanship and now as a Ranking Member, I have spent a good deal of time with the Court. Thanks to all of our effort, we now have it at full speed, meaning all of the judges that are eligible for the Court have been appointed, nominated, or, I should say, nominated, appointed, and are actively serving. They have recalled judges that are in retirement to bring them back to bring down the caseload. I was over recently again to visit with the Chief Judge and other judges and it is very impressive, what they have accomplished and what they are accomplishing in bringing down the caseload, and yet the cases are still there and they are large in number. We have veterans waiting. We believe this legislation helps improve the

character of the Court as it relates to the need to be timely and responsible.

S. 1290 overhauls the law governing State Approving Agencies to provide VA with the flexibility in contracting with SAAs, require coordination with other entities that approve educational institutions, and require accountability.

And lastly, my last one, S. 1293, improves and updates educational programs for veterans, Guard and Reserve members, and spouses and children of veterans, so it is an expansion of the overall educational benefits as a part of that.

Thank you very much, and again, thank you for holding this hearing.

PREPARED STATEMENT OF HON. LARRY E. CRAIG, RANKING MEMBER,
U.S. SENATOR FROM IDAHO

Let me first thank our witnesses for responding to a task that I can only liken to the 12 labors of Hercules. Giving us your views on 26 bills is quite an undertaking. Thank you for your work.

Mr. Chairman, we have quite a challenge on our hands. If I had to venture a guess I'd say the collective cost of all 26 bills on today's agenda is over \$100 billion. And we have yet to even consider health care legislation, a task we will take up in a couple of weeks.

All of us on this Committee and in this Congress want to improve benefits and services for our veterans. I myself have six bills on today's agenda. But I am also committed to keeping our fiscal house in order, and I do not exempt my own legislation from that imperative.

Let me read from a budget letter signed a decade ago by all of the Members, Republicans and Democrats, of the Senate Committee on Veterans' Affairs. There are five of us who signed that letter still serving on the Committee today. The sentiments expressed were appropriate then, and I believe they provide an excellent framework for debate on new legislative proposals—and how we should pay for those proposals—today:

In preparing these comments, the Committee's Members have kept in mind the fiscal limitations within which we must operate if we are to get Federal spending under control and thereby reduce the Federal deficit and debt. We believe that the Government can be fiscally responsible while still fulfilling its commitments to the most deserving among us—including our Nation's veterans. We also are mindful of the fact that uncontrolled Federal spending threatens the long-term health of the Nation's economy and, in turn, could adversely affect the provision of veterans' benefits. Thus, we recognize that those who have worn the uniform in defense of the Nation seek, as we do, to protect the health of the Nation's economy.

With that Mr. Chairman, let me take a few minutes to give a brief description of each of my bills. Our witnesses will provide a fuller description in their testimony, so in the interest of time and to avoid redundancy, I will be brief.

(1) S. 225 would expand eligibility for retroactive benefits under the traumatic injury protection under Servicemembers' Group Life Insurance program.

(2) S. 1265 would expand eligibility for veterans' mortgage life insurance to include servicemembers receiving adapted housing grant assistance from VA.

(3) S. 1266 would increase aid to states in interring veterans by increasing the plot allowance paid to states by VA; repealing the time limitation within which states must apply for reimbursements from VA; and expanding VA's ability to provide grants to states to operate state cemeteries.

(4) S. 1289 would help ensure the long-term ability of the United States Court of Appeals for Veterans Claims to promptly dispense justice in all veterans cases.

(5) S. 1290 would modernize outdated laws governing State approving agencies (SAAs) to meet the demands of today's veterans. It would do this by providing VA with flexibility in contracting with SAAs; enhancing coordination with other entities that approve educational institutions; and would promote greater accountability for performance.

. . . . and finally,

(6) S. 1293 would improve and update educational programs for veterans, Guard and Reserve members, and spouses and children of veterans.

This diverse selection of bills would, in my view, address a number of important issues affecting our veterans. I believe they provide a good starting point for improving and updating laws affecting veterans' benefits.

Again, thank you all for being here today. I look forward to hearing your testimony.

Chairman AKAKA. Thank you very much, Senator Craig.

I would like to call for statements from Senator Webb, Senator Murray, and Senator Sanders. Senator Webb?

**STATEMENT OF HON. JIM WEBB,
U.S. SENATOR FROM VIRGINIA**

Senator WEBB. Thank you, Mr. Chairman. I appreciate your holding these hearings today and I am pleased that the Committee is considering so many pieces of worthwhile legislation. I would like to spend a few minutes discussing the bill that I introduced earlier this year, the Veterans Educational Assistance Act, S. 22.

I am a veteran. I come from a family with a long history of military service. I would like to say it would be difficult for me to be sitting here today if it wasn't for the gracious assistance that I received in my educational entitlements from the United States Government.

This bill that I have introduced has ten cosponsors. It has broad support among veterans groups, active support and also the testimony from a number of witnesses today, and I think we are seeing increased support.

It is designed to expand educational benefits to these people who have served after 9/11 in the tradition that the benefits people coming back from World War II received, offering educational assistance much more broadly than exists today. In the 1940s, as you are aware, Mr. Chairman, the GI Bill helped transform entire notions of equality in our society. It was designed to help veterans readjust to civilian life, to avoid unemployment, and to give them the opportunity to reach the level of their talent. The post-World War II GI Bill paid for veterans tuition, it bought their books, it paid fees, and it also gave them a monthly stipend, and nearly eight million veterans after World War II were able to use this benefit.

The bill that I have introduced is a mirror of the World War II GI Bill. It is designed to give the appropriate level of recognition and respect to people who have been serving since 9/11 rather than having to rely on the Montgomery GI Bill, which is a peacetime bill, and requires a pay-in. It was not a bad GI Bill when the operational tempo was less and when the country was in a different situation.

I am not going to go through all of the different elements in the bill that I introduced. I would like to have a longer statement submitted for the record, if I may.

But I just want to say that when we are talking about truly honoring service and truly taking care of the people who have served in an affirmative way, I can't think of a better thing to do than to allow them to reach the level of their talent with the type of educational assistance that will allow them to go to any school that they can get into. We are not seeing that today. The Montgomery GI Bill—I can say this from years now of association with people who have been serving since 9/11, younger folks—the Montgomery GI Bill makes it very tough for these young men and women to get

into better schools which they might be able to if they had this kind of assistance.

I believe this bill will have a positive effect on military recruitment, despite what we have heard from some people in the Administration, because it will broaden the socio-economic make-up of the military and it will reduce the direct costs of recruitment.

So I hope we can have support for this bill. I am pleased to receive testimony on it and I look forward to the rest of the hearing. Thank you.

[The prepared statement of Senator Webb follows:]

PREPARED STATEMENT OF HON. JIM WEBB, U.S. SENATOR FROM VIRGINIA

I am pleased that this Committee is considering so many pieces of worthwhile legislation. Among those bills, I would like to discuss the Post-9/11 Veterans Educational Assistance Act of 2007.

As a veteran who hails from a family with a long history of military service, I am proud to have offered this bill as my first piece of legislation in the U.S. Senate on January 4 of this year.

This bill has ten cosponsors and is supported by the Enlisted Association of the National Guard of the United States (EANGUS), the Veterans of Foreign Wars (VFW), the Vietnam Veterans of America (VVA), and the Air Force Sergeants Association. Moreover, the written testimony of many of today's witnesses indicates further broad support for this bill.

The Post-9/11 Veterans Educational Assistance Act of 2007 is designed to expand the educational benefits that our Nation offers to the brave men and women who have served us so honorably since the terrorist attacks of September 11, 2001.

Most of us know that our country has a tradition—since World War II—of offering educational assistance to returning veterans. In the 1940s, the first “GI bill” helped transform notions of equality in American society. The GI Bill program was designed to help veterans readjust to civilian life, avoid high levels of unemployment, and give veterans the opportunity to receive the education and training that they missed while bravely serving in the military.

The post-World War II GI Bill paid for veterans' tuition, books, fees, and other training costs, and also gave a monthly stipend. After World War II, 7.8 million veterans used the benefits given under the original GI Bill in some form, out of a war-time veteran population of 15 million.

Let me briefly summarize some of the reforms that are contained in the bill I am introducing today.

First, these increased educational benefits will be available to those members of the military who have served on active duty since September 11, 2001. In general, to qualify, veterans must have served at least 2 years of active duty, with at least some period of active duty time served beginning on or after September 11, 2001.

This legislation also includes those who have served in the Reserve and National Guard. Those who have an aggregate total of 24 months active duty since 9/11 will be eligible for month for month education benefits. Those in the Reserve and National Guard who have been on active duty for 36 months or more will be eligible for the whole benefit.

Next, the bill provides for educational benefits to be paid for a duration of time that is linked to time served in the military. Generally, veterans will not receive assistance for more than a total of 36 months, which equals four academic years.

Third, as I mentioned a moment ago, my bill would allow veterans pursuing an approved program of education to receive payments covering the established charges of their program, room and board, and a monthly stipend of \$1,000. Moreover, the bill would allow additional payments for tutorial assistance, as well as licensure and certification tests.

Fourth, veterans would have up to fifteen years to use their educational assistance entitlement. But veterans would be barred from receiving concurrent assistance from this program and another similar program, such as the Montgomery GI Bill program.

Finally, under this bill, the Secretary of Veterans Affairs would administer the program, promulgate rules to carry out the new law, and pay for the program from funds made available to the Department of Veterans Affairs for the payment of readjustment benefits.

Again, I note that the benefits I have outlined today essentially mirror the benefits allowed under the GI Bill enacted after World War II. That bill helped spark

economic growth and expansion for a whole generation of Americans. The bill I introduce today likely will have similar beneficial effects. As the post-World War II experience so clearly indicated, better educated veterans have higher income levels, which in the long run will increase tax revenues.

Moreover, a strong GI Bill will have a positive effect on military recruitment, broadening the socio-economic makeup of the military and reducing the direct costs of recruitment.

Perhaps more importantly, better-educated veterans have a more positive readjustment experience. This experience lowers the costs of treating Post Traumatic Stress Disorder and other readjustment-related difficulties.

The United States has never erred when it has made sustained new investments in higher education and job training. Enacting the Post-9/11 Veterans Educational Assistance Act of 2007 is not only the right thing to do for our men and women in uniform, but it also is a strong tonic for an economy plagued by growing disparities in wealth, stagnant wages, and the outsourcing of American jobs.

I am a proud veteran who is honored to serve this great Nation. As long as I represent Virginians in the U.S. Senate, I will make it a priority to help protect our brave men and women in uniform.

Chairman AKAKA. Thank you very much, Senator Webb.
Senator Murray?

**STATEMENT OF HON. PATTY MURRAY,
U.S. SENATOR FROM WASHINGTON**

Senator MURRAY. Well, thank you very much, Mr. Chairman, for holding this really important hearing. I also have a hearing at DOD with Secretary Gates, so I won't be able to stay for all the hearing, but I want all the witnesses to know that we have your testimony and we will be following it. I am pleased to see a number of really excellent bills coming before the Committee today because, for me, as you know, it is keeping a promise to those who served us and we are looking at a number of pieces of legislation today that will help us keep that promise.

You know, when I talk to my veterans at home today, they often tell me that they are forced to wait months or even years to get their claims processed. We are hearing about veterans who are getting different ratings and different benefits across the country and arbitrary limits on too many of the benefits that slam the door in the face of a lot of our veterans. We have a lot of veterans who are coming home from serving us overseas today, and when they do, they find themselves fighting their own government, and to me, that is just wrong.

There are a lot of good ideas we are considering today. I do have two bills before the Committee I just wanted to highlight real quickly, both of them having to do with benefits that are denied because of artificial or arbitrary deadlines. When our servicemembers answer the call from our country and they get home and are hit by an asterisk, it is very frustrating. Some arbitrary exclusion suddenly makes them ineligible for the benefits that they should receive, and I have often found that these exclusions aren't based on any kind of logic, but they are just arbitrary, artificial limits.

I have two bills, one having to do with prisoners of war benefits, because today, if you are a prisoner of war for more than 30 days, you get benefits. If you are held in captivity for 29 days, then you are just told, sorry, no help available for you, and to me, that is extremely arbitrary.

The second one has to do especially with our Gulf War veterans who are developing multiple sclerosis at extremely high rates and

they are told, if you are diagnosed within 7 years, you get benefits, but if you are diagnosed one day later, you are denied benefits. Well, MS is a disease I am extremely familiar with. My father, who was a World War II veteran, was diagnosed with multiple sclerosis, was in a wheelchair most of my life, and I know how difficult that disease is to diagnose. For veterans who don't get the right care or don't have the ability to get diagnosed quickly, to me, it is just wrong to deny them the benefits because they finally got diagnosed a day late.

So I have two bills that address both of those issues and I am glad the Committee is considering them and hope that they will be approved later on.

I would just add for all of us, we should know that a significantly high number of veterans who served in the Persian Gulf during the Gulf War do have MS and we don't know what the exact cause is. It could be experimental vaccines or toxins from the oil well fires or Sarin exposure or pesticides, combat stress. We don't know, but I think it is something that we all need to be focused on because we are now seeing the same kinds of effects from our veterans who are coming home from Iraq, and as they are there longer and come home, I think it is something we do need to keep track of.

So I hope, Mr. Chairman, that we can approve both of those bills that I have and I commend many Members of our Committee who have brought forward really excellent pieces of legislation today.

Chairman AKAKA. Thank you very much, Senator Murray.
Senator Sanders?

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

Senator SANDERS. Thank you very much, Mr. Chairman, for holding this important hearing. I don't think that there is much debate that for many, many years now, we have not treated our veterans with the respect and the dignity to which they are entitled. The idea that there are waiting lines all over America today, the idea that in recent years the VA has thrown hundreds and hundreds of Category 8 veterans off of VA health care is to my mind not acceptable. At a time when this government believes that we can provide hundreds and hundreds of billions of dollars to the wealthiest three-tenths of 1 percent of the American people, I think we can take care of veterans and give them the health care and other benefits that they are entitled to.

Mr. Chairman, as you well know, over the years, we have seen a number of the veterans service organizations come together in, I think, a wonderful effort to create what we call the Independent Budget. These veterans service organizations, which include AMVETS, the Disabled American Veterans, Paralyzed Veterans of America, the VFW, they have spent an enormous amount of time with some of the leading experts in this country to come up with a document. It is a document called the Independent Budget and they have assessed what they, as veterans, believe the needs of veterans are.

I want to thank many of those veterans service organizations for working with me and my staff in developing legislation that we think essentially incorporates virtually all of the concerns that the

veterans service organizations have had through the Independent Budget, and we have introduced legislation, which is S. 1326, which does just that. We have worked with the veterans, and again, I want to thank them for their help on this. In many ways, what we have done is put into legislative form the Independent Budget.

Now, what are the areas that were covered? Very briefly, Category 8 veterans, while all of us should be very concerned about taking care of the 24,000 veterans who are coming back from Iraq who have been wounded and the tens of thousands more who have PTSD and TBI, let us not forget the veterans who served in World War II, Korea, Vietnam, Gulf War I, and so forth. I think that if people put their lives on the line to defend this country, you don't throw them off of VA health care because they have incomes of over \$28,000. This legislation addresses that, puts them back into the system. This legislation deals with dependency and indemnity compensation, survivor plan offset.

It deals with the over 400,000 backlogged claims at the VA. How many times, Mr. Chairman, have we heard people coming before us where people are waiting month after month after month, year after year after year, to get their claims processed? This is not acceptable and we are going to have to spend the money to get the staff to address that problem.

This legislation also amends other benefit programs important to veterans. Over time, Congress and the Department of Veterans Affairs have added many benefits and assistance programs for our Nation's veterans and their families. As with many other programs, the benefits did not meet all the needs of our veterans and others and have not been updated in many years, rendering many of the benefits much less useful.

For example, the Independent Budget notes the low level of grants the VA gives severely disabled veterans for adapting their automobiles. In 1946, the \$1,600 allowance represented 85 percent of average retail cost and a sufficient amount to pay the full cost of automobiles in the low-priced field. By contrast, in 1997, the allowance was \$5,500, except the need now is about \$21,000. So we have got to update that. If we are going to give people grants, we want to make them relevant to the year 2007, et cetera, et cetera.

Burial benefits are similar. I think right now, the Congress provides burial benefits of \$300, Mr. Chairman. Well, if anyone can do a burial for \$300, let me know about it. Obviously, that is no longer realistic in the year 2007 and this legislation substantially expands that.

Bottom line, Mr. Chairman, it is time for us to address the real problems facing our veterans in a comprehensive way. It is going to be expensive, but we have the moral obligation to do the right thing and I think our legislation is fairly comprehensive in covering many of the needs that veterans have brought forth.

Thank you very much.

Chairman AKAKA. Thank you very much, Senator Sanders.
Senator Isakson?

**STATEMENT OF HON. JOHNNY ISAKSON,
U.S. SENATOR FROM GEORGIA**

Senator ISAKSON. Thank you, Mr. Chairman. I appreciate you calling the hearing and I will be very brief so we can get to Admiral Cooper to hear from him.

I would like to compliment all my other fellow Committee Members in focusing on legislation to improve veterans benefits. My interest has been with the Gulf War, the War in Iraq, the War in Afghanistan and a more seamless and a better transition from DOD to veterans health care. I have focused in a number of these hearings on what General Schoomaker, who is now head at Walter Reed, did in Augusta with the hand-off from DOD to the veterans facility there, where we are doing tremendous work on those veterans who have prostheses and other types of results of the war, where the hand-off has been seamless. The VA is now able to take a load off the DOD and the veterans health care is really second to none in that facility. I am hoping that we can use that as a template for other veterans facilities around the country to have a more seamless hand-off from DOD to the Veterans' Administration medical facilities.

So I look forward to hearing from Admiral Cooper and I appreciate very much your calling the hearing today, Mr. Chairman.

Chairman AKAKA. Thank you very much, Senator Isakson. Senator Obama?

**STATEMENT OF HON. BARACK OBAMA,
U.S. SENATOR FROM ILLINOIS**

Senator OBAMA. Thank you, Mr. Chairman. I want to thank Ranking Member Craig, as well, and your staff for putting the legislative hearing together today.

Before I discuss the specific legislation, I want to say a few words about a troubling news report from last week. According to AP, the VA has paid more than \$3.8 million in bonuses to its staff, including bonuses of up to \$33,000 to officials who crafted the Department's flawed budgeting that led to a billion-dollar shortfall. Bonuses were also paid to VA officials who managed the disability claims system despite the fact that there is almost a six-month wait for veterans to receive their decisions. According to this report, bonuses for senior VA officials now average \$16,000, the most of any Federal agency. I know others on this Committee share my concern about these bonuses.

I am a strong supporter of Federal services, but I want to press the Department to provide more detailed information about these bonuses. Chairman Akaka and his staff have already done excellent work in analyzing the apparent disparities in these bonus awards, but we need additional information and comment from the VA, including a full justification of these bonuses, and I ask you to relate this request to Secretary Nicholson. Admiral Cooper, I would also like to hear your views today on what criteria you think are fair in determining bonus awards going forward.

Let me now turn to today's agenda. Under discussion are provisions of the Lane-Evans Veterans Health Benefits Improvement Act, which I introduced over the past two Congresses. This bill would enhance outreach to members of the National Guard and Re-

serves before they separate from service and require more comprehensive information tracking and reporting from VA and DOD. The measure would also establish one-on-one, face-to-face mental health screenings for all returning servicemembers and require individual electronic records upon discharge.

Each day, we see the consequences of both poor planning within the VA and inadequate information tracking of the needs of our veterans. We continue to receive deeply troubling reports of lengthy and unnecessary bureaucratic delays in benefit claims and long delays in obtaining health appointments. As a result, many of our heroes languish with serious mental and physical health conditions while awaiting VA care, and I believe we can do better.

The Global War on Terrorism Veterans Information System that I proposed under the Lane-Evans Act would enable better planning and assist the VA, as well as Congress, in setting policy to help our veterans. The VA argues that maintaining this system and submitting quarterly reports is too onerous and potentially costly. I would argue that the recent trend of budget shortfalls and an overwhelmed benefits system justify a more robust effort to anticipate veterans needs.

I am also proud that this measure would help address the current disparity in how members of the National Guard and Reserves access the benefits to which they are entitled. This Act would enhance important outreach efforts to such members before they separate.

So, Mr. Chairman, I welcome the opportunity to work with the Chairman in passing the Lane-Evans Act and I thank the veterans service organizations that are here today who have provided invaluable feedback. Thank you.

Chairman AKAKA. Thank you very much, Senator Obama.

Senator CRAIG. Mr. Chairman?

Chairman AKAKA. Senator Craig?

Senator CRAIG. Before we proceed to our witnesses, let me ask unanimous consent that my full statement be a part of the record.

Chairman AKAKA. Without objection, it will be part of the record.

Senator CRAIG. Thank you.

Chairman AKAKA. And now I welcome our witnesses from VA, Admiral Daniel Cooper, Under Secretary for Benefits, who is accompanied by Mr. Jack Thompson, Deputy General Counsel. I thank you for being here. I want you to know that your full statement will be placed in the record of this hearing.

Admiral Cooper, we will lead off with you.

STATEMENT OF HON. DANIEL L. COOPER, UNDER SECRETARY FOR BENEFITS, DEPARTMENT OF VETERANS AFFAIRS; ACCOMPANIED BY JOHN H. THOMPSON, DEPUTY GENERAL COUNSEL, DEPARTMENT OF VETERANS AFFAIRS

Admiral COOPER Thank you, sir. Mr. Chairman, Members of the Committee, I would like to briefly mention our views on just a few of the bills on today's agenda. I regret that time has not permitted us to have cleared views and estimates on all those that we have seen just recently.

On S. 117, the VA would be pleased to consult with the Department of Defense as provided in S. 117, the Lane-Evans Veterans

Health and Benefits Improvement Act of 2007, regarding the military services outreach to members of the National Guard and the Reserve and to help explain Federal benefits and services available upon deactivation. We would work with these services to reach the greatest number of veterans. Hence, we would not limit ourselves merely to the limited time frame of Benefits Delivery at Discharge.

This bill would also require VA to establish and maintain a comprehensive record of the veterans of the Global War on Terror who seek VA benefits and services and a record of the benefits and services we provided them. We are very concerned that the bill's requirements to compile and frequently report to Congress massive amounts of data, much of which is not currently available in the detail and manner specified, would require us to divert considerable resources from our primary responsibilities of providing timely and accurate benefits and services to all our veterans. We believe the costs of compliance would be very consequential and, therefore, we are unable to support these provisions of the bill. However, we would welcome the opportunity to work with your staff to identify program information that is currently lacking and that would be most helpful to the Committee in meeting its responsibilities.

S. 225 would eliminate the requirement that a qualifying traumatic injury for the TSGLI program be the direct result of action in Operation Enduring Freedom and Iraqi Freedom. The elimination of this requirement would increase the number of individuals who could qualify retroactively for traumatic injury coverage for injuries sustained prior to the general effective date of the TSGLI coverage. We defer to DOD on this bill because DOD would be responsible for the additional costs associated with this change.

S. 423, the Veterans Compensation Cost-of-Living Adjustment Act of 2007, would mandate a COLA adjustment in the rates of disability compensation and the dependency and indemnity compensation payable for periods beginning on or after December 1, 2007. We wholeheartedly support the proposed COLA, which is consistent with the President's recommendation.

S. 847, VA does not support enactment of S. 847. This bill would eliminate the requirement that the manifestation of multiple sclerosis must occur within seven years of separation from service to trigger the presumption of service connection. The current presumptive period of seven years is already the most generous one provided under the chronic disease provisions of the current law and we are aware of no scientific or medical justification for life-long presumption.

S. 1096 would expand VA's Housing Adaptation Assistance Programs for veterans and active duty servicemembers who have severe disabilities. First, it would authorize home improvements and structural alterations for certain totally disabled servicemembers. VA has no objection to this provision.

Next, it would make specially adapted housing assistance available to disabled veterans with severe burn injuries. VA favors this provision but recommends including disabled active duty servicemembers and excluding burn injuries from the requirement to be permanent disability.

S. 1096 would also allow disabled members of the Armed Services to receive these grants while temporarily residing in housing

owned by family members. VA supports this objective but would like to work with the Committee staff to improve the drafting of this provision.

S. 1163, Section 2 of the Blinded Veterans Paired Organ Act of 2007 would liberalize the eligibility for compensation and for specially adapted housing benefits for veterans in certain cases of impairment of vision involving both eyes. Subject to Congress's enactment of legislation offsetting the increased costs associated with this enactment, VA supports the compensation amendment because it would treat visual impairment in both eyes similarly to the way hearing loss in both ears is treated under the current law. VA opposes, however, the specially adapted housing amendment because it would treat visual impairment differently from the manner in which the other qualifying disability, anatomical loss, or loss of use of both hands, is treated.

Mr. Chairman, this concludes my statement. I would be happy to entertain questions.

[The prepared statement of Admiral Cooper follows:]

PREPARED STATEMENT OF HON. DANIEL L. COOPER,
UNDER SECRETARY FOR BENEFITS, DEPARTMENT OF VETERANS AFFAIRS

Chairman and Members of the Committee, thank you for the opportunity to testify today on several bills of great interest to veterans. I will comment today only on the provisions of the bills that affect the Department of Veterans Affairs (VA).

S. 117

Section 104 of S. 117, the "Lane Evans Veterans Health and Benefits Improvement Act of 2007," would require the Department of Defense (DOD) to provide members of the National Guard and Reserve comprehensive outreach on the Federal benefits and services available upon deactivation from active duty and upon discharge or release from the Armed Forces. It would also require DOD to consult with the Secretary of Veterans Affairs and other Federal officials and to report to Congress on its actions in this regard.

VA supports the provision of outreach to members of the National Guard and Reserve. However, VA believes such outreach should be provided through the Pre-Discharge program rather than through the Benefits Delivery at Discharge program (BDD). Servicemembers can participate in the Pre-Discharge program within 180 days of discharge. The BDD program, which is a part of the Pre-Discharge program, has more restrictive time frames for participation. Therefore, outreach efforts conducted in conjunction with the Pre-Discharge program would be more likely to reach a greater number of servicemembers. At this time, VA cannot determine the costs that would be associated with this provision.

Section 201 of S. 117 would define temporally and geographically the term "Global War on Terrorism." Because the term "Global War on Terrorism" appears nowhere else in title 38, United States Code, this definition is apparently intended for purposes of section 202, which is addressed below. However, even though S. 117 would not add the Global War on Terrorism to the list in 38 U.S.C. §(11) of "period[s] of war" for VA benefit purposes or terminate the Persian Gulf War period, which is the period of war we are currently in, this amendment could cause confusion as to whether a veteran who served in the Global War on Terrorism would be considered to be a veteran of two periods of war. In addition, this definition would be unnecessary in view of our objections to sections 202 and 203 of the bill.

Section 202 would require VA to establish and maintain an information system to provide a comprehensive record of the veterans of the Global War on Terrorism who seek VA benefits and services and of the benefits and services VA provided to those veterans. The system would be designed to permit accumulation, storage, retrieval, and analysis of information on those veterans, benefits, and services and to facilitate the preparation of quarterly reports on the effects of participation in the Global War on Terrorism on veterans and VA. Section 202(d) would require DOD, at its own cost, to provide VA with information from its Global War on Terrorism Contingency Tracking System as appropriate for purposes of VA's information system. Section 203 would require VA to submit to Congress quarterly reports on the

effects of participation in the Global War on Terrorism on veterans and VA beginning not later than 90 days after the bill's enactment. For each quarter, VA would be required to provide quarterly and aggregated personal information, information on military service, and information on health, counseling, and related benefits and services, and on compensation, pension, and other benefits, including burial and cemetery benefits, provided by VA. VA would be required to take appropriate actions in preparing and submitting reports to ensure that no personally identifying information on any particular veteran is included or improperly released.

The bill's requirements to compile and frequently report to Congress massive amounts of data, much of which are not currently available, in the detail and manner specified would force VA to divert considerable resources from our primary responsibilities of providing timely and accurate benefits and services to all veterans, their dependents, and survivors. We are as yet unable to reliably estimate the costs of compliance in terms of both manpower and potential for detracting from our ability to timely administer VA programs, but our initial reaction is that they could be very consequential. We are therefore unable to support sections 202 and 203 of the bill.

We are, of course, mindful of this Committee's oversight responsibilities and would welcome the opportunity to work with staff to identify program information that is currently lacking that would be most helpful to the Committee in meeting its responsibilities.

The Veterans Health Administration (VHA) is in the process of analyzing the feasibility of carrying out the requirements of sections 202 and 203 with respect to health-care services and health-care-related information. We will address the feasibility for VHA in our statement for the Committee's legislative hearing on health-care bills scheduled for May 23, 2007.

Sections 102, 103, and 205 of S. 117 concern DOD. Section 204 of the bill concerns the Department of Labor (DOL). Because these provisions affect only DOD and DOL, VA defers to those departments for comments on these provisions. Section 101 deals with VA health-care matters that will be addressed at the Committee's May 23 hearing.

S. 168

Section 1(b) of S. 168 would require VA to establish a national cemetery in the Pikes Peak region, defined in section 1(a) as the geographic area consisting of Teller, El Paso, Fremont, and Pueblo counties in Colorado. Section 1(c) would require VA to consult with Federal, State, and local officials before selecting a site for the cemetery. Section 1(d) would authorize VA to accept the gift of an appropriate parcel of real property, over which VA would have administrative jurisdiction, to be used to establish the cemetery. The property would be considered a gift to the United States for purposes of Federal income, estate, and gift taxes. Finally, section 1(e) would require VA to report to Congress on the establishment of the cemetery, including an establishment schedule and estimated costs.

VA does not support S. 168 because the need for a new national cemetery in the Pikes Peak region is not demonstrated under the criteria VA has adopted and Congress has endorsed for determining the need for additional national cemeteries. The established criteria require an unserved veteran population threshold of 170,000 within a 75-mile radius as appropriate for establishing new national cemeteries. The vast majority of veterans who reside in the Pikes Peak region are currently served by either Fort Logan National Cemetery or Fort Lyon National Cemetery. Fort Logan National Cemetery will have casket and cremation burial space available until approximately 2020. Fort Lyon National Cemetery will have casket and cremation burial space available until approximately 2030.

As required by law, VA is establishing a total of 12 new national cemeteries, 6 of which have been opened for burials. The locations for these cemeteries were determined from demographic studies of the veteran population, which allow VA to focus its efforts on areas that will serve the greatest number of veterans. The most recent demographic study of the veteran population, which was completed in 2002, did not indicate a need for a new national cemetery in Colorado.

Besides objecting to S. 168 because there is no demonstrated need for a new national cemetery in the Pikes Peak region, we note that the cost of establishing a new cemetery is considerable. Based on recent experience, the cost for establishing new national cemeteries ranges from \$500,000 to \$750,000 for environmental compliance requirements; \$1 million to \$2 million for master planning and design; \$1 million to \$2 million for construction document preparation; \$5 million to \$10 million for land acquisition, if required; and \$20 million to \$30 million for construction.

The average annual cost for operating a new national cemetery ranges from \$1 million to \$2 million.

The VA State Cemetery Grants program, however, can provide additional burial options for veterans in the Pikes Peak region. Through this program, VA may provide up to 100 percent of the cost of improvements in establishing a state veterans cemetery, including the cost of initial equipment to operate the cemetery. VA worked with Colorado officials in providing more than \$6 million to establish a state veterans cemetery in Grand Junction and would be pleased to assist the State in exploring this option for the Pikes Peak region.

S. 225

Current law provides to members of the uniformed services who are insured under the Servicemembers' Group Life Insurance program coverage against a traumatic injury sustained on or after December 1, 2005, that results in a qualifying loss. In addition, a member of the uniformed services who sustained a traumatic injury between October 7, 2001, and November 30, 2005, that resulted in a qualifying loss is eligible for coverage if the loss was a direct result of a traumatic injury incurred in the theater of operations for Operation Enduring Freedom or Operation Iraqi Freedom. S. 225 would eliminate the requirement that the loss be the direct result of a traumatic injury incurred in the theater of operations for Operation Enduring Freedom or Operation Iraqi Freedom, thereby increasing the number of individuals who could qualify for traumatic injury coverage for injuries sustained before the general effective date of the coverage.

VA defers to DOD on this bill because that department would be responsible for additional costs associated with this change.

S. 423

S. 423, the "Veterans' Compensation Cost-of-Living Adjustment Act of 2007," would mandate a cost-of-living adjustment (COLA) in the rates of disability compensation and dependency and indemnity compensation (DIC) payable for periods beginning on or after December 1, 2007. The COLA would be the same as the COLA that will be provided under current law to Social Security benefit recipients, which is currently estimated to be an increase of 1.4 percent. This proposal is identical to that proposed in the President's Fiscal Year 2008 budget request to protect the affected benefits from the eroding effects of inflation. VA supports this proposal and believes that the worthy beneficiaries of these benefits deserve no less.

VA estimates that enactment would result in benefit costs of \$348.4 million for Fiscal Year 2008 and \$4.7 billion over the period Fiscal Year 2008–2017.

S. 526

S. 526, the "Veterans Employment and Training Act of 2007," would expand the programs of education for which accelerated payment of educational assistance may be made under the chapter 30 Montgomery GI Bill program. Specifically, this measure would permit accelerated payment of the basic educational assistance allowance to veterans pursuing an approved program of education, in addition to the programs now authorized such payment, lasting less than 2 years and leading to employment in a transportation, construction, hospitality, or energy sector of the economy. This provision would be effective for 4 years, from October 1, 2007, through September 30, 2011.

S. 526 is a departure from funding only high-technology, high-cost programs. This bill would limit accelerated payment to programs of study 2 years or less in length that would lead to employment in specific areas. Expanding accelerated pay for other career fields could be valuable to address existing workforce needs subject to Congress' enactment of legislation offsetting the increased benefits cost. However, any expansion must take into consideration accelerated pay's original intent in developing the workforce for a high-technology industry of the future. If enacted, VA estimates this bill would cost \$37 million in Fiscal Year 2008 and approximately \$158 million over the period of Fiscal Years 2008–2011.

S. 643

Under the National Service Life Insurance program, a veteran with a service-connected disability may be provided life insurance, known as Service Disabled Veterans Insurance (SDVI). If such an insured veteran is totally disabled under specified conditions that qualify him or her for waiver of premiums under current law, he or she is eligible for supplemental insurance of up to \$20,000. S. 643, the "Dis-

abled Veterans Insurance Act of 2007,” would increase the amount of available supplemental insurance from \$20,000 to \$40,000.

Subject to Congress’ enactment of legislation offsetting the increased costs associated with the enactment of the new authority, VA does not object to S. 643 because increasing the amount of available supplemental SDVI to \$40,000 would address a concern of veterans as reported in an independent study commissioned by Congress, “Program Evaluation of Benefits for Survivors of Veterans with Service-Connected Disabilities.” This change would increase the financial security of disabled veterans by affording them the opportunity to purchase additional life insurance coverage otherwise not available to them. The costs that would result from enactment would depend on whether an open season would be provided for SDVI policy holders to apply for the additional supplemental insurance. Currently, approximately 75,500 SDVI policy holders qualify for supplemental insurance. Without an open season, the additional coverage would cost \$4.3 million over 5 years and \$14.5 million over 10 years with negligible administrative costs. With a 1-year open season, the additional coverage would cost \$25.7 million over 5 years and \$50.9 million over 10 years with administrative costs of approximately \$100,000.

S. 698

S. 698, the “Veterans’ Survivors Education Enhancement Act of 2007,” would expand and enhance educational assistance under VA’s Survivors’ and Dependents’ Educational Assistance program codified in chapter 35, title 38, United States Code.

Under 38 U.S.C. § 3511(a)(1), an eligible person may not receive educational assistance under chapter 35 for more than 45 months or the equivalent thereof in part-time training. Also, under section 3695(a), a person may not receive more than 48 months of entitlement under chapter 35 and one or more provisions of law listed in that section.

S. 698 would eliminate the 45-month limitation on entitlement under chapter 35 and allow for dependents, spouses, and surviving spouses to receive educational assistance up to a maximum dollar amount. It would also exempt any entitlement received under chapter 35 from the 48-month aggregate maximum entitlement allowed under more than one education benefit program. Thus, for example, an eligible person could receive full entitlement under chapter 35, then go on to receive full entitlement under another education program or vice versa.

While we appreciate the desire to enhance the chapter 35 educational assistance benefit, we do not believe it would be equitable to allow chapter 35 recipients to receive far more benefit dollars up front and overall than veterans, servicemembers, or reservists who are not eligible to receive benefits under chapter 35. There also would be a significant cost associated with making chapter 35 entitlement exempt from the 48-month maximum-entitlement rule.

S. 698 would allow an eligible dependent child to receive educational assistance under the chapter 35 program until the child’s thirtieth birthday. Currently, such a child receives educational assistance until age 26 (with certain exceptions). This, of course, would allow more individuals to be eligible for chapter 35 benefits for a longer period of time.

One of the purposes of this chapter is to aid eligible children in reaching the educational status they might have obtained but for the disability or death of the veteran parent. We have no evidence to show that this purpose is not being fulfilled with the current age-26 cutoff or that it would be better met if the age for the ending date of a child’s period of eligibility were 30.

Under current law the monthly educational assistance allowance for chapter 35 is computed on the basis of the type of training being pursued and the training time. S. 698 would eliminate any fixed monthly educational assistance allowance. S. 698 does not define in what increments payment should be disbursed. Instead, it provides for an aggregate educational assistance amount of \$80,000 and allows this to be paid in any amount for institutional courses, vocational training, apprenticeship or other on-job training, farm cooperative programs, and special educational assistance for the educationally disadvantaged and/or special restorative training. Correspondence training for spouses would also be subject to this limit. Educational assistance, including special training allowance, would be provided to eligible persons at an institution located in the Republic of the Philippines at the rate of \$.50 for each dollar. S. 698 also specifies that the aggregate educational assistance amount would be increased annually based on the Consumer Price Index.

VA objects to the proposed new educational assistance payment for several reasons. The \$80,000 educational assistance amount bears little or no connection to the cost of the education an eligible person might be pursuing. This amount is more than the cost of tuition, fees, room, and board charged at a 4-year public school ac-

ording to the National Center for Education Statistics. It far exceeds the cost of any correspondence course an eligible person might pursue. Furthermore, payment of \$80,000 would mean that an apprentice or job trainee under chapter 35 would actually receive a sharp decline in income when training was completed and the journeyman-level wage attained.

Contrary to the stated purpose of chapter 35, if this provision were enacted, an individual eligible for chapter 35 benefits could receive \$80,000 in educational assistance without receiving an education. For example, an eligible individual could ask for and receive \$80,000 at the start of the first semester of a college program then drop out after a short time. Under this bill and the provisions of existing law concerning mitigating circumstances, the claimant could keep the \$80,000 even if the claimant never pursued any education program again. This bill would remove the incentive for a student to complete a program of educational training and, in effect, separate the benefit from the whole program.

Finally, this provision as written would allow any eligible person to request a lump-sum payment of \$80,000 as soon as the person enrolled in an approved training program. Thus, persons currently receiving chapter 35 benefits could also request a lump-sum payment of \$80,000 as soon as this bill is enacted, regardless of how much they have already received in chapter 35 benefits. This would result in significant up-front costs.

The amendments made by S. 698 would be effective as of the date of enactment of the Act. Since the bill eliminates the months of entitlement charged for chapter 35 benefits, those persons still within their delimiting date on the day the bill is enacted could request a lump-sum payment of \$80,000 even if they had previously exhausted their entitlement under the current law. The bill does not address such transitional issues for current chapter 35 beneficiaries and those eligible persons still within their delimiting date.

Moreover, VA estimates that, if enacted, S. 698 would cost \$7.2 billion in Fiscal Year 2008, \$9.6 billion for the first 5 years, and \$13.1 billion over the 10-year period from Fiscal Year 2008 through Fiscal Year 2017. Enactment of this bill would also require extensive computer system changes, which VA estimates would cost \$3 million.

For the foregoing reasons, VA cannot support S. 698.

S. 847

Current law provides a presumption that certain diseases manifesting in veterans entitled to the presumption were incurred in or aggravated by service, that is, that the diseases are service connected, even if there is no evidence of such diseases in service. A presumption is provided for certain chronic diseases if manifested to a degree of disability of 10 percent or more within 1 year of separation from service, for certain tropical diseases if manifested to a degree of disability of 10 percent or more (generally) within 1 year of separation from service, for active tuberculosis or Hansen's disease if manifested to a degree of disability of 10 percent or more within 3 years of separation from service, and for multiple sclerosis if manifested to a degree of disability of 10 percent or more within 7 years of separation from service. S. 847 would eliminate the requirement that the manifestation of multiple sclerosis occur within 7 years of separation from service to trigger the presumption.

VA does not support enactment of this bill. First, the current presumptive period of 7 years is already the most generous one provided under 38 U.S.C. § 1112(a). Second, we are aware of no scientific or medical justification for presuming multiple sclerosis to be service connected, no matter how long after service it first manifests, in light of the medical literature indicating that there is genetic susceptibility to this disease of unknown cause. Even if a veteran cannot qualify for the current presumption, service connection is not precluded under current law if the veteran can establish that his current multiple sclerosis is in fact related to his or her service. Further liberalization would appear to undermine the purpose of providing compensation for disabilities incurred in or aggravated by active service.

VA estimates that the benefit costs of this bill if enacted would be \$185.5 million in the first year and \$4.9 billion over 10 years. We estimate administrative costs to be \$4.7 million for 68 full-time employees the first year and \$85.3 million for 96 full-time employees over 10 years.

S. 848

Section 2(a) of S. 848, the "Prisoner of War Benefits Act of 2007," would eliminate the requirement that a veteran have been detained or interned as a prisoner of war (POW) for at least 30 days to be entitled to a presumption of service connection for certain diseases currently listed in 38 U.S.C. § 1112(b)(3). Section 2(b) would add

two diseases, diabetes (type 2) and osteoporosis, to the list of diseases in section 1112(b) that may be presumed to be service connected for former POWs.

VA does not support elimination of the 30-day minimum internment requirement because it is not reasonable to assume that extreme deprivation of the type that could cause diseases listed in section 1112(b), such as those resulting from nutritional deficiencies, would occur in less than 30 days. Just a few years ago, section 1112(b) limited the presumption of service connection for specified diseases associated with the POW experience to veterans who were former POWs and were detained or interned for not less than 30 days. However, section 201 of the Veterans Benefits Act of 2003, Pub. L. No. 108-83, §201, eliminated the 30-day requirement for psychosis, any anxiety state, dysthymic disorder, organic residuals of frostbite, and post-traumatic osteoarthritis. In implementing that amendment in its regulations, VA noted that the diseases that remained subject to the 30-day requirement, such as diseases associated with malnutrition, are generally incurred over a prolonged period of internment. Interim Final Rule, Presumptions of Service Connection for Diseases Associated with Service Involving Detention or Internment as a Prisoner of War, 69 Fed. Reg. 60,083, 60,088 (2004). Such a requirement is appropriate for certain diseases if the evidence indicates that they are associated only with prolonged captivity, such as with maladies normally resulting from nutritional deprivation. Accordingly, VA does not support elimination of the 30-day minimum internment requirement.

With respect to adding diabetes (type 2) and osteoporosis to the list of diseases that may be presumed to be service connected for former POWs, VA is not aware of any sound scientific or medical evidence of an association between these diseases and internment as a POW. Accordingly, VA does not support section 2(b) of S. 848.

Section 2(c) of S. 848 would authorize VA to establish a presumption of service connection for former POWs for any disease for which VA has determined, based on sound medical and scientific evidence, that “a positive association exists between (i) the experience of being a [POW] and (ii) the occurrence of [the] disease in humans.” Section 2(c) would also require VA to issue certain regulations and, in determining whether a positive association exists, to consider recommendations from the Advisory Committee on Former Prisoners of War and all other available sound medical and scientific information and analyses.

VA does not support the procedure in section 2(c) for establishing presumptive service connection for diseases associated with POW internment because more appropriate and effective regulatory procedures for identifying diseases associated with POW internment already exist. Pursuant to the Secretary’s authority provided by 38 U.S.C. §501(a) to prescribe all rules and regulations necessary or appropriate to carry out the laws administered by VA, including regulations with respect to the nature and extent of proof and evidence, VA has promulgated regulations, codified at 38 CFR §1.18, establishing a new procedure for establishing POW presumptions. VA’s establishment of presumptive service connection for heart disease and stroke, which was done under VA’s regulatory procedure, demonstrates that the new procedure is effective.

Section 2(c) of the bill would require VA, within specified periods, to publish a notice or regulations in response to recommendations received from the Advisory Committee on Former Prisoners of War. Under 38 U.S.C. §541(a)(2), the Committee comprises representatives of former POWs, disabled veterans, and health care professionals. Under current law, VA must regularly consult with the Committee and seek its advice on the compensation, health-care, and rehabilitation needs of former POWs. Not later than July 1 of each odd-numbered year through 2009, the Committee must submit to VA a report recommending, among other things, administrative and legislative action. The procedure outlined in section 2(c) of S. 848 would require VA, within 60 days of receiving a Committee recommendation that a presumption be established for a disease, to determine whether a presumption is warranted. If VA determines that a presumption is warranted, we would have to issue proposed regulations within 60 days following that decision and issue a final rule within 90 days of issuing the proposed rule. If VA determines that a presumption is not warranted, we would have to publish a Federal Register notice explaining the scientific basis for the determination within 60 days of making the determination.

This procedure is similar to the procedure that Congress established for herbicide and Gulf War presumptions under 38 U.S.C. §§1116 and 1118, both of which generally concern VA rulemaking following the receipt of a report from the National Academy of Sciences. However, unlike the herbicide and Gulf War procedures, S. 848 would require strict guidelines for rulemaking in response to Committee recommendations, which do not provide a thorough scientific review and analysis upon which to establish presumptions. A determination as to whether a disease should be added to the list of diseases warranting presumptive service connection involves

a lengthy process of scientific study. Sixty days is not sufficient to conduct such a process. Under current 38 CFR §1.18, the Secretary may contract with the appropriate expert body, such as the National Academy of Sciences' Institute of Medicine, for the necessary analysis of current science. We believe this regulation provides a more scientifically sound basis for creation of presumptions than that contemplated by S. 848.

Based on the amendments that would be made by section 2(a) of S. 848, VA estimates that approximately 99 former POWs would be affected by this legislation and would apply for benefits in the first year and 1,102 would apply in the first 10 years. Assuming a 100-percent grant rate, we further estimate that benefit costs would be \$808,000 in the first year and \$9.9 million over 10 years.

Based on the amendments that would be made by section 2(b) of S. 848, VA estimates that approximately 4,045 former POWs would be affected by this legislation and would apply for benefits in the first year and 44,855 in the first 10 years. Assuming a 100-percent grant rate, we further estimate that benefit costs would be \$36.3 million in the first year and \$442.9 million over 10 years.

In addition, VA estimates that approximately 2,005 surviving spouses would be affected by the amendments that would be made by section 2(b) of S. 848 and would apply for benefits in the first year and 27,332 would apply in the first 10 years. Assuming a 100-percent grant rate, we estimate further benefit costs of \$27.5 million in the first year and \$392.6 million over 10 years.

We estimate administrative costs to be \$2.4 million for 29 full-time employees in the first year and \$5.1 million over 5 years.

Although section 2(c) would allow VA to add and remove presumptive diseases, VA does not anticipate any regulatory changes. Therefore, there are no benefits savings or costs associated with this authority.

S. 961

S. 961, the "Belated Thank You to the Merchant Mariners of World War II Act of 2007," would require VA to pay to certain merchant mariners \$1,000 per month. This new benefit would be available to an otherwise qualified merchant mariner who served between December 7, 1941, and December 31, 1946, and who received an honorable-service certificate from the Department of Transportation or DOD. The surviving spouse of an eligible merchant mariner would be eligible to receive the same monthly payment provided that he or she had been married to the merchant mariner for at least one year.

VA does not support enactment of this bill for several reasons. First, to the extent that S. 961 is intended to offer belated compensation to merchant mariners for their service during World War II, many merchant mariners and their survivors are already eligible for veterans' benefits based on such service. Pursuant to authority granted by section 401 of the GI Bill Improvement Act of 1977, Public Law 95-202, the Secretary of Defense in 1988 certified merchant mariner service in the ocean-going service between December 7, 1941, and August 15, 1945, as active military service for VA benefit purposes. As a result, these merchant mariners are eligible for the same benefits as other veterans of active service. This bill appears to contemplate concurrent eligibility with benefits merchant mariners may already be receiving from VA—a special privilege that is unavailable to other veterans.

Second, there can be no doubt that merchant mariners were exposed to many of the same rigors and risks of service as those confronted by members of the Navy and the Coast Guard during World War II. However, the universal nature and the amount of the benefit this bill would provide for individuals with qualifying service are difficult to reconcile with the benefits VA currently pays to other veterans. S. 961 would create what is essentially a service pension for a particular class of individuals based on no eligibility requirement other than a valid certificate of honorable service from the Department of Transportation or the DOD. Further, this bill would authorize payment to a merchant mariner, simply based on qualifying service, of a benefit greater than the benefit currently payable to a veteran for a service-connected disability rated as 60-percent disabling. Because the same amount would be paid to surviving spouses under this bill, there would be a similar disparity in favor of this benefit in comparison to the basic rate of DIC for surviving spouses provided under chapter 13 of title 38, United States Code.

VA estimates that enactment of S. 961 would result in a total additional benefit cost of approximately \$234.1 million in the first fiscal year and an additional benefit cost of \$1.4 billion over 10 years. We also estimate that additional administrative costs associated with the need for more employees to process claims for the new monetary benefit would be \$893,000 during the first fiscal year and \$6 million over 10 years.

VA's opinion on the various sections of this bill follow. Whenever VA supports or does not object to a particular section of the bill, it is subject to Congress' enactment of legislation offsetting the increased costs associated with the enactment of the new authority.

Section 2 of S. 1096, the "Veterans' Housing Benefits Enhancement Act of 2007," would make certain members of the Armed Forces eligible to receive grants for home improvements and structural alterations (HISA) that are needed for the continuation of treatment or to provide access to the home or to essential lavatory and sanitary facilities. The cost of such improvement and alterations would be subject to the statutory dollar limits set forth in 38 U.S.C. § 1717(a)(2)(A) and (B). Section 2 would extend eligibility for HISA grants to servicemembers: (1) who the Secretary of Veterans Affairs determines have a total disability permanent in nature incurred or aggravated in the line of duty in the active military, naval, or air service; (2) who are receiving outpatient medical care, services, or treatment for that disability; and (3) who are likely to be discharged or released from the Armed Forces for that disability, as determined by the Secretary of Veterans Affairs.

These grants would be one-time grants. If a covered servicemember uses the HISA grant for a home located near his or her military duty station, that individual would not qualify for another grant if he or she relocates for any purpose after discharge or release from service. VA has no objection to section 2.

Pursuant to 38 U.S.C. § 2101, VA may provide Specially Adapted Housing (SAH) assistance to eligible veterans and active duty servicemembers who suffer from certain permanent and total service-connected disabilities. Section 3 of this bill would add "severe burn injuries" to the types of specified disabilities and would allow VA to determine what criteria constitute such a burn injury. VA favors enactment of this provision, but points out that as written it would exclude active duty servicemembers as eligible recipients. Therefore, VA recommends that the Committee amend the bill to revise existing section 2101(c) to ensure that otherwise eligible active duty servicemembers are not excluded from this important benefit.

VA also recognizes that many burns, regardless of the severity or extent of the injury, may not be considered "permanent and total" but, nevertheless, may require years of special care and convalescence. As such, VA recommends that section 2101 be amended so that severe burn injuries are excepted from the permanent and total disability requirement for SAH assistance.

VA currently cannot project costs for section 3 because the number of qualifying severely burned servicemembers is unknown. We do know from DOD data (April 2003–April 2005) that burns constitute 5 percent of all Operation Iraqi Freedom or Operation Enduring Freedom combat-related injuries, with an average total burned body surface area of 22 percent. However, we do not know the extent to which such burn victims would qualify under section 3 of S. 1096.

Section 4 would require VA to report to Congress about existing authorities for SAH assistance for disabled veterans. The report would focus on veterans who have disabilities not already described in 38 U.S.C. § 2101 and would be submitted to the Committees on Veterans' Affairs in the Senate and House of Representatives no later than December 31, 2007. VA does not oppose this provision, but the Committee may prefer to revise subsection (a)(2) of this section by changing the "or" after the semicolon to "and", to clarify that the Committees would like a report on all items specified. VA also recommends that the Committee clarify whether VA should include in the report data on active duty servicemembers.

Under 38 U.S.C. § 3901(1), VA may provide automobile and adaptive equipment to eligible veterans and active duty servicemembers. Section 5 of S. 1096 would add "severe burn injuries" to the existing list of enumerated qualifying injuries and would require VA to promulgate necessary implementing regulations. VA favors enactment of this provision, subject to Congress' enactment of legislation offsetting the benefits cost of such enactment.

VA currently cannot project costs for section 5 because the number of qualifying severely burned servicemembers is unknown. As indicated above, we do know some information about burn injuries. However, we do not know the extent to which such burn victims would qualify under section 5 of S. 1096. We presume the number would be small and note that the average cost of adaptive equipment is approximately \$4,000.

Section 6 would expand the categories of persons eligible for SAH assistance provided under 38 U.S.C. § 2102A to include certain members of the Armed Forces residing temporarily with family members. Until recently, VA was not authorized to provide either a veteran or an active duty servicemember with SAH assistance if the veteran or active duty servicemember intended to reside temporarily with a fam-

ily member. This changed, in part, with the enactment of Public Law 109-233, which made veterans eligible for such assistance. Yet, Public Law 109-233 did not include active duty servicemembers as eligible recipients. VA supports the objective of this section, which is to grant similar assistance to active duty servicemembers. However, VA cannot support this section as currently drafted because it would create a definitional conflict in the statute that could potentially create different classes of active duty servicemembers eligible for SAH assistance. Section 6 also would require VA to report on assistance for disabled veterans and members of the Armed Forces who reside in housing owned by a family member on a permanent basis. The report would need to be submitted to the Committees on Veterans Affairs in the Senate and House of Representatives no later than December 31, 2007. VA is not opposed to this provision.

S. 1163

Section 2 of S. 1163, the “Blinded Veterans Paired Organ Act of 2007,” would liberalize the eligibility for compensation and SAH benefits for veterans in certain cases of impairment of vision involving both eyes. Under current law (38 U.S.C. § 1160(a)), a veteran with service-connected blindness in one eye and nonservice-connected blindness in the other eye may be compensated as though the combination of both disabilities were service connected. Section 2(a) would replace the entitlement requirement of “blindness” with impairment of vision in each eye of visual acuity of 20/200 or less or of a peripheral field of vision of 20 degrees or less (the definition of “legal blindness” adopted by all 50 states and the Social Security Administration (SSA)). Also, under current law (38 U.S.C. §2101(b)), a veteran entitled to compensation for “permanent and total service-connected disability” due to blindness in both eyes with 5/200 visual acuity or less is entitled to SAH assistance. Section 2(b) would replace the entitlement requirement of “blindness . . . with 5/200 visual acuity or less” with a requirement of visual acuity of 20/200 or less or of a peripheral field of vision of 20 degrees or less.

Subject to Congress’ enactment of legislation offsetting the increased costs associated with the enactment of the provision, VA supports the amendment that would be made by section 2(a) because it would treat visual impairment in both eyes similarly to the way hearing loss in both ears is treated under current law. The amendment would be consistent with a prior amendment to section 1160(a) pertaining to special consideration for hearing loss in both ears. Before that amendment, a veteran with service-connected total deafness in one ear and nonservice-connected total deafness in the other ear could be compensated as though the combination of both disabilities were service connected. In 2002, section 103 of Public Law 107-330 amended section 1160(a)(3) to replace the requirement of “total deafness” with “deafness compensable to a degree of 10 percent or more” for the service-connected impairment and “deafness” for the nonservice-connected hearing loss.

However, VA opposes the amendment that would be made by section 2(b) of S. 1163, primarily because it would treat visual impairment differently from the other disability that warrants SAH assistance under section 2101(b). The other disability that warrants such assistance is anatomical loss or loss of use of both hands. Not only do anatomical loss and loss of use of both hands warrant a higher schedular rating than the degree of visual impairment that section 2(b) would substitute for the current criterion of blindness, they also warrant special monthly compensation. Furthermore, section 2(b) would create an inconsistency in the requirements for SAH assistance under section 2101(b)(2). The overriding requirement for assistance is that a veteran have a “permanent and total” service connected disability of the specified nature. Visual acuity of 20/200 or less or a peripheral field of vision of 20 degrees or less, even when present in both eyes, does not warrant a total disability rating.

VA estimates that enactment of section 2(a) of S. 1163 would result in a benefit cost of \$893,000 in the first year and \$11.4 million over 10 years. VA estimates that enactment of section 2(b) would result in a benefit cost of \$480,000 for 48 new SAH grants in the first year. The cost of additional SAH grants is less than \$500,000 annually and is therefore insignificant. There are no administrative costs associated with these provisions.

Section 3 of S. 1163 would require the use of the National Directory of New Hires (NDNH) for income-verification purposes for certain veterans benefits. It would require the Department of Health and Human Services (HHS) to compare information provided by VA on individuals under 65 years of age who are applicants for or recipients of VA pension benefits (under chapter 15 of title 38, United States Code), parents’ DIC benefits (under section 1315 of title 38, United States Code), health-care services (under section 1710(a)(2)(G), (a)(3), and (b) of title 38, United States

Code), and compensation paid at the rate of 100 percent based solely on unemployability (under chapter 11 of title 38, United States Code) with information in the NDNH and disclose information in that directory to VA solely for the purpose of determining an individual's eligibility for such benefits or the amount of such benefits to which the individual is entitled if the individual is under 65 years old. VA would be required to reimburse HHS for the costs incurred by HHS in providing this information. VA would be responsible for providing notice to applicants for or recipients of VA benefits whose information is being disclosed and for independently verifying information relating to employment and income from employment if VA terminates, denies, suspends, or reduces any benefit or service as a result of information obtained from HHS. Furthermore, an individual would have the opportunity to contest any findings made by VA when verifying the information. VA's expenses related to use of this directory for income-verification purposes would be paid from amounts available for the payment of VA compensation and pension. The authority for the income verification would expire on September 30, 2012.

The NDNH, which was established as part of the Federal Parent Locator Service by 42 U.S.C. § 653, provides a national directory of employment, wage, and unemployment compensation information to facilitate employment and income verification. Under 42 U.S.C. § 653a(g)(2), State Directories of New Hires are required to furnish information regarding newly hired employees within 3 business days after the date information is entered into the State Directory of New Hires. In addition, it requires that, on a quarterly basis, State Directories of New Hires must furnish to the NDNH information concerning the wages and unemployment compensation paid to individuals.

The Privacy Act allows agencies to disclose records maintained in systems of records to other agencies pursuant to computer data matching programs authorized by law. All computer data matching programs must be formalized by a written agreement that specifies, among other things, the justification for the program and the anticipated results, including a specific estimate of any savings.

As currently drafted, section 3 of this bill would make the data match between VA and HHS mandatory, except to the extent that HHS determined that it would interfere with the effective operation of part D of title IV of the Social Security Act, "Child Support and Establishment of Paternity." Accordingly, section 3 could conceivably require VA to enter a computer data matching program for which little or no justification exists and for which costs savings are unlikely. The decision to enter into a computer matching agreement under section 3 should be within the sound discretion of VA, instead of a mandatory requirement. In addition, any administrative expenses associated with data matching should be paid from VA discretionary administration accounts and not from mandatory entitlement accounts.

VA currently matches data with the Internal Revenue Service (IRS) and the SSA. As a result of these matches, VA obtains unearned and earned income data concerning its needs-based applicants and beneficiaries. VA's authority to use the NDNH for VA health-care services would not substantially improve the current income verification activities of VHA. It would add an interim match step into the current process VHA has established for income matching, which would not be definitive for the majority of veterans for whom matching is required. While the data may be more current than existing match data from the IRS and SSA, it is not a comprehensive income reporting source, particularly since it does not include unearned income. VA believes that the cost of adding such a match to the income verification business process and information and technology support systems is unlikely to be recouped by any substantial gain to the Government from integrating such a match into the income verification process. VA does not support enactment of section 3 as it applies to VA health-care services because VA believes it is unnecessary.

VA's authority to use the NDNH to determine eligibility for certain other VA monetary benefits or the amount of such benefits for individuals under 65 years of age would have limited benefit with respect to eligibility determinations for pension benefits and parents' DIC and continued eligibility for individual unemployability benefits. Although eligibility for pension and parents' DIC depends on income, currently available statistics show minimal overpayments due to new employment. Furthermore, the average age of recipients of pension and parents' DIC is more than 65 years, and the only other source of income for most individuals who receive pension is Social Security benefits. In addition, with respect to continued eligibility for individual unemployability, regulations require a showing of sustained employment before adjusting individual unemployability awards. Thus, the utility of income verification for individuals receiving individual unemployability is not as great.

VA's authority to use the NDNH would result in an additional expense for VA, and we believe that the cost of using the NDNH is unlikely to be recouped by any gain that might result from eligibility determinations with respect to pension bene-

fits and parents' DIC, and continued eligibility for individual unemployability benefits. However, significant savings could be realized from use of the NDNH data base as an initial screening tool to make initial eligibility determinations for individual unemployability. Through its matches with SSA and IRS, VA has discovered cases where individual unemployability was awarded based on incorrect data furnished by the applicant. Because the NDNH data is more up-to-date, VA might discover some errors through the NDNH match up to 3 years earlier than it would have discovered the error if it relied on SSA and IRS matches.

VA estimates that enactment of section 3 of S. 1163 would result in a cost to reimburse HHS for comparing our income data with data from the NDNH of \$1 million in the first year and \$4 million over 5 years, after which time the agreement would expire. VA also estimates that section 3 would result in benefit savings of \$940,000 in the first year and \$16.7 million over 10 years, resulting in an overall savings of \$12.7 million. There are no other administrative costs associated with this provision.

S. 1215

Section 1 of S. 1215 would authorize reimbursement from VA's readjustment benefits account to state approving agencies (SAAs) for certain expenses incurred in the administration of VA education benefit programs, not to exceed \$19 million in any year. The current funding amount is \$19 million for Fiscal Year 2007. However, that amount would revert to \$13 million in Fiscal Year 2008 and subsequent fiscal years without legislative intervention.

VA, consistent with a recent Government Accountability Office recommendation, is taking steps to coordinate its approval activities with other agencies and is considering ways to streamline the approval process. Regardless of any such activities, we anticipate that funding at the reduced level would cause SAAs to reduce staffing proportionately, severely curtail travel and outreach activities, and perform fewer approval/supervisory duties under their VA contracts. Some SAAs might decline to contract with VA altogether, requiring that VA employees assume their duties.

We have been asked to disregard section 2 of this bill.

Section 3 of S. 1215 would permit DOL to waive the current requirement that state Veterans' Employment and Training directors be residents of the state in which they serve for at least 2 years prior to their appointment if the waiver is in the public interest. VA defers to the DOL on this portion of the bill since it is within that Department's subject matter jurisdiction.

Section 4 of S. 1215 would modify the requirements for the biennial study by DOL of unemployment among certain veterans to include those who served during and after the Global War on Terror. Studies of these groups would be completed in place of the associated studies for Vietnam era veterans and in addition to those of the other veteran populations also identified for the study. VA also defers to DOL on this portion of the bill since it is within that Department's subject matter jurisdiction.

Section 5 would temporarily continue the 10-percentage-point increase (authorized under section 103 of Public Law 108-454; 118 Stat. 3600) of the monthly educational assistance allowance payable for an individual pursuing apprenticeship or other on-job training at the full-time program rate under the Montgomery GI Bill or Active Duty and Selected Reserve programs (chapter 30 of title 38 and chapter 1606 of title 10, United States Code, respectively) and the chapter 32 Post-Vietnam Era Veterans' Educational Assistance program. It would also continue the increase in the educational assistance allowance for such training under chapter 35 of title 38, United States Code (currently, for the first 6 months of training, \$676; for the second 6 months of training, \$527; and for the third 6 months of training, \$380). This amendment would be effective for months beginning on or after January 1, 2008, and before January 1, 2010.

If enacted, VA estimates S. 1215 would cost \$6 million in Fiscal Year 2008, approximately \$44 million for the first 5 years and \$740 million over the 10-year period from Fiscal Years 2008 through 2017.

Subject to Congress' enactment of legislation offsetting the increased benefits costs of S. 1215, VA has no objection to the enactment of this bill.

S. 1265

Current law provides eligibility for mortgage life insurance to certain disabled veterans who have been granted assistance in obtaining SAH. S. 1265 would extend this eligibility to members of the Armed Forces who meet the same eligibility criteria.

Subject to Congress' enactment of legislation offsetting the increased costs associated with the enactment of the new authority, VA supports the enactment of this

bill because it would correct an oversight made when eligibility for SAH was extended to members of the Armed Forces. Mortgage life insurance was available for veterans receiving SAH assistance but was not available to the newly eligible Armed Forces members. This bill would rectify that disparity.

VA estimates that enactment of this bill would cost \$431,170 over 5 years.

DRAFT BILL

To amend title 38, United States Code, to establish a program of educational assistance for members of the Armed Forces who serve in the Armed Forces after September 11, 2001, and for other purposes.

This draft bill, the “Post-9/11 Veterans Educational Assistance Act of 2007,” would add a new chapter 33 to title 38, United States Code, that would, in general, require that, to be eligible for educational assistance under the new chapter 33 program, an individual must serve at least 2 years of active duty with a least some period of active duty time served beginning on or after September 11, 2001. It would, for most individuals, link the number of months of educational assistance benefit to the individual’s months of service after September 11, 2001, but, in general, not provide for more than 36 months of benefits, with the educational assistance to cover the established charges of the program of education, room and board, and a monthly stipend of \$1,000. Chapter 33 would provide for educational assistance for less-than-half time education, apprenticeships, on-job training, correspondence courses, and flight training. Chapter 33 also would provide payment for tutorial assistance, not to exceed \$100 per month for a maximum of 12 months, and one licensing or certification test, not to exceed the lesser of \$2,000 or the test fee. Generally, individuals would have 15 years to use their educational entitlement beginning on the date of their last discharge or release from active duty. VA would administer this program with payments of assistance made from funds made available to VA for the payment of readjustment benefits. In general, individuals eligible for benefits under chapter 30 of title 38, United States Code, or chapters 107, 1606, or 1607 of title 10, United States Code, could irrevocably elect, instead, to receive educational assistance under chapter 33.

We have serious concerns about certain provisions of the “Post-9/11 Veterans Educational Assistance Act of 2007” and therefore oppose it. The complexity of eligibility rules, anticipated cost, and administrative burden associated with this bill are all problematic.

As currently written, eligibility criteria for the proposed chapter 33 are more complex than the current GI Bill. Entitlement determinations factoring in length of service and previous benefit usage would also be highly complex and difficult for individuals to fully understand.

The increased amount of benefits payable at varying levels for different institutions would make administration of this program cumbersome. The requirement that the benefit be paid at the beginning of the term would further complicate administration and would tax existing VA resources. Section 3313(j)(2) would require VA to annually determine which public schools in each state have the highest in-state tuition rate and set the established charges for each state accordingly. This labor-intensive process would need to be completed annually in sufficient time to prepare for issuance of payments in advance of the term. Further, as written, this bill would be effective the date of enactment. It would be necessary to prescribe regulations, make systems changes, and make other key adjustments to support the components of this bill. It is also likely that other sections within title 38, United States Code, may need to be amended to address overpayment of the monthly stipend. For the above reasons, it is not feasible for VA to begin making payments under the proposed chapter 33 benefit immediately.

It also appears that, if enacted, the bill might have some unintended consequences. For example, the subsistence payment of \$1,000 per month would be payable to individuals attending degree and non-degree programs and those who are completing internships and on-the-job training programs. This seems inequitable, as it would treat an individual in an apprenticeship program who is earning wages the same as a college student who is incurring expenses. It is also unclear what effect this benefit would have on recruiting and retention. While we defer to DOD on this matter, we acknowledge that this may lead to lower reenlistments.

If enacted, VA estimates that the “Post-9/11 Veterans Educational Assistance Act of 2007” would result in benefit costs of \$5.4 billion during Fiscal Year 2008, \$32.2 billion for Fiscal Years 2008 through 2012, and \$74.7 billion over the 10-year period from Fiscal Years 2008 through 2017.

Significant administrative costs would also be incurred. As previously noted, section 3313(j)(2) would require VA to annually determine which public schools in each

state have the highest in-state tuition rate and set the established charges for each state accordingly. This labor-intensive process would need to be completed annually in sufficient time to prepare for issuance of payments in advance of the term.

Further, since VA's obligation is to ensure that veterans and servicemembers receive the most advantageous benefit, VA would be obligated to reevaluate all existing claims and award the greater chapter 33 benefits, as appropriate. The initial year of the program would require VA to double our current Education FTE in an attempt to meet the workload increase. Extensive system changes would be needed to make lump sum payments to all beneficiaries before the start of the term. VA also would need to develop technological system changes to account for the payment rate variations from state to state. This would be problematic because VA is in the midst of changing from one payment system (Benefits Delivery Network) to another (Veterans Services Network).

Based on these factors, we would anticipate substantial administrative costs, but cannot fully estimate them without further research.

VA does not have comments on the other bills included on the agenda for today's hearing because it did not receive them in time to develop and clear views and estimate costs.

This concludes my statement, Mr. Chairman. I would be happy now to entertain any questions you or the other Members of the Committee may have.

RESPONSE TO WRITTEN QUESTION SUBMITTED BY HON. PATTY MURRAY
TO HON. DANIEL L. COOPER, UNDER SECRETARY FOR BENEFITS, DEPARTMENT OF
VETERANS AFFAIRS

Question. In 2004, a report by the Research Advisory Committee on Gulf War Veterans Illnesses, a group created by Congress and appointed by Secretary Principi back in 2002, recommended to the VA that they conduct a study on the prevalence of MS in Gulf War. Has that been done?

Response. The Veterans Health Administration's Office of Research and Development (ORD) is currently funding a project by Dr. Han Kang and has approved a second project for funding by Dr. Mitchell Wallin.

Study 1. Dr. Kang is conducting a mortality follow-up study of 621,000 Gulf War veterans and 750,000 non-Gulf War veterans. It is designed to address the risk of deaths due to neurologic diseases, including Amyotrophic Lateral Sclerosis (ALS) and MS. The ALS and MS deaths reported on the death certificates are being validated by a review of medical records of the decedents. These two Gulf War era veteran cohorts can also be compared to the U.S. male population adjusted for age, race and calendar period of deaths to determine whether or not veterans in general (1.37 million Gulf and non-Gulf veterans combined) or those who were deployed to Gulf War (621,000 veterans) specifically are at a higher risk of ALS or MS deaths.

Study 2. Another study, led by Dr. Wallin has been approved for funding by ORO and is entitled "Multiple Sclerosis in Gulf War Veterans." The goal of this study is to evaluate the risk of developing MS in GW veterans. To our knowledge, no controlled studies on this topic exist. Using a large, cohort of veterans service-connected for MS, it seeks to determine if military service in the GW theater increased the risk for MS in deployed compared with non-deployed GW veterans.

There are also ALS and MS registries within VHA.

	Office Managing	Purpose	Number of Veterans	Type of Veterans	Important Data Elements	Data Source
ALS Registry	Epidemiologic Research and Information Center, Durham, NC.	Identify and characterize veterans with ALS, data source for future studies.	1,602	Diagnoses of ALS within VA healthcare system and self-referrals.	Healthcare utilization, ALS Functional Rating Scale Every six months.	Extracted from existing VA files and self referrals.
MS Registry	MS Center of Excellence, East Baltimore, MD & MS Center of Excellence West, Portland, OR and Seattle, WA.	Identify and characterize veterans with MS, data source for future studies.	31,946	Diagnoses of MS within VA healthcare system.	Healthcare utilization, Health Economics data.	Extracted from existing VA files.

DOD is funding research on ALS, which is directly applicable to veterans. The following is a list of their studies (FY 2002 to FY 2007):

The Peer Reviewed Medical Research Program funded seven ALS projects

Title: Development of aptamers as anti-excitotoxic drugs for ALS therapy; Location: City University of New York; Funding: \$1.153 million.

Title: Prospective study of ALS mortality among World War II, Korea, and Vietnam veterans; Location: Harvard University; Funding: \$1.528 million.

Title: Function of prostaglandin receptors in models of ALS; Location: Johns Hopkins University; Funding: \$1.260 million.

Title: Do Tau mutations increase susceptibility to ALS?; Location: Duke University; Funding: \$979,000.

Title: Biomarkers for ALS in active-duty military; Location: University of Cincinnati; Funding: \$1.001 million.

Title: Anti-apoptotic drugs for radioprotection; Location: Burnham Institute; Funding: \$1.001 million.

Title: Cytoprotective chemicals for ALS treatment and enhanced ALS services and outcome studies; Location: Burnham Institute; Funding: under negotiation (as of March 2007).

The Military Operational Medicine Program funded one ALS project

Title: Development of spinal drug delivery techniques and genomic disease markers in a murine model of ALS; Location: ALS Therapy Development Foundation; Funding: \$1.856 million.

The Neurotoxin Exposure Treatment Research Program funded one ALS project

Title: Implications of cycad neurotoxicity for ALS-Parkinson's disease cluster; Location: University of British Columbia; Funding: \$806,000.

Lastly, in November 2006, Institute of Medicine (IOM) issued a report of a study entitled: "Amyotrophic Lateral Sclerosis in Veterans: Review of the Scientific Literature." The IOM committee concluded that there are significant limitations in existing studies that pertain to military and veteran populations but that "there is limited and suggestive evidence of an association between military service and later development of ALS."

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. BARACK OBAMA
TO HON. DANIEL L. COOPER, UNDER SECRETARY FOR BENEFITS, DEPARTMENT OF
VETERANS AFFAIRS

Question 1. Lane Evans—Admiral Cooper, thank you for providing feedback today on sections of S. 117, the Lane Evans Health and Benefits Improvement Act. You stated in your testimony that much of the data required under the reporting section of this measure are not currently available. But, in my view, the new Information System proposed in this bill would track some pretty basic items, such as the veteran's age, race, home address, and military service.

Question 1(a). Could you specify which of these pieces of data the VA is currently tracking and which ones are not available?

Response. The Veterans Benefit Administration (VBA) produces a report on benefits usage by veterans deployed in support of the Global War on Terror (GWOT). The current version of this report captures many of the data points identified in the proposed legislation. A copy of the latest report is attached. This report can be amended to include additional data captured in the Department of Veterans Affairs (VA) records systems or made available to VA through our data exchange with the Department of Defense (DOD).

Some of the information proposed to be tracked is not yet available exactly as requested.

- Information on Military Service: VA receives a file from DOD identifying veterans deployed in support of GWOT. We use that file to populate our reports. The file does not include the specific conflict or country of service. We can provide the breakdown by branch of service and can separate active duty veterans from members of the National Guard and Reserves. However, we cannot currently separate Reservists from National Guard members. We also cannot isolate which conflict(s) a veteran served in (Operation Enduring Freedom and/or Operation Iraqi Freedom, or neither), nor can we identify service in a specific country. We do not receive deployment history, the grade and rank of each veteran, or the number of evacuations.

The deployment history, even if it were available, would be extremely difficult to align with claims for benefits.

- Aggregate information: We currently do not have a method for aggregating all benefits each individual veteran used and/or applied for, though we are working toward a solution to this issue. We can and do provide a listing of how many veterans have applied for and received a particular benefit, but cannot yet summarize the benefits applied for and received by each individual veteran.
- Amount of compensation paid to veterans: While we track benefit awards by disability percentage ratings, we do not currently track average monthly compensation paid to GWOT veterans, nor do we have a ready means available to do so. We are working on an approach to providing this data.
- DIC benefits: We do not currently report on claims activity specifically for dependency and indemnity compensation (DIC) applicants, but we can do so with existing data.
- Education benefits: We currently provide usage information regarding the majority of education benefits.
- Loan Guaranty benefits: We currently report on total loan usage and total dollar amount for GWOT veterans. However, we do not have a means of determining whether the usage was prior to or after a veteran's deployment in support of GWOT. We are able to track the number of disabled GWOT veterans found eligible for specially adapted housing benefits.

[Note: The Veterans Benefit Administration's (VBA) current report on benefits usage by veterans deployed in support of the Global War on Terror (GWOT) follows:]

DEPARTMENT OF VETERANS AFFAIRS (VA) BENEFITS ACTIVITY
VETERANS DEPLOYED TO THE GLOBAL WAR ON TERROR

OCTOBER 2007 UPDATE

This report summarizes participation in VA benefits programs by veterans identified by the Department of Defense as having been deployed overseas in support of the Global War on Terror (GWOT). Information is included for the following VA programs: Compensation, Insurance, Home Loan Guaranty, Education, and Vocational Rehabilitation and Employment.

This update provides data on VA program participation for 754,911 GWOT veterans separated from military service through May 2007.

It is important to understand that because many GWOT veterans had earlier periods of service, the benefits activity identified in this report could have occurred either prior to or subsequent to their GWOT deployment (or both).

Chart 1.— GWOT Veterans by Branch of Service

Branch of Service	Reserve Guard	Active Duty	Total
Air Force	80,932	58,660	139,592
Army	255,907	148,847	404,754
Coast Guard	317	497	814
Marine Corps	27,735	65,853	93,588
Navy	21,890	88,543	110,433
Other	4	14	18
Unknown	2,141	1,880	4,021
Total matched to VA systems	388,926	364,294	753,220
Unable to match to VA systems	877	814	1,691
Total	389,803	365,108	754,911

Note: The veteran's branch of service was obtained from VA's BIRLS system, which stores information for up to three periods of service. The branch of service associated with the most recent service date was used for the chart above.

Chart 2.—Gender of GWOT Veterans

Gender	Reserve Guard	Active Duty	Total
Female	40,674	41,410	82,084
Male	345,210	319,955	665,165
Unknown	3,042	2,929	5,971
Total matched to VA systems	388,926	364,294	753,220

Chart 2.—Gender of GWOT Veterans—Continued

Gender	Reserve Guard	Active Duty	Total
Unable to match to VA systems	877	814	1,691
Total	389,803	365,108	754,911

Chart 3.—Age of GWOT Veterans

Age Group	Reserve Guard	Active Duty	Total
Under 20	106	259	365
20–29	130,630	236,613	367,243
30–39	115,767	69,777	185,544
40–49	102,370	49,285	151,655
50–59	34,812	6,934	41,746
60–69	4,456	267	4,723
Unknown	785	1,159	1,944
Total matched to VA systems	388,926	364,294	753,220
Unable to match to VA systems	877	814	1,691
Total	389,803	365,108	754,911

Note: Veterans' ages are calculated as the number of whole years between the date of birth in the BIRLS system. Any veteran with a missing or invalid date of birth, or where the calculated age was under 17 years or over 69 years, was placed in the "Unknown" age group.

Chart 4.—Average Age of GWOT Veterans

	Reserve Guard	Active Duty
Average Age	36.0 years	30.0 years

Chart 5.—Average Length of Service for GWOT Veterans

	Reserve Guard	Active Duty
Average Length of Service	3.7 years	7.6 years

Service-Connected Disability Compensation Program

The Veterans Benefit Administration's (VBA) computer systems do not contain any data that would allow us to attribute veterans' disabilities to a specific period of service or deployment. We are therefore only able to identify GWOT veterans who filed a disability compensation claim at some point either prior to or following their GWOT deployment. We are not able to identify which of these veterans filed a claim for disabilities incurred during their actual overseas GWOT deployment.

Many veterans file disability compensation claims for more than one condition. The table below provides information on individual GWOT veterans, not specific claimed disabilities.

Individuals included in the category "Veterans Awarded Service-Connection" are those veterans who have at least one condition that meets eligibility requirements for service connection under VA statutes and regulations. For veterans who filed a claim for more than one condition, this category contains veterans with a full grant of all conditions as well as veterans with a combination of disabilities granted and denied.

If none of a GWOT veteran's claimed conditions meet eligibility requirements under VA statutes and regulations, these individuals are included in the category "Veterans Denied Service-Connection."

Chart 6.—Compensation & Pension (C&P) Activity Among GWOT Veterans
(Includes claims filed both prior to and following GWOT deployment)

Category	Reserves Guard	Active Duty	Total
Deployed Servicemembers	428,808	1,123,600	1,552,408
Total GWOT Veterans	389,803	365,108	754,911
Living GWOT Veterans	389,038	362,235	751,273
GWOT In-Service Deaths	765	2,873	3,638
Total GWOT Veterans with Claims Decisions	71,282	127,240	198,522
Veterans Awarded Service-Connection	61,318	119,833	181,151
Veterans Receiving Compensation	46,988	103,657	150,645
Veterans Denied Service-Connection	9,964	7,407	17,371
Veterans with Pending Claims (as of 9-30-07)	16,445	18,603	35,048
Veterans with Pending Reopened Claims	4,418	5,588	10,006
Pending from First-Time Claimants	12,027	13,015	25,042
Total GWOT Veterans Filing Disability Claims ¹	83,309	140,255	223,564

¹ Includes "Total GWOT Veterans with claims Decisions" and "Pending from First-Time claimants."

Disabilities are evaluated according to VA regulations, and the extent of the disability is expressed as a percentage from zero percent to 100 percent disabling, in increments of 10 percent. Veterans with more than one service-connected disability receive a combined disability rating.

The chart below includes GWOT veterans awarded combined service-connected disability ratings from zero percent to 100 percent, regardless of whether the veteran receives monetary compensation.

Chart 7.—GWOT Veterans Awarded Service-Connection
(by Combined Degree of Disability)

Combined Degree	Reserves Guard	Active Duty	Total
0 percent	11,653	14,800	26,453
10 percent	15,807	23,207	39,014
20 percent	8,669	17,311	25,980
30 percent	6,730	17,052	23,782
40 percent	5,850	15,085	20,935
50 percent	3,127	8,935	12,062
60 percent	3,477	9,573	13,050
70 percent	2,219	5,853	8,072
80 percent	1,556	3,947	5,503
90 percent	688	1,548	2,236
100 percent	1,542	2,522	4,064
Total	61,318	119,833	181,151

Note: Includes corporate data. Previous reports included CPMR only.

Chart 8.—Ten Most Frequent Service-Connected Disabilities for GWOT Veterans
(Both Active Duty and Reserve/Guard)

Diagnostic Code	Diagnosis Description	Count
6260	Tinnitus	57,589
5237	Lumbosacral or cervical strain	50,699
6100	Defective hearing	46,761
9411	Post-Traumatic Stress Disorder	31,465
5260	Limitation of flexion of leg	26,563
5271	Limited motion of the ankle	25,548
5299	Generalized, Elbow and Forearm, Wrist, Multiple Fingers, Hip and Thigh, Knee and Leg, Ankle, Foot, Spine, Skull, Ribs, Coccyx	21,817
5242	Degenerative arthritis of the spine	19,588
7101	Hypertensive vascular disease (essential arterial hypertension)	18,654
5201	Limitation of motion of the arm	17,448

Insurance Program Traumatic Injury Benefit

Traumatic Servicemembers' Group Life Insurance (TSGLI) is a traumatic injury protection rider under Servicemembers' Group Life Insurance (SGLI) that provides for payment to any member of the uniformed services covered by SGLI who sustains a traumatic injury that results in certain severe losses. Through September 30, 2007, 6,739 active duty servicemembers and veterans have applied for TSGLI. Of those, 3,752 were filed by GWOT veterans, and 2,008 of those received benefits.

Chart 9a.—GWOT Veterans Who Applied for TSGLI Benefits
(by Age)

Age Group	Reserve Guard	Active Duty	Total
Under 20	—	1	1
20–29	602	1,412	2,014
30–39	560	395	955
40–49	494	86	580
50–59	178	2	180
60–69	17	—	17
Unknown	—	5	5
Total	1,851	1,901	3,752

Note: The totals above reflect veterans whose claims have been approved, have been denied or are currently pending.

Chart 9b.—GWOT Veterans Who Received TSGLI Benefits
(by Age)

Age Group	Reserve Guard	Active Duty	Total
Under 20	—	1	1
20–29	326	948	1,274
30–39	240	262	502
40–49	136	52	188
50–59	39	—	39
60–69	1	—	1
Unknown	—	3	3
Total	742	1,266	2,008

Chart 10a.—GWOT Veterans Who Applied for TSGLI Benefits
(by Gender)

Gender	Reserve Guard	Active Duty	Total
Female	98	48	146
Male	1,745	1,846	3,591
Unknown	8	7	15
Total	1,851	1,901	3,752

Note: The totals above reflect veterans whose claims have been approved, have been denied or are currently pending.

Chart 10b.—GWOT Veterans Who Received TSGLI Benefits
(by Gender)

Gender	Reserve Guard	Active Duty	Total
Female	25	29	54
Male	715	1,232	1,947
Unknown	2	5	7
Total	742	1,266	2,008

Home Loan Guaranty Program

VA's home loan guaranty program has been helping veterans purchase homes for more than 60 years. VA guaranteed home loans are made by banks and mortgage companies to veterans, servicemembers and eligible reservists. With VA backing a portion of the loan, veterans can receive a competitive interest rate without a down-payment, making it easier to buy a home.

This benefit can be used more than once if needed to (1) refinance an existing VA guaranteed loan at a lower interest rate or (2) to purchase a home that will again be used as the person's primary residence (eligible to do this normally after paying off any previous loans).

Chart 11.—Home Loan Guaranty Program Participation by GWOT Veterans

	Reserve Guard	Active Duty	Total
GWOT Veterans with VA Loan	100,190	73,588	173,778
Total Loans Made to GWOT Veterans	154,730	108,826	263,556
Dollar Amount of All Loans to GWOT Veterans	\$17,502,831,170	\$13,571,983,255	\$31,074,814,425

Education Programs

The chart below reflects participation by GWOT veterans in VA education benefit programs since September 11, 2001. Participants may have been entitled to more than one benefit. For example, a reservist may have received Chapter 1606 benefits until he or she became eligible to receive Chapter 1607 benefits. This participant would be reported in both columns in the chart below.

Chart 12.—Education Program Participation Among GWOT Veterans Since September 11, 2001

Type of Training	Chapter 30	Chapter 1606	Chapter 1607	Total
Graduate	6,509	5,867	3,292	15,668
Undergraduate	59,894	71,796	22,443	154,133
Junior College	73,355	47,657	12,111	133,123
NCD	17,213	6,920	2,426	26,559
Total	156,971	132,240	40,272	329,483

Montgomery GI Bill Active-Duty (Chapter 30) provides up to 36 months of education benefits for degree and certificate programs, flight training, apprenticeship/on-the-job training, and correspondence courses. Generally, benefits are payable for 10 years following release from active duty.

Montgomery GI Bill Selected Reserve (Chapter 1606) provides up to 36 months of education benefits to members of the Reserve elements of the Army, Navy, Air Force, Marine Corps, and Coast Guard, and members of the Army National Guard, and the Air National Guard. This benefit may be used for degree and certificate programs, flight training, apprenticeship/on-the-job training, and correspondence courses. Benefits generally end the day a member separates from the Selected Reserve or National Guard. For those who are activated, eligibility is extended beyond separation for a period of time equal to time served on active duty plus 4 months.

Reserve Educational Assistance Program (REAP) (Chapter 1607) provides educational assistance to members of the Reserve components called or ordered to active duty in response to a war or national emergency as declared by the President or Congress. This new program makes certain reservists who were activated for at least 90 days after September 11, 2001, eligible for education benefits or eligible for increased benefits.

Vocational Rehabilitation and Employment (VR&E) Program (Chapter 31)

Chart 13.—VR&E Activity Among GWOT Veterans

(Includes participation either prior to and following GWOT deployment)

Current Case Status	Reserve Guard	Active Duty	Total
Applicant	375	830	1,205
Employment Services	134	367	501
Evaluation and Planning	1,018	2,263	3,281

Chart 13.—VR&E Activity Among GWOT Veterans—Continued
(Includes participation either prior to and following GWOT deployment)

Current Case Status	Reserve Guard	Active Duty	Total
Extended Evaluation	165	352	517
Independent Living	45	57	102
Interrupted	253	667	920
Rehabilitation to Employability	1,938	5,876	7,814
Unknown	85	23	108
Current Participants	4,013	10,435	14,448
Rehabilitated	688	730	1,418
Discontinued	287	292	579
Total VR&E Participants	4,988	11,457	16,445

Applicant: A veteran's case is assigned to applicant status when the VA receives an application (VAF-1900) for services under Chapter 31.

Evaluation and Planning: Determination of feasibility of a vocational goal and/or evaluation of the veteran's ability to function independently within the veteran's family and community.

Extended Evaluation: Determine the current feasibility of the veteran with a serious employment handicap to achieve a vocational goal.

Rehabilitation to Employability: Services and training necessary for entry into employment in an identified suitable occupational objective.

Independent Living Program: Services that are needed to enable a veteran to achieve maximum independence in daily living, including home accommodations, counseling, and educational services, as determined necessary.

Employment Services: Services to assist in obtaining and/or maintaining suitable employment.

Rehabilitated: The goals of a rehabilitation/employment/independent living program have been substantially achieved.

Interrupted: Temporary suspension of the program warranted due to a veteran's individual circumstances.

Discontinued: All services and benefits are terminated.

Serious Employment Handicap: A significant impairment of a veteran's ability to prepare for, obtain, or maintain employment, as determined by a VA counselor.

Sources

DOD

- Defense Manpower Data Center (DMDC) East, cumulative count of servicemembers deployed to OEF/OIF from September 11, 2001 through May 2007.
- DMDC West, extract of OEF/OIF servicemembers discharged to civilian status from September 2001 through May 2007.
- The DMDC list of 754,911 deployed GWOT veterans represents 49 percent of the cumulative deployed GWOT servicemember population of 1,552,408 through May 2007.

VBA

- Beneficiary Identification and Records Locator Subsystem (BIRLS), as of the end of the month September 2007.
- Compensation and Pension Master Record (CPMR), active records ("A" type) as of the end of the month September 2007.
- CPMR, terminated records ("E" type) as of the end of the month June 2007.
- Corporate records as of September 30, 2007.
- Pending Issue File (PIF), as of the close of business on September 29, 2007.
- Vocational Rehabilitation and Employment Service Chapter 31 file, as of the end of the month September 2007.
- Loan Guaranty data, as of October 4, 2007.
- TSGLI file, as of September 30, 2007.
- Education Service data, as of the end of September 2007.

Questions

Questions may be referred to the Office of Performance Analysis and Integrity at (202) 461-9040.

Question 1(b). What is the current protocol for producing such aggregated information when requested by Congress?

Response. VA will provide all available information whenever requested by a Member of Congress.

Question 2. Bonuses Issue—I thank Chairman Akaka for his leadership on requesting Secretary Nicholson to provide further thoughts on last year's bonus awards paid to senior personnel at the VA. His staff's analysis of these bonuses showed that they appeared to be distributed unevenly and in some cases rewarded questionable performance, for example performance that led to the serious budget shortfalls in 2005. What do you think are fair criteria to apply when considering bonus awards for senior staff at the VA?

Response. VA bonus process is based on meaningful performance measures established each year and reviewed by the Deputy Secretary of VA on a monthly basis. These monthly reviews enable VA to monitor its organizational performance and determine appropriate recognition for the senior executives.

Each senior executive has a performance plan with objective and quantifiable measures that are tied to organizational performance, and their performance is evaluated against these criteria. Supervisors make recommendations on employees' performance awards (bonuses). These recommendations are forwarded to the performance review board (PRB) for further evaluation. The PRB is responsible for ensuring that bonuses recommended for senior executives are based on individual and organizational performance.

The Government Accountability Office and Office of Personnel Management (OPM) recently conducted reviews on VA's senior executive service performance management system. These reviews indicated that VA's system complied with all statutory and regulatory requirements and was comparable to that used in most Cabinet-level Departments. OPM made several recommendations to improve the process and VA has accepted these recommendations and is implementing them. These initiatives will strengthen VA's ability to set challenging, measurable performance standards, evaluate performance against these standards, and provide meaningful and appropriate recognition.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. JOHNNY ISAKSON
TO HON. DANIEL L. COOPER, UNDER SECRETARY FOR BENEFITS, DEPARTMENT OF
VETERANS AFFAIRS

Question. The eArmyU, a Web-based curriculum, is that completely up and operational now and integrated with the VA education benefits?

Response. VA Education Benefits and integration with eArmyU. The eArmyU program is an Army variation on Tuition Assistance. EArmyU is an entirely online degree program developed by the Army in July 2000. This program enables members to complete degree requirements using a laptop computer in their spare time. The eArmyU program provides the member with 100 percent Tuition Assistance and has the same limits as the Army's traditional Tuition Assistance Program. A member can utilize the VA tuition top-up and assistance program to supplement their eArmyU benefits once limits within that program are reached.

TUITION ASSISTANCE TOP-UP

In addition to the increase in Tuition Assistance limits, Public Law 106-398 revised chapter 30 to permit VA to issue payment to an individual for all or any portion of the difference between the Tuition Assistance amount paid by the military component and the total cost of tuition and related charges. This provision is called Tuition Assistance Top-up. Top-up is available only to persons eligible for chapter 30. A person who is eligible to receive chapter 30 who is receiving Tuition Assistance from a Reserve or National Guard component, is eligible for Top-up.

Question 2. Does visual acuity of 20/200 or less, or a peripheral field of 20 degrees or less, constitute permanent and total disability in the Social Security Administration?

Response. While we believe you should request a definitive response from the Social Security Administration (SSA), based upon our review of the governing regulations we believe visual acuity of 20/200 or less, or a peripheral field of 20 degrees or less constitutes permanent and total disability for SSA. SSA defines disability as the "inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of

not less than 12 months. . . ." (Social Security Act, 42 U.S.C. § 423(d)). SSA pays only for total disability; it does not offer partial or short-term disability benefits.

SSA defines statutory blindness in sections 216(i)(1) and 1614(a)(2) of the Social Security Act (the Act), as visual acuity of 20/200 or less in the better eye with the use of a correcting lens. SSA uses the individual's best-corrected visual acuity for distance in the better eye when determining if this definition is met. The Act also provides that an eye that has a visual field limitation such that the widest diameter of the visual field subtends an angle no greater than 20 degrees is considered as having visual acuity of 20/200 or less.

Under the SSA's method for evaluating disability, there is a listing of impairments which describes conditions that are considered severe enough to prevent an adult from performing any gainful activity (or would cause a child under the age of 18 to experience marked and severe functional limitations). Visual acuity of 20/200 or less meets the criteria in the listing of impairments under 2.02, loss of visual acuity, where the remaining vision in the better eye after best correction must be 20/200 or less. In addition, a peripheral field of 20 degrees or less meets the criteria under 2.03A; requiring contraction of visual field in the better eye with the widest diameter subtending an angle around the point of fixation no greater than 20 degrees.

Chairman AKAKA. Thank you very much, Admiral.

I see that our distinguished Member from Washington State is here, Senator Cantwell. Welcome, and may I ask her to come to the table and make a few remarks on legislation that she has introduced. So aloha, welcome, and please proceed.

**STATEMENT OF HON. MARIA CANTWELL,
U.S. SENATOR FROM WASHINGTON**

Senator CANTWELL. Thank you, Mr. Chairman. Thank you for this opportunity to testify before the Committee. Good morning to all my colleagues, particularly to my senior Senator, Senator Murray, who we are so proud of for her service on this Committee and her leadership on veterans issues. It is good to see my other colleague from the Northwest, Senator Craig, who also has been very vocal on veterans issues.

I would like to begin by just talking specifically about my legislation, the Montgomery GI Bill for Life Act of 2007, which is S. 1261, and as I said, I would like to thank my colleagues who have already sponsored this legislation, Senator Murray and Senator Brown of the Veterans' Affairs Committee and my other colleagues in the Senate.

For more than 60 years, the GI Bill has opened doors to higher education for millions of servicemembers and veterans who wouldn't otherwise have a chance to go to college, and the GI Bill has provided our country with over 450,000 engineers, 238,000 teachers, and 91,000 scientists. In fact, just to note, in the last several years, the inventor of the silicon chip passed away and I read in his obituary that he also had gone to school on the GI Bill and I thought, what an incredible contribution that he made.

The GI Bill has a tremendous impact, not only in helping veterans go back to school, but transforming America's middle class. The GI Bill has been an important tool in the soldier's transition from military service to civilian life. Now in the 21st century, an environment in which enhanced skills, education, and job training are all critical to employment, we must ensure that veterans always have an open door to education.

It is clear that it is time to modernize the GI Bill to better fit the needs of today's soldiers. According to the Bureau of Labor Sta-

tistics, by 2010, 40 percent of job growth will require some form of post-secondary education. Keeping America's workforce highly skilled and competitive in today's global economy means increasing education opportunities and guaranteeing our troops receive the education benefits they have earned.

The GI Bill provides up to 36 months of college benefits for technical or vocational courses and a host of other training and apprentice programs. To enroll, servicemembers agree, obviously, to a \$100 a month reduction in their pay for the first 12 months of service. That is a total of \$1,200 active duty servicemembers must contribute to this program. And even though that \$1,200 buy-in is non-refundable, active duty participants only have 10 years from the day that they leave the military to use this to advance their education and training. For the Guard and Reserves, they do have a little longer period of time of 14 years.

The Government Accountability Office reported in 1999 that 96 percent of all active duty enlistees enroll in the GI Bill. However, only 57 percent of these enlistees took advantage of their benefits.

In 2003, the Montgomery GI Bill Biennial Report to Congress cites that as this program began, 80 percent of those eligible have enrolled, but only 59 percent have used some or all of their benefits.

Our veterans have already made contributions. Now we must ensure that the veterans have the opportunities in continuing their education.

When our servicemembers leave, obviously, they leave their families, their obligations, their work commitments, and economic difficulties often, I think, get in the way when they return home. Currently, the Veterans' Administration only has a limited amount of discretion in granting extensions to those who are unable to use their benefits due to mental or physical handicaps. This is why the GI benefits should not come, I believe, with an expiration date.

This legislation, the GI Bill for Life Act, would give our servicemembers and veterans who are eligible for the GI Bill an unlimited amount of time to use their earned education benefits by repealing the 10 and 14-year time limits.

Brent Painter, one of my constituents from Washington state who retired from the U.S. Navy, is an example of a servicemember who was not able to use the full GI benefits due to family commitments. Mr. Painter wrote, "While attending college, I had full-time jobs that required travel, so college was set aside until I could be at home. By the time I returned, the benefits had expired, so I never did complete my education. Of course, now you could say I am too old to teach new tricks to, but I really would have liked to have finished and received my degree."

Another veteran from Washington state, Dan Mullen, wrote explaining, "I still have 25 months remaining on education benefits from the GI Bill. However, since it has been over 10 years since I have been discharged from the military, I cannot collect the remaining benefits. This will create hardship for me since I will be required to pay off student loans upon my scheduled graduation later this year."

By removing the time limit, this legislation will make sure that these individuals can get the valuable skills and education training

they need to succeed in life outside the military when it is right for them to do so.

As the first person in my family to graduate from college and going to school on a Pell Grant, I understand the importance of a college education. That is why I believe that the Montgomery GI Bill for Life Act would provide greater access to education and training courses and will increase the participation in the GI Bill.

The American Legion, the Military Officers Association of America, and the VFW support this legislation because I think it gives our veterans the greater flexibility they need to access their educational opportunities.

I thank the Committee for this opportunity.

Chairman AKAKA. Thank you very much, Senator Cantwell.

Now we will return to questions from Members to Admiral Cooper. Admiral, please describe the value of using the National Directory of New Hires data to make initial eligibility determinations for individuals' unemployability rather than using Social Security and IRS matches.

Admiral COOPER. I think the primary value is timeliness when we use it to look at the individual and employability. We have not used it before. We have been using comparisons with Social Security and IRS. I think that is the primary value, the fact that information is available sooner rather than later.

Chairman AKAKA. And when you say the value is in timing, is that in amount of time that—

Admiral COOPER. Yes, in the amount of time. We usually get the information that we use to compare from IRS and Social Security about 2 years late, and so there is a 2-year lag time. This information, I am not thoroughly familiar with it, but the information that we get would be received in a much shorter time frame.

Chairman AKAKA. I am very concerned, Admiral, about reports of long delays in claims processing for initial GI Bill payments. Some veterans have reported that it can take in excess of 4 months for a claim to be processed and to receive a first check. While I intend to explore this issue in more detail at seamless transition hearings later this year, are there any legislative impediments that need to be removed to expedite processing?

Admiral COOPER. No, sir. At this time, I would say there are not. We were set back a bit with the Reserve program that came in about a year ago and it came in quite quickly, and it took us a while to get a computer program that would help us administer the program. We were doing it by hand. We fell behind. We took some very definite actions, including getting more people. We also set up a telephone center that could take telephone calls so that we could direct more people to adjudicate the claims.

Our average time got as high as about 48 days. We brought that down and, the last I saw, it was about 38 days. We are also doing much better on supplemental claims, the ones that come thereafter. In other words, once you get the initial allowance, then the processing of payments thereafter is now down somewhere in the teens in the number of days.

So we have made definite progress. We saw that problem about a year and a half to two years ago and took some pretty specific action.

Chairman AKAKA. Is there a possibility of decreasing that from 39 days to less?

Admiral COOPER. Yes. I think we will continue to improve that time. We had the setback as we tried to take on the Reserve program that came in, what we call REAP, and we lost a good bit of time in that. But I think we are making progress and do expect to decrease the number of days to process.

As a matter of fact, today, or as of Monday, we were around 30,000 claims pending in education, about 30,000 less than we were last year. So I think there is definitely improvement that we have made.

Chairman AKAKA. Any changes in GI Bill programs must not only be consistent with the Nation's obligations to returning servicemembers and their needs for assistance in terms of readjusting to civilian life, but also sensitive to the military's needs to recruit and retain highly qualified young men and women. Please comment for the record, Admiral, on the legislation pending before the Committee and other GI Bill proposals in terms of this latter consideration. In so doing, we hope that you will consult with and obtain the views of the Department of Defense, as well.

Admiral COOPER. Yes, sir. I think whenever we talk about retention, the effect on retention and enlistment, we always attempt to work with OSD and find out how they feel about the effect.

Chairman AKAKA. Before I turn it over to Senator Craig for his questions, has the continuation of the Persian Gulf War as a period of war for purposes of Title 38 caused any difficulty in working with data from the current conflicts? I want to let you know that I note that the lack of readily available data from VA on the impact of the current conflicts on VA's ability to deliver timely services and benefits has been the source of some concern in Congress.

Admiral COOPER. We are starting to get a solid stream of information from DMDC, which is a defense organization, telling us of all those people who are now GWOT veterans. We are using that information and bouncing that against all the claims we have in each of our regional offices. We are then marking those claims that are from GWOT veterans, and, as we have announced, giving them priority over all the claims we have. So we are doing them as fast as we can, making sure that they get that priority. I think you will find that we will be more responsive and have quicker information up here, but it has taken us a good while to get the information necessary to give us a basis.

Chairman AKAKA. Thank you for your responses, Admiral.
Senator Craig?

Senator CRAIG. Mr. Chairman, thank you very much.

Admiral, let me make a statement first and get your reaction to it. There are 26 pieces of legislation before us, all of them presented in the best of intent to benefit our veterans. But let me react this way because I know in your views and estimates they are not yet complete on much of what has been introduced, or some of what has been introduced, because of the short timeline you had to prepare for this hearing.

A decade ago, all of the Members of this Committee, Democrat and Republican alike, signed a letter, and in that letter we said this. There are five of us still serving on this Committee. "In pre-

paring these comments, the Committee's Members have kept in mind the fiscal limitations within which we must operate if we are to get Federal spending under control and thereby reduce the Federal deficit and debt. We believe that the government can be fiscally responsible while still fulfilling its commitments to those deserving among us, including our Nation's veterans. We also are mindful of the fact that the uncontrolled Federal spending threatens the long-term health of the Nation's economy and, in turn, could adversely affect the provisions of veterans benefits. Thus, we recognize that those who have worn the uniform in defense of this Nation seek, as we do, to protect the health of the Nation's economy."

From that time forward, we have done a mighty job here. We have increased spending almost 10 percent a year for veterans. We are verging on a \$100 billion budget. We have recreated a health care system that is now second to none in the Nation by all outside and private estimates, something I think we can all be proud of. We have tackled challenges faced by incoming veterans from Afghanistan and Iraq, and while we will all argue here and there that pieces of that service may not be as good as it should be, it is so much better than it has ever been before, and I think that is something we can all be proud of.

My concern, whether it is my legislation or any of my colleagues who have introduced any of the 26 pieces of legislation on today's agenda, I asked my staff to do kind of a guesstimate, because some of these programs are readjustments, others are new spending. But our guesstimate is that this 26-bill package represents about \$100 billion of new spending—\$100 billion of new spending, potentially. That is a lot of money. And that is considering the readjustments of existing programs and certainly the adding, and I am not blaming anybody here. I am part of that with my six pieces of legislation.

Has VA yet pushed the total button on these 26 bills to determine their cost if they were to become law?

Admiral COOPER. No, sir, we have not. The last set that we got on Thursday or Friday, we haven't looked at at all, and I frankly did not try to estimate a total amount on these bills.

Senator CRAIG. OK. Some of the bills on today's agenda, and indeed some of the legislation that has been enacted in the last several years, have as their purpose providing government assistance to severely injured servicemembers and family members when they need it most by eliminating legal distinctions between benefits based on active duty status and veteran status. In testimony submitted by Ms. Beck of the Wounded Warrior Project, she recommends a blanket overlap of benefits provided by both DOD and VA to target groups of servicemembers and retired veterans. What do you think of that idea?

Admiral COOPER. I am not sure that I understand what you mean by a blanket group of benefits. There are some things that we are doing right now in which we try to make sure that those who are eligible for such things as education for their children and adaptive housing have their eligibility established while they are on active duty.

Senator CRAIG. It is explained to me, at least as we understand it, it is a crossover between some of those on active duty who can't benefit from veterans programs and some in veterans status that cannot benefit from active duty programs, and I will give Ms. Beck an opportunity to explain that. I was seeing whether you had a view of it as it relates to overlap—

Admiral COOPER. No. We consistently look to see what we can do, and, as I was saying, with special adaptive housing in particular, we try to establish eligibility while they are on active duty and get them the housing properly adapted so that, even while they are on active duty, they can live in the housing if necessary and have that special adaptation.

We also have been working to get them signed up for programs such as vocational rehabilitation. One of the things that we have tried to do with the seriously wounded is to work closely with them while they are at Walter Reed or any one of the MTFs so that we can have the compensation package ready the day they are discharged from the service and we get the DD-214, which is their discharge paper, they can immediately start accruing their disability compensation. So 30 to 40 days later, they are able to start getting that pay.

We have attempted to do everything we can, particularly with the seriously wounded, ahead of time—adaptive automobile equipment, that sort of thing, TSGLI, as you well know. So I think we have tried to be cognizant of that. There may be some things we still need to do, but we have certainly attempted to think along that line.

Senator CRAIG. OK.

Admiral COOPER. And I will say we are working much more closely in the last few years with OSD to see that we have one individual who is a serviceman now and will be a veteran to try to ensure we are doing some of these things. Some things we are not doing well yet, but we are certainly working on it.

Senator CRAIG. Admiral, thank you. My time is up.

Thank you, Mr. Chairman.

Chairman AKAKA. Thank you very much, Senator Craig.

Senator Webb?

Senator WEBB. Thank you, Mr. Chairman.

Admiral Cooper, with respect to the language in your testimony on S. 22, the GI Bill that I proposed, I must say that I am a little perplexed. Just going through a summary of the page that I have in front of me, we are talking about the eligibility criteria being more complex in entitlement determinations, highly complex, difficult for individuals to understand. Benefits payable at varying levels for different institutions make the program cumbersome, would complicate administration and tax VA resources. It is a labor-intensive process. We are unclear what effect this ability would have on recruiting and retention, which I want to get back to. Significant administrative costs, technological changes, et cetera.

The reason I am perplexed is that this is an almost identical bill to what came out of World War II, and I cannot imagine the VA at the end of World War II, when they were faced with 12 million people coming out of the military and were asked to implement a

program which was identical to this in terms of how educational institutions were being paid, how entitlements were being compiled, I can't imagine that the VA would have said, well, this is complex. I think they would have said, this is a benefit that our people have earned and we are going to find a way to help them get it if this is the law that the Congress passes.

I can't help but wonder whether the attitude of this Administration is basically, thank you for serving, but when you leave, you are a second-class citizen. You are not going to get the same kind of benefit as people who gave service during World War II, particularly when we start talking about how this might affect retention. What is the implication here, that we are going to reward people too much? I would like your comments on that.

Admiral COOPER. First, let me say I don't think there is anybody that doubts the wonderful things done by the GI Bill and the fact that it set the basis for our economy today. I certainly cannot refute things that are in here as being good. I will say that, predicated on bills or the things we are executing now, this is a much more complicated bill and it would take us a while to get this right, and that is one of the things that I am very concerned about. I think there are some things here that the various staffs should talk about so we can try to figure out how to do it right as it comes.

I can't talk about what the effect is on retention. I don't have that information. But let me assure you, anything that is good for the veteran, I certainly would not oppose, and we would certainly do what we could. That does not alter the fact that this would be a very difficult bill as it is right now. It is difficult for us to understand completely how we would administer it. I can't refute what we have said here. We were not able to estimate it predicated on the information we have.

Senator WEBB. Well, first of all, with respect to retention, it is a part of your testimony that "this may lead to lower reenlistments." I know that has been—

Admiral COOPER. I don't have—

Senator WEBB [continuing].—that has been some of the language that we have been hearing unofficially from DOD, and with all due respect, as someone who has worked in manpower a good part of my life, I think this would broaden the enlistment base. And the other part of that is just an equity part of it, that we can't really say that because you are going to give someone a true shot at a future so that they might leave the military, that that is a bad thing in and of itself.

And in terms of cost, we have to come back to the premise that veterans benefits, and particularly readjustment benefits, are very much a cost of war. They are the cost of war. This is not like a lot of other programs that are up here. We have to help people transition back into their civilian environment.

Admiral Cooper, did you use the GI Bill?

Admiral COOPER. Say that again?

Senator WEBB. Did you use the GI Bill?

Admiral COOPER. No, sir.

Senator WEBB. How did you receive your commission?

Admiral COOPER. From the Naval Academy.

Senator WEBB. So the goodness of the U.S. Government gave you an education?

Admiral COOPER. It certainly did, yes, sir.

Senator WEBB. And I would, having gone to the Naval Academy, I would surmise—I don't know what the number is today, but if we looked at the overall budget of the United States Naval Academy in order to put out approximately 900 graduates a year, the cost that has been incurred to the American taxpayers dwarfs what we would be paying to help these people get the kind of education that they have earned, in many cases, on the battlefield.

Mr. Thompson, did you use the GI Bill?

Mr. Thompson. No, sir, I did not.

Senator WEBB. Did you serve?

Mr. Thompson. I served in the Reserves.

Senator WEBB. All right. Thank you, Mr. Chairman.

Chairman AKAKA. Thank you.

Senator Murray?

Senator MURRAY. Thank you, Mr. Chairman.

We are here to talk about a number of important bills. I would be remiss, however, if I didn't ask you about a couple of other questions, Secretary Cooper, while you are here, and one of them is the issue of VA bonuses. I am hearing from a number of our soldiers who have returned home who can't get their benefits because of a backlog at VA, so they are literally going for months without any kind of income because of that backlog. So when they hear about a senior VA official getting a bonus while they can't even get a benefit to keep them in their home or feed their family, it is pretty disturbing.

I would say it is especially disturbing to those of us who worked very hard several years ago, myself, Senator Akaka, and others, because of the inaccurate information we got from the VA about how much money was available for the VA and we had to go to the floor and fight for additional dollars that were desperately needed within the VA because of bad budget work, to find out that those budget officials received a bonus is pretty disturbing to us. So I would like your comments this morning on the justification, if you could for a minute, about the bonuses that we are hearing about.

Admiral COOPER. I do not feel capable of really discussing it in detail. However, I will say that we very carefully follow the guidelines as laid down by OPM. We have several boards that review these people and, of course, the ultimate decision is made by the Secretary. But we have very good people at high levels who are working on these very problems, and as it becomes more complicated and we have more veterans coming in and we have more benefits that we adjudicate, it is very important that we get people, the best people we can, and we have some very strong, very good people working at the VA at those senior positions.

And so I would merely say that sometimes in order to keep them, you want to ensure that they are not drawn out by groups particularly here in Washington that are looking for very talented, high-level, intelligent people. And so I would say that the people who got those bonuses with all the work that they did, that those bonuses were justified and they certainly went through a very careful screening process.

Senator MURRAY. It is hard for us to understand. We don't know all the details yet, and I know, Mr. Chairman, you are looking at this, as well, but certainly for those budget officials who were giving inaccurate information, it is——

Admiral COOPER. Yes, ma'am.

Senator MURRAY [continuing].—deeply disconcerting to us and we are going to follow up with that.

The other question I wanted to ask while you were here is that at the President's request, the Veterans Affairs Secretary released a report recently on ways to improve the transition from the Pentagon to the VA, a critical issue we are all following very carefully. There were some good ideas in that report, but I was pretty troubled that the President limited that task force to improvements that could be made within the authority of the individual departments or agencies using existing resources. That is like saying, tell us how we can fix the problem but leave out anything that costs money or requires new authority.

I am very concerned that a lot of really important information in this very critical issue about how we transition these soldiers in a better way to serve them are being left out because of that. I would just like to hear your comments. Are there things being left out of this report because of those limitations?

Admiral COOPER. I have read the Task Force Report by Secretary Nicholson and its recommendations are within the guidelines that you mentioned. However, there are about four or five separate outfits looking at things. One of the primary ones is that headed by General Scott, the President's Commission on Benefits, which has been meeting now for about 2 years and comes out with a report in October.

Senator MURRAY. Correct.

Admiral COOPER. There is also the report that is done by Mr. West and Mr. Marsh in looking quite specifically at the Army and at Walter Reed. There is a third group headed by Senator Dole.

Senator MURRAY. Correct.

Admiral COOPER. All of those together, I think, will cover——

Senator MURRAY. I am aware there are a lot of different reports out there, but it was very troubling to me that there was this approach of if it requires new authority or new money, we are not going to do it. I think we are in a bind right now because we haven't been looking at all the options. Mr. Chairman, I just want it noted on the record, I am looking——

Admiral COOPER. Yes, ma'am, and I think you will find, for instance, in my administration we have asked for more people, to get them aboard and get them trained and I have tried to hire them early because it takes a discrete amount of time to get them trained. So we are trying to look at some of those things and do as you say.

Senator MURRAY. I appreciate that very much.

And finally, if I could just ask real quick on the MS bill. You talked about it in your testimony. But because the symptoms of MS do not manifest themselves for many years, veterans can have the disease and not know it. We have a lot of issues going on with Traumatic Brain Injury and a lot of other things that people are looking at oftentimes that are missed. What do you tell a veteran

who is diagnosed 7 years and 1 day after they conclude their service and are denied their benefits, because believe me, I have talked to those people?

Admiral COOPER. I think every time we look at a presumptive or at something that takes a certain amount of time to manifest, we have tried to have a very careful procedure where we go to the National Science Foundation, the Institute of Medicine, and have them do a study. It takes some time but at least gives a very real basis for us to determine just how long we should allow this thing to manifest, and that is the best answer I can give you, trying to do it that way each time.

Senator MURRAY. In 2004, a report by the Research Advisory Committee on Gulf War Veterans Illnesses, it was a group created by Congress and appointed by Secretary Principi back in 2002, recommended to the VA that they do do a study on the prevalence of MS in Gulf War. Has that been done?

Admiral COOPER. I am sorry, I cannot answer that. I will take it for the record.

Senator MURRAY. I would appreciate a response back on that.

Admiral COOPER. I just don't know.

Senator MURRAY. OK. Thank you, Mr. Chairman.

Chairman AKAKA. Thank you very much, Senator Murray.

Senator Isakson?

Senator ISAKSON. Thank you very much, Mr. Chairman.

I have been interested in what Senator Webb was talking about in terms of education, but I want to go to something that has been done in the most recent years. eArmyU is completely up and operational now, is that not correct, the online, Web-based curriculum?

Admiral COOPER. I can't answer that question.

Senator ISAKSON. OK. Well, that is a DOD—

Admiral COOPER. Yes, sir.

Senator ISAKSON [continuing].—not a Veterans Affairs, but to make the point, because higher education is critical, with the development of eArmyU back in 2002–2003, if I am not mistaken now, active duty or Reservists who have been called up for active duty can go online to 34 different universities in the United States that cooperate through eArmyU and get a Bachelor's, and in some cases post-secondary credit and degrees while on active duty and while in service.

I do not know whether that provision was extended. It was not, in its inception, extended to veterans—

Admiral COOPER. Yes, and I am not aware that it—

Senator ISAKSON. I don't think it is, but that might be something we take a look at. Senator Bob Kerrey and I developed that program out of the Web-Based Education Commission back in 1999, and what you might take a look at is if that provision could be transitioned to be both in DOD and available to qualified veterans, you are meeting the intended goal of the Senator from Virginia and you are using existing investment of over a billion dollars, which is what it took to put that in place, so I just share that with you and with the Senator from Virginia as a partial solution to that issue.

Admiral COOPER. If you will let me, I will look into that and try to find out about it because I just can't talk about it.

Senator ISAKSON. That might be a good way to thread that needle—

Admiral COOPER. Yes, sir.

Senator ISAKSON [continuing].—and address the cost issue.

Secondly, on concurrent receipt, which you don't hear much about anymore, but we are, I guess, in year six of the phase-in of concurrent receipt legislation that we passed, and to the credit of the Administration, it must be going well because my mail and complaints have dropped to next to nothing. Am I correct that it is going well?

Admiral COOPER. You are correct, it is going well. We are still working carefully with DOD on the back pay. As you remember, there were two separate bills passed—

Senator ISAKSON. Yes.

Admiral COOPER [continuing].—and so you have this problem of the two separate bills and we are working closely with Defense DFAS, Defense Finance Group, to get the back pay to the people from the time that the claim was made or whatever it goes back to. I forget what the dates are.

As far as the ongoing signing up for those particular items, that appears to be going quite well and I have heard nothing bad about it.

Senator ISAKSON. And, I might add, that is a \$22 billion investment over full implementation, as I understand it in the change that was made.

Admiral COOPER. Sure.

Senator ISAKSON. I credit Mike Bilirakis with that vision in the House.

With regard to Senator Akaka's bill, S. 1163, which I am supportive of and have cosponsored, I would like for you to find out something for me. I don't know that you would know it or not, but in your written testimony, it says visual acuity of 20/200 or less or a peripheral field of vision of 20 degrees or less, even when present in both eyes, does not warrant a total disability rating. It is my understanding, but I don't say I know it for a fact, that is the accepted definition for a total disability in other disability benefit programs, so I would like to know if that is correct, and if it is correct, what the difference is in your interpretation.

Admiral COOPER. Let me get back to you on that. The total disability when you talk about housing is very definitive, so let me get back to you on that particular question, if I may.

Senator ISAKSON. I would appreciate it, because I think Senator Akaka has raised excellent points and I know you have expressed support for parts of that legislation, but I have a particular interest in that component and would like to know an answer, so I will be happy for you to get back to me on that.

Admiral COOPER. Yes, sir.

Senator ISAKSON. Thank you, Mr. Chairman.

Chairman AKAKA. Thank you very much.

Senator SANDERS?

Senator SANDERS. Thank you very much, Mr. Chairman.

There are four issues that I want to cover that are in the legislation that we have introduced, but before I do, I very briefly want to comment on Senator Craig's statement a moment ago. All of us

are concerned about the deficit and the national debt. Everybody up here is. I would simply point out that repealing the inheritance tax, which the President and many in this body want to do, cost us about \$1.5 trillion over a 20-year period. All the benefits go to the wealthiest three-tenths of 1 percent. But if we can provide \$1.5 trillion for the wealthiest three-tenths of 1 percent, I would respectfully suggest we have enough money to take care of our veterans.

Mr. Chairman and Admiral Cooper, let me ask you a few questions. As you know, disability compensation and dependency and indemnity compensation rates have historically been increased each year to keep these benefits even with the cost of living. However, as a temporary measure to reduce the budget deficit, Congress enacted legislation to require monthly payments after adjustment for increases in the cost of living to be rounded down—to be rounded down—to the nearest whole dollar amount. The Independent Budget expresses concerns about that. That seems to me a nickel-and-dime way of saving money on the backs of our benefits. In other words, if somebody gets a benefit of \$2,988.98, you keep the 98 cents, the veteran doesn't get that. Do you think we could do away with that?

Admiral COOPER. Senator, that is a law that Congress has passed.

Senator SANDERS. Well, my legislation repeals that law. Will you support it? Do you think we should nickel and dime veterans while we give tax breaks to billionaires?

I would hope—

Admiral COOPER. It sounds logical to me.

Senator SANDERS. Thank you. The other issue I want to talk to you is about plot allowances.

Admiral COOPER. About what?

Senator SANDERS. Plot, burial plot allowances. In 2001, the plot allowance was increased for the first time in more than 28 years to \$300, from \$150. It was \$150, went up to \$300, which covers approximately 6 percent of funeral costs. The Independent Budget recommends increasing the plot allowance from \$300 to \$745, an amount proportionally equal to the benefit paid in 1973. Do you think the VA can support raising the plot allowance to \$745?

Admiral COOPER. I have no position on that.

Senator SANDERS. Well, my legislation does that and we would look forward to your support on that.

Admiral COOPER. Yes, sir.

Senator SANDERS. In terms of burial benefits, my legislation increases the non-service-connected burial benefit from \$300 to \$1,270. It also increases the service-connected benefit from \$2,000 to \$4,100, which seems to me to be reasonable. I am not quite sure what a funeral costs nowadays, but it costs a heck of a lot more than \$4,100. Do you think we can support something like that?

Admiral COOPER. Again, sir, I have no position. The VA has no position on that.

Senator SANDERS. Well, we have introduced—I thought, Mr. Chairman—

Admiral COOPER. I have not—

Senator SANDERS [continuing].—that this meeting was about getting your thoughts on legislation that people had offered, and this is legislation that we are offering.

Admiral COOPER. I have not had a chance to review that legislation, sir.

Senator SANDERS. Some of our veterans tragically are coming home without the ability to use their legs or their arms, and fortunately, there are automobiles that can be adapted to give them mobility. As you may know, currently, the \$11,000 automobile allowance represents only about 39 percent of the average cost of a new automobile, which is close to \$28,000. Is that enough help for our veterans, is the question. My legislation would, in fact, enable those veterans who would like to be mobile—I am sure all of us want them to be mobile—to be able to buy the automobile that gives them mobility, which is about \$22,000. Is that something that the VA would support?

Admiral COOPER. Again, I cannot give you a position right now. I haven't seen that bill.

Senator SANDERS. Well, Mr. Chairman, I would hope that the VA will be supportive. We look forward to talking to you about these provisions. We should not be balancing the budget by nickel and diming veterans and rounding down the benefits they receive. We should be providing plot allowances which are somewhat realistic, burial benefits which are somewhat realistic, and it seems to me that if a veteran comes home without use of their arms or their legs, we owe it to them to do the best that we can to make them mobile and provide them with an automobile that gets them around. I hope that you would be supportive of that.

Admiral COOPER. Yes, sir.

Senator SANDERS. Thank you, Mr. Chairman.

Chairman AKAKA. Thank you very much, Senator Sanders. Senator Tester?

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

Senator TESTER. Thank you, Mr. Chairman. I appreciate the hearing and appreciate you gentlemen being here today.

I think Senator Sanders brings up a point on a bunch of different levels that I would like to just follow up on very, very briefly, and that is that as I was reading through your document, Admiral Cooper, there were some bills that you said you supported and some bills that you didn't support. I would love, if you guys could do this, I would love to have a document that said which ones you supported and which ones you opposed and why. I think it is important. You folks have got your hands in the dirt, so to speak. You are in the field. You are doing the work. I would just love to know why you would support or why you would oppose a certain initiative, policy decision. I think it is important for us to make good decisions.

Admiral COOPER. Yes, sir.

Senator TESTER. Thank you, if you can do that.

The other issue that I want to just talk about more globally is the issue of accessibility. There are a lot of good bills here, some of them I have signed on to, some I haven't, but I think they all

have merit, depending on your perspective. The issue of accessibility, though, is an issue that I continually hear about when I am in the field, having field hearings with veterans throughout the State of Montana. And as I have told you before—I think I have told you this before, if I haven't I will tell you now—it is getting through the door that tends to be a big problem out in the field.

So the question I have is that, if you were in our position, assuming that you realize that is a problem, and you may not agree with that, and that is fine if you don't, just tell me, what would you do to improve a veteran's accessibility to the system? In other words, if they have a problem and they need the care, what can we do to get them through the door quicker and more timely?

Admiral COOPER. Are you asking about health care? Is the major subject health care?

Senator TESTER. Yes.

Admiral COOPER. Could I leave that to my Under Secretary for Health?

Senator TESTER. Absolutely.

Admiral COOPER. If I may, please, I would like to defer to him.

Senator TESTER. That would be fine. Absolutely.

Admiral COOPER. As far as I am concerned for benefits, as I mentioned before to Senator Murray, we are doing everything we can to get more people to help us do claims and get our time down. But I am afraid I can't talk to you about the health benefits at the hospitals and—

Senator TESTER. That is fine. That is not a problem.

As long as I can get somebody to answer the question, it would be fine.

Admiral COOPER. I believe—

Senator TESTER. I am not trying to be critical. What I am trying to do is let you understand that that is what I hear about most.

Admiral COOPER. That is a very important subject and I know that they are attacking it, but I just can't answer it.

Senator TESTER. That is fine.

The last thing is, and I am just going to say this because I happen to be on Senator Webb's bill, I think it is important that the VA understand that we are in a different time now. I know the Senator from Idaho talked about a letter that they had written. I believe that letter was before the Gulf War and Afghanistan War. We are in a different time now and we have got different needs than we did five, six years ago. I think part of the cost of war that has been pointed out by this panel many times, and part of what is going to help you with recruitment, not detract from it, is that we give the kinds of benefits that are expected.

And I would just say that I don't know what is going to happen with a lot of these bills, but I think it is incumbent upon you to make sure that they work, because we can pass all we want, and if the agencies don't want to make them work, they won't work.

Admiral COOPER. I will guarantee you that anything that is passed that comes to me, I will do everything possible to make it work.

Senator TESTER. Thank you.

Admiral COOPER. Sometimes you get a blip. Sometimes we don't do it quite right the first time. But I will guarantee you that we will do everything to make it work—

Senator TESTER. I appreciate that. Thank you very much. Thank you, Mr. Chairman.

Chairman AKAKA. Thank you very much.

Because we anticipate a series of votes beginning at 11:30, I would like to go to the second panel. But before I do that, Senators Sanders, Isakson, Webb, Tester, if any of you have any questions that you want to ask the Admiral, will you please do that at this time.

Senator SANDERS. Thank you very much, and I will be very brief because we want to hear from the veterans groups. I would just reinforce what Senator Webb and Senator Tester and others have said. I hope that you trust that some of us are not happy with the way the VA, over the years, has treated our veterans and that today, with so many wounded in Iraq, with so many coming back with PTSD and TBI, there is an incredible responsibility on your shoulders to do the right thing. I would hope that you will work with us and go forward in terms of educational opportunities and the other benefits that our veterans need. Some of us are going to be pretty persistent on that.

And again, we think that in the wealthiest nation in the history of the world, some of us are not going to turn our backs on veterans anymore and we are going to demand that there is adequate funding and we are going to demand that the VA accepts the responsibility that has been given to them and does the quality of work that needs to be done.

Thank you.

Senator WEBB. No, Mr. Chairman. I would just like to say that I appreciated Admiral Cooper's testimony and I hope we can keep working on that.

Just one final sentence on the complexity of the bill. It was the bill in the 1940s, and having worked in the veterans areas every day for 4 years at one point in my life, the Montgomery GI Bill was pretty complex when we started trying to look at how that might be implemented. I hope that in good spirit, the Administration will look at this in terms of how we really should be rewarding the people who have stepped forward. It is a very small percentage of the country that has done this and they deserve the right to have as big a future as they can go on and get. That is my only motivation in proposing the bill.

Admiral COOPER. And if it comes, I will guarantee you we will execute it.

Senator WEBB. We would like to see the Administration be a little more encouraging on the fact that it might take place.

Thank you, Mr. Chairman.

Chairman AKAKA. Thank you very much.

Any further comments? Thank you very much. Thank you, Admiral, for being here today.

Admiral COOPER. Yes, sir.

Chairman AKAKA. I want to welcome the representatives of the veterans service organizations to our panel today: Meredith Beck of the Wounded Warrior Project, Carl Blake of the Paralyzed Vet-

erans of America, Eric Hilleman of the Veterans of Foreign Wars, Kimo Hollingsworth of AMVETS, Brian Lawrence of the Disabled American Veterans, Robert Norton of the Military Officers Association of America, and Alec Petkoff of the American Legion.

I thank you all for appearing before the Committee today. Of course, your full statements will appear in the record of the hearing.

Will you please proceed in the order in which you were introduced? I call first on Meredith Beck for your statement.

**STATEMENT OF MEREDITH BECK, NATIONAL POLICY
DIRECTOR, WOUNDED WARRIOR PROJECT**

Ms. BECK. Yes, sir. Mr. Chairman, Members of the Committee, thank you for the opportunity to testify before you today regarding pending benefits legislation. My name is Meredith Beck and I am the National Policy Director for the Wounded Warrior Project, a nonprofit, nonpartisan organization dedicated to assisting the men and women of the United States Armed Forces who have been severely injured during the current conflicts.

Beginning at the bedside of the severely wounded, WWP provides programs and services designed to ease the burden of these heroes and their families, aid in the recovery process, and smooth their transition back home. As a result of our direct daily contact with these wounded warriors, we have gained a unique perspective on their needs and the obstacles they face as they attempt to reintegrate into their respective communities.

Due to our limited time today, I would like to submit my prepared testimony for the record and limit my oral comments to three pieces of legislation that are of particular interest to our newest generation of wounded warriors.

First, WWP strongly supports S. 225, sponsored by Senators Akaka and Craig, to expand the number of individuals who qualify for retroactive benefits under the Traumatic Servicemembers' Group Life Insurance. As an organization, one of our proudest achievements in assisting wounded servicemembers was the role we played in the creation of this program to provide timely payments up to \$100,000 to servicemembers who incurred certain devastating injuries. This new insurance program has in most cases become the intended financial bridge from the time of injury until the warrior is eligible for VA benefits.

While WWP is very pleased with the overall implementation of the TSGLI program, S. 225 would correct one major inequity. As currently written, the regulation governing the program dictates that in order for a retroactive injury to be covered, it must have been incurred in Operations Enduring Freedom or Iraqi Freedom. While those who are injured after December 1, 2005, are potentially eligible regardless of where their injury occurred. By limiting the retroactive payments based on location and date, the regulation has disqualified a number of traumatically injured servicemembers from payment.

WWP believes that the same criteria that apply to prospective injuries should apply to retroactive injuries to October 7, 2001, the date on which the conflict in Afghanistan began. It is unfair to deny retroactive payments to those who have suffered the same

grievous injuries during the same conflict based on the location where the traumatic event and the date on which it occurred. Without corrective action, brave men and women who were traumatically injured after October 7, 2001, and before December 1, 2005, will continue to be denied the same retroactive payment given to their wounded comrades even though the Servicemembers' Group Life Insurance for which TSGLI is a rider was made wholly retroactive.

Brave men and women like Navy SEAL Toshiro Carrington, who is here with us today, and who was injured in a training accident in December of 2004. He was holding a charge in his left hand when another servicemember accidentally detonated it. SO1 Carrington was left with a traumatically severed left hand, a severed right tip of his thumb, and his remaining fingers were all fractured. Unfortunately, Toshiro's severe injuries did not qualify him for payment under TSGLI because he was in the United States when the incident occurred.

Another servicemember, Seaman Robert Roeder, was injured in January 2005 when an arresting wire on the aircraft carrier the U.S.S. *Kitty Hawk* severed his left leg below the knee. Seaman Roeder was on his way to the Gulf of Arabia when his injury occurred during flight training operations. Although the ship was on its way to the Gulf and training exercises being conducted were in preparation for action, Roeder's injury does not qualify him for payment under the law as written because he was not actually in the AOR.

SO1 Carrington and Seaman Roeder are not the only wounded servicemembers being impacted by the inequity in this regulation. Therefore, we applaud Senators Akaka and Craig for their recognition of the situation and strongly urge Congress to quickly act on S. 225 so that Seaman Roeder, SO1 Carrington, and other wounded warriors like them will not be deprived of this vital insurance program.

WWP also supports both S. 1096, the Veterans Housing Benefits Enhancement Act, a bill that would make wounded warriors with severe burns eligible to receive adaptive housing grants, and S. 1265, a bill that would make wounded warriors who are receiving specially adapted housing assistance while still on active duty also eligible for Veterans' Mortgage Life Insurance. WWP again applauds Senators Cornyn and Craig for recognizing this problem and encourages the swift passage of these measures.

That being said, we would also like to encourage the Committee to address these types of issues on a more comprehensive basis. By expanding eligibility for these benefits to servicemembers who have not yet been officially retired, both of the aforementioned pieces of legislation reflect the reality that many severely injured active duty servicemembers can benefit from VA services but are precluded from doing so simply due to their status in the Armed Forces. At the same time, the Department of Defense offers certain benefits that could greatly assist new veterans still recovering from their severe wounds. The discrepancy in benefits between the two agencies leads to confusion among families who are forced to try to determine what is in the best interest of the servicemember, often without having full knowledge of the difference in the benefits offered to active duty versus veterans.

For example, consider that an active duty patient can be seen at a VA polytrauma to treat his Traumatic Brain Injury. However, while at the VA facility, the servicemember, due to his duty status, cannot enjoy VA benefits such as vocational rehabilitation or independent living services that can help in his recovery if the Veterans Benefits Administration must spend funds to accommodate the need.

Alternately, a medically retired servicemember cannot enjoy, among other things, the benefits of DOD's Computer-Assistive Technology Program because that benefit is only available to active duty servicemembers. While there is an obvious need for an advantage to the active duty service, those who are severely injured as a result of their service in an all-volunteer force deserve special consideration.

Mr. Chairman, thank you for this opportunity to testify and we look forward to your questions.

[The prepared statement of Ms. Beck follows:]

PREPARED STATEMENT OF MEREDITH BECK, NATIONAL POLICY DIRECTOR,
WOUNDED WARRIOR PROJECT (WWP)

Mr. Chairman, Senator Craig, Members of the Committee, thank you for the opportunity to testify before you today regarding pending benefits legislation.

My name is Meredith Beck, and I am the National Policy Director for the Wounded Warrior Project (WWP), a nonprofit, nonpartisan organization dedicated to assisting the men and women of the United States Armed Forces who have been severely injured during the War on Terrorism in Iraq, Afghanistan and other hot spots around the world. Beginning at the bedside of the severely wounded, WWP provides programs and services designated to ease the burdens of these heroes and their families, aid in the recovery process and smooth the transition back to civilian life. We strive to fill the vital need for a coordinated, united effort to enable wounded veterans to aid and assist each other and to readjust to civilian life. As a result of our direct, daily contact with these wounded warriors, we have gained a unique perspective on their needs and the obstacles they face as they attempt to reintegrate into their respective communities.

I would like to specifically address 5 pieces of legislation that are of particular interest to our newest generation of wounded warriors. First, WWP strongly support S. 225, a bill to expand the number of individuals who qualify for retroactive benefits under the Traumatic Servicemembers' Group Life Insurance. As an organization, one of our proudest achievements in assisting wounded servicemembers was the role we played in the creation of this program to provide timely payments up to \$100,000 to servicemembers who have incurred certain devastating injuries. This new insurance program has in most cases become the intended financial bridge from the time of injury until the warrior is eligible for VA benefits.

While WWP is very pleased with the overall implementation of the TSGLI program, S. 225 would correct one major inequity. As currently written, the regulation dictates that in order for a retroactive injury to be covered it must have been incurred, "in Operations Enduring Freedom or Iraqi Freedom". It then defines "in Operations Enduring Freedom or Iraqi Freedom" to mean that the servicemember must have been injured while deployed, "outside the United States on orders in support of Operations Enduring or Iraqi Freedoms or served in a geographic location that qualified the servicemember for the combat zone Tax Exclusion under 26 U.S.C. 211."

By defining "in Operations Enduring Freedom or Iraqi Freedom" as such, the regulation has disqualified a number of traumatically injured servicemembers from payment based solely on their location at the time their injury was incurred. WWP believes that the same criteria that apply to prospective injuries should apply to retroactive injuries to October 7, 2001. It is inequitable to deny retroactive payments to those who have suffered the same grievous injuries based solely on the location where the traumatic event took place.

Without corrective action, brave men and women who were traumatically injured after October 7, 2001, but before December 1, 2005, will continue to be denied the same retroactive payment given to their wounded comrades even though the Servicemembers' Group Life Insurance for which TSGLI is a rider was made retro-

active—brave men and women like Navy Seal Toshiro Carrington who was injured in a training accident at Camp Pendleton on December 15, 2004. He was holding a charge in his left hand when another servicemember accidentally detonated it. SO 1 Carrington was left with a traumatically severed left hand, a severed right tip of his thumb and his remaining fingers all fractured. Unfortunately, Toshiro's severe injuries did not qualify him for a payment under TSGLI due to the date on which the accident occurred. Another servicemember, Seaman Robert Roeder, was injured on January 29, 2005 when an arresting wire on the aircraft carrier, the USS *Kitty Hawk*, severed his left leg below the knee. Seaman Roeder was on his way to the Gulf of Arabia when his injury occurred during flight training operations. Although the ship was on its way to the Gulf and the training exercises being conducted were in preparation for action in either Operation Enduring or Iraqi Freedom, Robert's injury does not qualify for payment under the law as written. Robert was hospitalized at Brooke Army Medical Center in San Antonio, Texas for over a year and his recovery and rehabilitation has been just as strenuous and arduous as it would have been had his ship made it to the Gulf of Arabia prior to his injury.

SO 1 Carrington and Seaman Roeder are not the only wounded servicemembers being impacted by this inequity in the regulation. Therefore, we applaud Senators Akaka and Craig for their recognition of this inequity and strongly urge Congress to quickly act on S. 225 so that Seaman Roeder, SO 1 Carrington, and other wounded warriors like them will not be deprived of this vitally important insurance program.

WWP also supports both S. 1096, the Veterans' Housing Benefits Enhancement Act, a bill that would make wounded warriors with severe burns eligible to receive adaptive housing grants and S. 1265, a bill that would make wounded warriors who are receiving specially adapted housing assistance while still on active duty also eligible for veterans' mortgage life insurance. WWP applauds Senators Cornyn and Craig for recognizing these problems, and encourage the swift passage of these measures.

That being said, we would also like to encourage the Committee to address applicability of veterans benefits to severely wounded Active Duty military personnel on a more comprehensive basis. By expanding eligibility for these benefits to servicemembers who have not yet been officially retired, both of the aforementioned pieces of legislation reflect the reality that many severely injured active duty servicemembers can benefit from VA services but are precluded from doing so simply due to their status in the Armed Forces. At the same time, the Department of Defense offers certain benefits that could greatly assist new veterans still recovering from grievous wounds. The discrepancy in benefits between the two agencies leads to confusion among families who are forced to try to determine what is in the best interest of the servicemember, often without having full knowledge of the difference in benefits offered to active duty versus veterans.

For example, consider that an active duty patient can be seen at a VA Polytrauma Center to treat his Traumatic Brain Injury. However, while at the VA facility, the servicemember, due to his duty status, cannot enjoy VA benefits such as Vocational Rehabilitation or Independent Living Services that can be helpful in his recovery. Alternately, a medically retired servicemember cannot enjoy, among other things, the benefits of the Computer Assistive Technology Program (CAP) because that benefit is only available to active duty servicemembers. While there is an obvious need for an advantage to active duty service, those who are severely injured as a result of their service in an all-volunteer force deserve special consideration. Please note, WWP is only asking for the Committee to address the discrepancy in benefits and services, not for a broad overlap of active duty pay and VA disability compensation.

Finally, WWP also supports Senator Feingold's legislation, The Veterans Outreach Improvement Act of 2007. This legislation would enhance the outreach efforts of the Department of Veterans Affairs and require the coordination of these outreach activities throughout the Department. In many of the cases we have seen, the creation of new benefits wasn't needed to aid the servicemember, rather, the wounded warrior just needed to have the existing benefits systems better explained and untangled in order to understand what was available to them. Information is the key for many of our younger wounded veterans, and for those who are transitioning from active duty to veteran's status, the responsibility for the coordination of outreach efforts should lie not only within the VA as required by this legislation, but also with the Department of Defense.

Finally, WWP would like to support S. 1289, The Veterans Justice Assurance Act. This legislation would, among other things, modify the current authorities affecting the recall of judges retired from The United States Court of Appeals for Veterans Claims. The changes included in this legislation would help to ensure that the Court is capable of handling its cases in a timely manner, an issue of great concern for

all wounded warriors who wish to challenge their disability compensation rating from the VA.

Mr. Chairman, thank you again for this opportunity to testify, and I look forward to your questions.

RESPONSE TO WRITTEN QUESTION SUBMITTED BY HON. DANIEL K. AKAKA TO MEREDITH BECK, NATIONAL POLICY DIRECTOR, WOUNDED WARRIOR PROJECT (WWP)

Question. What are the top five legislative priorities of the Wounded Warrior Project?

Response. The top five legislative priorities of the Wounded Warrior Project are:

1. S. 225— to expand retroactive TSGLI benefits.
2. S. 1096—the Veterans' Housing Enhancement Act.
3. S. 1265—regarding the Veterans' Mortgage Life Insurance.
4. S. 1314—The Veterans Outreach Improvement Act.
5. S. 1289—the Veterans Justice Assurance Act.

Chairman AKAKA. Thank you very much.
Carl Blake?

**STATEMENT OF CARL BLAKE, NATIONAL LEGISLATIVE
DIRECTOR, PARALYZED VETERANS OF AMERICA**

Mr. BLAKE. Chairman Akaka, Members of the Committee, on behalf of PVA, I would like to thank you for the opportunity to testify today. I will limit my remarks to a few of the items under consideration.

As you know, during initial consideration of the Traumatic Injury Insurance Rider for TSGLI, PVA expressed concerns about the proposal that eventually became law. Our principal concern at that time was that servicemembers should not have to pay a premium for this coverage, and that concern remains. However, the Traumatic Injury Insurance has proven to be very beneficial for veterans who have elected to have that coverage.

We support S. 225 as it addresses an additional concern that we had with the proposal in 2005. We believed then, as we do now, that a veteran who incurs a service-connected disability that qualifies them for this benefit should be able to receive the payment regardless of where that injury occurred. A servicemember should not be denied this benefit simply because he or she was not injured while serving in Iraq or Afghanistan.

S. 847 would eliminate the current 7-year window that allows a veteran to claim service-connectedness for multiple sclerosis, MS, and extend that service-connectedness window indefinitely. At this time, there is no known cause of MS. PVA cannot support this proposed legislation that would increase the presumptive period for MS beyond the current 7 years as long as new medical evidence has not been presented to substantiate this change. PVA does, however, encourage this Committee and Congress to promote more research in the area of MS and related neurological conditions. We are aware that there may be higher rates of MS in certain groups of veterans attributable to environmental or other factors and VA should examine this, as they did for exposures of veterans of Southeast Asia.

PVA generally supports the intentions of the Comprehensive Benefits Improvement legislation introduced by Senator Sanders. In fact, many of the provisions contained within this legislation are specifically addressed in the recommendations of the Independent

Budget for Fiscal Year 2008. PVA particularly appreciates the provisions devoted to specially adapted housing and automobile assistance.

Currently, the VA has the authority to provide the specially adapted housing grant up to a maximum of \$50,000 to a service-connected disabled veteran with severe disabilities.

PVA fully supports Section 501 of this proposed legislation that would increase the amount of the grant from \$50,000 to \$60,000. PVA members are the highest users of this very important grant. This grant allows veterans with severe service-connected disabilities to own the dream of owning their own home when they otherwise may not have had the opportunity. PVA also supports the increase of the grant for veterans with service-connected blindness from \$10,000 to \$12,000.

In accordance with recommendations of the Independent Budget, we also support the provision that would require the Secretary of the VA to establish a residential home cost-of-construction index to be used to automatically adjust the amount of these grants each year. As the housing market has continued to boom, these grants have not kept pace. Without an annual adjustment to the grants, inflation will continue to erode their purchasing power.

Likewise, PVA supports Section 702 of the proposed legislation that would increase the adaptive automobile assistance grant. We are particularly pleased that the value of the grant is initially increased to a level commensurate with the original intent of this benefit.

Finally, as I mentioned in my written statement, we are pleased to see that this Committee is devoting a great deal of attention to education benefits. We believe that Senator Webb's legislation, the Post-9/11 Veterans Educational Assistance Act, should be the standard that this Committee seeks to achieve. We also believe a great deal can be done to address the educational needs of the National Guard and Reserves.

The Independent Budget for Fiscal Year 2008 includes some discussion about the concept for a total force Montgomery GI Bill to match the operational integration of active duty, National Guard, and Reserve servicemembers. We call your attention to our recommendations and hope that you will further address the educational needs of the men and women who are currently serving in harm's way and who have done so in the past.

PVA appreciates the efforts of this Committee to address the broad range of benefits available to the men and women who have served and sacrificed. We look forward to working with you to find meaningful changes that may best benefit veterans.

Thank you again for the opportunity to testify and I would be happy to answer any questions that you might have.

[The prepared statement of Mr. Blake follows:]

PREPARED STATEMENT OF CARL BLAKE, NATIONAL LEGISLATIVE DIRECTOR,
PARALYZED VETERANS OF AMERICA

Chairman Akaka, Ranking Member Craig, and Members of the Committee, on behalf of Paralyzed Veterans of America (PVA) I would like to thank you for the opportunity to testify today on the proposed benefits legislation. The scope of benefits issues being considered here today is very broad. We appreciate the Committee tak-

ing the time to address these many issues, and we hope that out of this process meaningful legislation will be approved to best benefit veterans.

S. 117, THE "LANE EVANS VETERANS HEALTH AND BENEFITS IMPROVEMENT ACT"

PVA supports the provisions of Section 104 of the bill which would require enhanced outreach to members of the National Guard and Reserves. We have testified many times in the past as to the importance of effective outreach. It is only appropriate that National Guard and Reserve servicemembers be handled in the same way. The level of service being required of these men and women in current operations more than justifies the need to inform them of all of the health care and benefits services available.

Although PVA has no objection to the report requirements established under Title II of the legislation, we remain concerned that this wealth of information will go unused. Collecting this information without acting on any findings from that information would serve no real purpose. We would hope that the congressional committees will use this information to affect positive change within the VA, Department of Labor, and Department of Defense. However, we must emphasize that additional resources should be provided to allow the agencies involved to properly compile this information as we believe that this could be a monumental undertaking.

S. 168

PVA fully supports this legislation which authorizes the VA to establish a national cemetery in the Pikes Peak region of Colorado as long as there is a clearly demonstrated need. According to VA information, there are currently only two national cemeteries located in Colorado, neither of which is near this area. With the rate that veterans are dying today, particularly World War II veterans, it is imperative that the VA be able to provide a suitable burial location for these men and women. The Pikes Peak region would certainly provide an excellent cemetery location that is centrally located in the state.

S. 225

During initial consideration of the traumatic injury insurance rider for Servicemembers' Group Life Insurance (SGLI), PVA expressed concerns about the proposal that eventually became law. The legislation was meant to help servicemembers who incur a severe disability while serving this country to overcome the financial hardship placed on them and their families while they are undergoing medical treatment and rehabilitation. Our principal concern that servicemembers should not have to pay a premium for this coverage remains. We believe that helping these severely injured men and women overcome the financial strain of their situation is an obligation of the Federal Government.

However, the traumatic injury insurance has proven beneficial for veterans who elected to have the coverage. We support the concept of this legislation as it addresses an additional concern that we had with the proposal in 2005. We believed then, as we do now, that a veteran who incurs a service-connected severe disability that qualifies them for this benefit should be able to receive the payment regardless of where that disability was incurred. A servicemember should not be denied this benefit simply because he or she was not injured while serving in Iraq or Afghanistan. We believe that this legislation corrects that particular inequity that exists in the current statute; therefore, we support this legislation on those grounds.

S. 423, THE "VETERANS' COMPENSATION COST-OF-LIVING
ADJUSTMENT ACT"

PVA supports S. 423, the "Veterans' Compensation Cost-of-Living Adjustment Act of 2006." This bill would increase the rates of compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for widows of certain disabled veterans. As we have done in the past, we oppose again this year the provision rounding down the cost-of-living adjustment to the nearest whole dollar. Continuing to round down these benefits year after year only serves to erode the value of them. Furthermore, this provision forces veterans to bear some of the burden of cost-savings for the Federal Government.

S. 526, THE "VETERANS EMPLOYMENT AND TRAINING (VET) ACT"

PVA supports S. 526, the "Veterans Employment and Training Act of 2007." This will allow veterans to pursue education or training in the high-technology career area for programs that are less than 2 years in duration. Many veterans may prefer an occupation that does not require a 4-year college degree. This will allow the vet-

eran to use the funds, some of which they have contributed, for specific training in an occupational field of their choice. As Congress increases the training opportunities for veterans they must insure that new programs paid for with VA funds meet the approval of State Approving Agencies (SAA). SAAs operate through a state's department of education. They currently review and evaluate programs that are paid for with the Montgomery GI Bill.

S. 643, THE "DISABLED VETERANS INSURANCE ACT"

PVA supports increasing the amount of supplemental insurance for the totally disabled veteran from \$20,000 to \$40,000. Several years ago when the amount of \$20,000 was designated as an appropriate insurance pay out, that pay out helped finalize outstanding loans or expenses accrued by the veteran. Today, \$20,000 has much less buying power. An increase to \$40,000 is not unreasonable. The cost of the current policy is more than some veterans are willing to pay. Congress should ensure that if the benefit of the policy doubles, that the payment does not double. A large increase in payments to purchase the policy will render this insurance inaccessible for many veterans.

S. 698, THE "VETERANS' SURVIVORS EDUCATION ENHANCEMENT ACT"

PVA supports the "Veterans' Survivors Education Enhancement Act of 2007." The bill increases the amount for educational assistance for survivors from \$788 to \$1,777 per month for 45 months, for a total of \$80,000. It extends the eligibility of dependents from twenty six years of age, to thirty years of age. The bill also increases the range of programs that the educational assistance can be used for. This reflects the fact that all programs to prepare for future employment do not require the standard 4 years of college.

S. 847

This bill would eliminate the current 7-year window that allows a veteran to claim service connectedness for multiple sclerosis (MS) and extend that service connectedness window indefinitely. At this time, there is no known cause of MS. PVA cannot support this proposed legislation that would increase the presumptive period for MS beyond the current 7 years as long as new medical evidence has not been presented to substantiate this change. PVA does, however, encourage this Committee and Congress to promote more research in the area of multiple sclerosis and related neurological conditions. We are aware that there may be higher rates of MS in certain groups of veterans attributable to environmental or other factors, and VA should examine this as they did for exposures for veterans of Southeast Asia.

S. 848, THE "PRISONER OF WAR BENEFITS ACT"

This legislation would repeal the requirement that a Prisoner of War (POW) be held captive for at least 30 days in order to receive a presumption of service-connection for the purposes of receiving benefits. This issue was first considered last year after American service personnel who were held captive by Iraq during the early stages of the war were released or rescued after less than 30 days of internment. These men and women had sustained severe injuries as a result of combat actions and their subsequent internment. It seems only fair that any POW, regardless of time in captivity, be recognized as being eligible for service-connected benefits. PVA supports this provision.

We likewise support the addition of the following diseases to the list of diseases presumed to be service-connected: Type 2 diabetes, and osteoporosis. We have no objections to the requirements placed on the Secretary of VA for adding or subtracting diseases to the presumptive service-connection list. We would only caution that veterans and former POWs should be given the benefit of the doubt before any consideration is given to removing a disease from the list.

S. 961, THE "BELATED THANK YOU TO THE MERCHANT MARINERS OF WWII ACT"

Although we recognize the sacrifices that these brave men made in service to the Nation during World War II and we support the intent of this legislation, we have some concerns with the proposals it makes. The importance of their sacrifices cannot be overstated. While suffering extremely high casualty rates during the war, they delivered troops, tanks, food, airplanes, fuel and other needed supplies to every theater of the war.

However, PVA believes that this bill would be very costly to the Department of Veterans Affairs (VA). We believe that the money needed to provide this new

monthly benefit would reduce the ability of the VA to continue to provide the wide-ranging scope of benefits that it already manages.

We also do not understand how the amount to be provided as a monthly benefit was determined. As it stands, if this legislation was enacted, a merchant mariner would be entitled to a payment equal to veterans who have a 70 percent compensable service-connected disability. Furthermore, the surviving spouses of these individuals would be entitled to a benefit nearly equal to the amount provided to the surviving spouses of veterans with service-connected disabilities. Although we do not dispute the idea that these individuals should receive some type of benefit, we do not believe that the recommendations of this legislation are equitable with similar programs. We are not certain that this legislation maintains the priority that the VA follows for providing compensation benefits.

S. 1096, THE "VETERANS' HOUSING BENEFITS ENHANCEMENT ACT"

PVA supports S. 1096, the "Veterans' Housing Benefits Enhancement Act of 2007." This bill will allow the servicemember to plan and make necessary modifications to their residence to accommodate their medical condition before they are released from the service. This will be very beneficial for servicemembers returning to their residence and who use a wheelchair as a result of their injury. In most situations doorways must be widened, ramps must be installed, and kitchens and bathrooms must be remodeled.

This bill also allows for specially adapted housing assistance for disabled veterans with severe burns. Severe burns are one of the signature wounds of the Iraq war. Living with this condition after being discharged from a hospital could require a precise temperature control system in a home, along with an air filtration system. A water purification system may also be required. All of these modifications take time and are very costly. This bill will give the servicemember financial assistance to allow them to make these critically needed modifications.

S. 1163, THE "BLINDED VETERANS PAIRED ORGAN ACT"

PVA supports S. 1163, the "Blinded Veterans Paired Organ Act of 2007." This bill would change eligibility requirements for benefits available to blinded veterans. If a veteran has lost sight in one eye and that loss is service-connected, and then loses sight in the other eye, but not as a result of service, the veteran shall receive benefits as if both eyes are service-connected.

Currently, service-connected blinded veterans receive up to \$10,000 to modify their home to accommodate their condition. This bill extends this benefit to all legally blind veterans. This small amount of financial assistance can help to make the blinded veteran more independent in his or her home.

S. 1261, THE "MONTGOMERY GI BILL FOR LIFE ACT"

Although PVA has no specific objection to this legislation, we have some concern that it could change the underlying meaning of the MGIB. Education benefits, particularly the MGIB, are meant to be a readjustment benefit for servicemembers immediately upon leaving the service or in the interim 10-year period. By eliminating this 10-year period, the benefit would then be opened up to a generation of veterans who may have long since passed the need for readjustment.

The one benefit that we do see to this legislation is it could allow a veteran to make a career change if he or she finds that their current career choice was not the right one. The availability of the MGIB benefit later in life would open many new doors. However, we do not want this change to open up the opportunity for veterans who may have retired from a career already to use the benefit simply to give them something to do. This could certainly occur.

THE "POST-9/11 VETERANS EDUCATIONAL ASSISTANCE ACT"

PVA supports this bill that would enhance the current educational benefits for the men and women who have served on active duty since September 11, 2001. The dollar amount of educational assistance would be equal to the established charges of an approved institution. This would give the veteran a greater selection of institutions to pursue their education since they would not be restricted to less expensive institutions. An additional amount of funding would be paid for room and board, and a monthly stipend of \$1,000 would be paid to the student for other expenses. Tutorial assistance would also be available, and would be paid for a period up to 12 months to help the student with difficult courses. This amount would not be taken from the student's entitlement. The bill allows the veteran up to 15 years to take advantage of these benefits. This is an important addition since many return-

ing veterans may not be emotionally ready right away to start school. This educational package offers the veteran many incentives to encourage them to enroll in school or continue with their educational program.

THE "DISABLED VETERANS INSURANCE IMPROVEMENT ACT"

PVA supports this proposed bill that provides for increases in the amount of insurance available for disabled veterans. Section 2 of the proposed legislation would increase the maximum coverage of Veterans' Mortgage Life Insurance from \$90,000 to \$200,000. This is a necessary increase in today's housing market. Section 3 of the legislation would increase the amount of term life insurance available to disabled veterans. The veteran can purchase insurance coverage amounts in increments of \$10,000 up to a maximum of \$50,000. These adjustments in the available insurance are important, particularly since disabled veterans generally have difficulty obtaining coverage.

EXPANDED ELIGIBILITY FOR VETERANS' MORTGAGE LIFE INSURANCE

PVA supports this bill that would expand eligibility for Veterans' Mortgage Life Insurance. This bill would include members of the Armed Forces who have received housing modification grant assistance from VA for severely disabling conditions. Although military personnel may receive the VA housing grant to make modifications to a home to accommodate a medical condition, the Veterans' Mortgage Life Insurance program has not been available for the individual while they are still on active duty. This bill will correct this discrepancy. PVA supports the intention of this legislation, particularly if coupled with an increase in Veterans' Mortgage Life Insurance to reflect the value of homes of today. Often the amount the life insurance policy pays to a spouse when the veteran dies leaves the spouse with years of payments remaining.

THE "VETERANS JUSTICE ASSURANCE ACT"

PVA opposes what we understand would essentially be lifetime appointments for any newly nominated judge to the Veterans Court as outlined in Section 2 of this proposed legislation. Recognizing the concern discussed in recent years about multiple judges retiring at the same time, we believe 15-year appointments, made on a staggered basis, adequately addresses this problem.

Furthermore, we believe that the periodic introduction of new judges of varying backgrounds and perspectives that occurs now through term limits is a significant value to the development of veteran's law jurisprudence. The difference between a 15-year term and a lifetime appointment could conceivably be as much as 35-45 years. This time difference cuts multiple ways and could adversely affect the relationships among the judges, the bar and veterans in ways that are unknown at this time.

Realizing also that there is a perception that newly appointed judges are ineffective for a significant period of time, partly as a result of their learning process, and that a lifetime appointment would result in the Veterans Court being populated with judges who are effective for longer periods of time, and even assuming that there is some truth to this perception, there are other ways in which Congress could address this issue. For example, Congress might take more care to encourage the nomination of judges who have some prior experience in Veterans Law. Congress could also ensure that the Court maintain an experienced and skilled central legal staff that would be in a position to assist newly appointed judges. Congress also may encourage the Court to look at creating a more active mentoring process, perhaps using retired judges, for newly appointed judges—a practice that is used successfully in other Courts.

Ultimately, PVA believes that changing the term of a Veterans Court judge from a term of 15 years to a lifetime appointment is a significant departure from the current practice with many unknown consequences. This is not a direction that should be taken without a thorough understanding of what the change is intended to accomplish and without trying other less drastic alternatives.

PVA would also like to suggest a couple of changes to language included in the legislation. In Section 4, we would like to see the following language added: (d)(5)(B) "and other recognized bar associations." We would also like to see a new section "(E) The Veterans Pro Bono Consortium Program." These organizations would have valuable input and should not be excluded from the current list of organizations the chief judge might consult with. In Section 6, we would like to see the following language added: "(9) The number of appeals taken to the U.S. Court of Appeals for the Federal Circuit, to include the number of appeals taken by the Secretary."

PVA also has some concerns about the study proposed in Section 7 of the legislation. The study should also include the impact, if any, on PVA, (an entity that works with the Court and which currently leases space in the same commercial facility in which the Court is located) of establishing a dedicated Veterans Courthouse and Justice Center in the existing commercial facility. Currently, PVA leases space in the same commercial facility in which the Court is located. The study should consider whether additional provision should be required to ensure that PVA is not disadvantaged in any way vis-a-vis other entities that work with the Court and are not currently located in the same commercial facility as the Court.

THE "VETERANS' EDUCATION AND VOCATIONAL BENEFITS ENHANCEMENT ACT"

The accelerated payment program was enacted in 2003 to address opportunities for veterans in the high-tech industry. Intensive courses condensed into a few months offer an excellent opportunity for veterans to be certified in advanced levels of information technology knowledge. In less than the standard 36 months of normal classroom study, a student is ready to enter the workplace. PVA supports this legislation. We likewise support the provision for accelerated payments for surviving spouses and dependents educational assistance.

PVA also supports Section 3 of the legislation that would enhance educational assistance for Reservists. However, we believe that more can be done in this area. The Independent Budget for Fiscal Year 2008 includes some discussion about the concept for a Total Force Montgomery GI Bill to match the operational integration of active duty, National Guard, and Reserve servicemembers. We call your attention to our recommendations and hope you will further address the educational needs of the men and women who are currently serving in harm's way.

THE "COMPREHENSIVE VETERANS BENEFITS IMPROVEMENT ACT"

PVA generally supports the intentions of the proposed legislation. In fact, many of the provisions contained within this legislation are specifically addressed in recommendations of The Independent Budget for Fiscal year 2008. With this in mind, I will attempt to address each of the benefits provisions being considered today.

PVA supports Section 201 of the legislation as this is in accordance with the recommendations contained within The Independent Budget. It is time for Congress to enact legislation to totally repeal the inequitable requirement that military retirement pay, based on longevity, be offset by an amount equal to their earned VA disability compensation. Likewise, we support Section 202 which would increase the rates of compensation for service-connected veterans who are determined housebound or in need of regular aid and attendance. This is certainly an issue of prime concern for PVA as many of our members fall into this category.

PVA also supports the remaining Sections in Title II of the legislation in accordance with the recommendations of The Independent Budget. We would also recommend that the Committee consider legislation that would repeal the offset between dependency and indemnity compensation and the Survivor Benefit Plan.

PVA supports the provisions of Title IV regarding burial and memorial affairs as they also reflect the recommendations of The Independent Budget. We also appreciate the fact that the legislation includes automatic annual adjustments for these benefits. The only way to prevent the erosion of these benefits is to ensure that they keep pace with inflation.

Currently, the Department of Veterans Affairs (VA) has the authority to provide the Specially Adapted Housing (SAH) grant up to a maximum of \$50,000 to service-connected disabled veterans with severe disabilities. PVA fully supports Section 501 of this proposed legislation that would increase the amount of the grant from \$50,000 to \$60,000. PVA members are the highest users of this very important grant. This grant allows veterans with severe service-connected disabilities to realize the dream of owning their own home when they otherwise may not have had the opportunity. PVA also supports the increase in the grant for veterans with service-connected blindness from \$10,000 to \$12,000.

In accordance with recommendations of The Independent Budget, we also support the provision that would require the VA Secretary to establish a residential home cost-of-construction index to be used to automatically adjust the amount of these grants each year. As the housing market has continued to boom, these grants have not kept pace. Without an annual adjustment to the grants, inflation will continue to erode their purchasing power.

Likewise, PVA supports Section 702 of the proposed legislation that would increase the adaptive automobile assistance grant. We are particularly pleased that the value of the grant is initially increased to a level commensurate with the original intent of this benefit.

Finally, with regard to this legislation, I would like to comment on the concept of Section 604 of the legislation. Although we have no problem with studying the claims process to determine measures to improve it, it is important to realize that this is no easy undertaking. Regardless of the findings and recommendations of any possible report, we believe that many of the problems in the Veterans Benefits Administration are centered on proper training and accountability. Without uniform training across all of VBA on the standards established in regulations, problems will continue to arise and the claims backlog will continue to grow. Furthermore, it is absolutely essential that VBA personnel at all levels be held accountable for their own actions and the actions of their subordinates. Although we continue to advocate for adequate resources and additional staff, these steps will not go far enough if training and accountability are not a major component. Similarly, we recognize that veterans' service organizations have a commensurate obligation to properly train and supervise their personnel.

In the meantime, it is important to realize that the disability evaluation process for the VA and the Department of Defense are meant to serve two entirely different purposes. Although recommendations may be made to expedite both processes, they do not operate together and they should not.

PERMANENT AUTHORITY TO FURNISH GOVERNMENT HEADSTONES

P.L. 107-330 authorized the VA to provide government markers to veterans who have marked graves in private cemeteries. This legislation was meant to provide for recognition of those men and women who have served this Nation with honor. However, P.L. 107-330 only provided this benefit retroactively to veterans who died after September 11, 2001. It excluded veterans who died between November 1, 1990 and September 11, 2001. Prior to enactment of P.L. 107-330, the VA estimated that it denied more than 20,000 headstones or markers to these veterans. This legislation would make permanent this authority and correct this serious inequity. All veterans should be afforded the same recognition of their service following their death. PVA fully supports this proposed legislation.

THE "SERVICEMEMBERS' CELLULAR PHONE CONTRACT FAIRNESS ACT"

PVA fully supports the provisions of this proposed legislation. Just as we testified in 2003, when motor vehicle leases were added to the Servicemembers Civil Relief Act, it makes no sense to require a servicemember to maintain a cellular phone contract when they will have no opportunity to use it while on active duty and deployed. The inability of the servicemember to use the cellular phone service should preclude their requirement to pay for that service.

THE "VETERANS OUTREACH IMPROVEMENT ACT"

The "Veterans Outreach Improvement Act" is intended to improve outreach activities performed by the VA. It does so by creating a new budget line item for funding the outreach activities of the Veterans Health Administration (VHA), the Veterans Benefits Administration (VBA), and the National Cemetery Administration (NCA). This money is currently drawn from the budget line item for general operating expenses.

The bill also would create a structure within the VA to require the Office of the Secretary, the Office of Public Affairs, the VBA, the VHA, and the NCA to coordinate outreach activities. Coordinated activities could improve the efficiency of each office and make them more effective at providing for the needs of current veterans and new veterans who will be returning home from new conflicts. The legislation would also allow the VA to enter into cooperative agreements with State Departments of Veterans Affairs regarding outreach activities and would give the VA the authority to provide grants to these state departments. PVA supports the provisions of this proposed legislation.

THE "VETERANS MENTAL HEALTH CARE AND ADVOCACY ACT"

PVA generally supports the provisions of the proposed legislation. If our interpretation of the statute and the proposed legislation is correct, Section 2 would allow veterans who experience Post Traumatic Stress Disorder (PTSD) to receive medical care if that PTSD is the result of exposure to toxic agents or similar agents. We question how it was determined that this particular condition should be added to this part of the statute. The preceding sections in 1710(e)(1) designate veterans based on areas of service, not particular conditions incurred.

With respect to the pro bono legal assistance outlined in Section 3, PVA has no objection to this proposal. We would like to remind the Committee that PVA is cur-

rently a member of the Veterans Consortium Pro Bono Program. We would be glad to offer assistance to ensure that viable entities are chosen for these grants.

PVA appreciates the efforts of this Committee to address the broad range of benefits available to the men and women who have served and sacrificed so much for this country. We are particularly pleased that the Committee seems to have made improvements to educational assistance benefits a priority. We look forward to working with you to ensure that meaningful changes are made to best benefit veterans.

Thank you again for the opportunity to testify. I would be happy to answer any questions that you might have.

RESPONSE TO WRITTEN QUESTION SUBMITTED BY HON. DANIEL K. AKAKA TO
CARL BLAKE, NATIONAL LEGISLATIVE DIRECTOR, PARALYZED VETERANS OF AMERICA

Question. What are the top five legislative priorities of the Paralyzed Veterans of America?

Response. During the hearing, you requested that we submit a list of our top five legislative priorities as it relates to the legislation that was considered during the hearing. I will outline for you the principal issues we are concerned about and why we think they are important.

However, before I explain our positions further, I would first like to comment on the concerns addressed during the hearing about the cost of the various benefits. I would like to emphasize that the veterans service organizations, and PVA in particular, do not factor cost considerations into our benefits recommendations. The fact is that we believe all of our recommendations are necessary. It is up to the elected Members of Congress to determine how best to pay for the legislative decisions that are made. With that in mind, I will now outline the provisions that are a priority to PVA in their order of precedence.

Our first priority from the legislative measures considered during the hearing is the provision of S. 225 which would allow servicemembers who incur a severe disability while on active duty to receive the traumatic injury insurance protection, as part of Servicemembers' Group Life Insurance, regardless of whether the injury was incurred in a combat theater or not. We strongly supported this idea when the original legislation was considered in 2005. Every year, more new service-connected PVA members result from injuries incurred outside of Iraq and Afghanistan than in the combat theater. This legislation would correct a blatant inequity that exists in the statute.

Our second priority centers on a broader idea considered in a couple of the bills. We believe that each of these provisions can be lumped under the umbrella of special assistance grants for severely disabled veterans. Specifically, we believe that the Specially Adapted Housing (SAH) grant and adaptive automobile grant programs need to be significantly improved. Section 501 of the "Comprehensive Veterans' Benefits Improvement Act" addresses the SAH grant. As we stated in our written testimony on May 9, 2007, currently, the VA has the authority to provide the SAH grant up to a maximum of \$50,000 to service-connected disabled veterans with severe disabilities. PVA members are the highest users of this important grant. It allows them to become independent sooner and to realize the dream of owning their own home when they otherwise may not have had the opportunity. Likewise, we believe the automatic annual adjustment proposed in this legislation is a must. Increasing the grant only periodically through legislation serves only to erode the purchasing power of this benefit over time.

PVA also supports S. 1096, the "Veterans' Housing Benefits Enhancement Act," specifically as it relates to SAH assistance for disabled veterans with severe burns. Home modifications to suit disabled veterans with severe burns can take a great deal of time and be very costly. It only makes sense that the men and women who have incurred such a devastating injury be afforded this benefit.

Similarly, PVA supports Section 702 of the legislation that increases the adaptive automobile assistance grant to an amount commensurate with the original intent of this benefit. Furthermore, an automatic annual adjustment is equally important to this grant to maintain its purchasing power as well.

Our third priority focuses on the improvement of veterans' education benefits. In short, we believe that the Committee should make every effort to pass S. 22, the "Post-9/11 Veterans Educational Assistance Act." We particularly support the provision of this legislation that would essentially realign the Montgomery GI Bill (MGIB) to conform to the intent of the original GI bill following World War II. This new benefits package would include the costs of tuition, room and board, and a monthly stipend of \$1,000. We believe that this should be the standard that the

Committee seeks to achieve as it considers improvements in education benefits. In the interim, we would hope that the Committee would review the recommendations of The Independent Budget regarding the Total Force MGIB and consider making changes based on that framework.

Our fourth priority centers on the concept of improved outreach. As such, we believe that the "Veterans Outreach Improvement Act" should be quickly approved by the Committee. It is essential that the Secretary, along with the Office of Public Affairs, Veterans Health Administration, Veterans Benefits Administration, and the National Cemetery Administration coordinate outreach activities. We simply see this as a "no-brainer" concept. Furthermore, there would be no real cost to the VA to enhance its outreach activities.

As a part of this priority, we believe the Committee should also consider the provisions of S. 117, the "Lane Evans Veterans Health and Benefits Improvement Act," that require enhanced outreach to members of the National Guard and Reserves. The level of service being required of these men and women in current operations more than justifies the need to inform them of all of the health care and benefits services available.

Our final priority is included in Section 202 of the "Comprehensive Veterans Benefits Improvement Act." This section would significantly increase the compensation benefits for service-connected disabled veterans who are determined to be housebound or in need of regular aid-and-attendance. We believe that current aid-and-attendance benefits for the most severely disabled are wholly inadequate and do not reflect the high cost of attendant care. Attendants are essential to allowing seriously disabled veterans to accomplish basic activities of daily living, such as dressing, bathing, and eating. Veterans who are in need of 24-hour aid-and-attendance live virtually on the margins because the cost of this care is so high. They have very little positive quality of life because every resource they have goes to providing for their care. This change would afford them some flexibility and allow them to hire the absolute best caregivers possible.

Chairman AKAKA. Thank you very much.
Eric Hilleman?

**STATEMENT OF ERIC A. HILLEMAN, DEPUTY DIRECTOR,
NATIONAL LEGISLATIVE SERVICE, VETERANS OF FOREIGN
WARS OF THE UNITED STATES**

Mr. HILLEMAN. Thank you, Chairman Akaka. Members of the Committee, it is my pleasure to testify on behalf of the 2.4 million men and women of the Veterans of Foreign Wars and our Auxiliaries. Thank you for the invitation and we look forward to presenting our views on these important bills pending before the Committee.

Due to the large number of bills and the brief few moments I have before you today, I would confine my oral statements to four bills, the first of which is S. 225, introduced by Senator Craig. This bill was designed to expand a servicemember's eligibility under Servicemembers' Group Life Insurance for traumatic injuries. The VFW has strongly supported the wounded warrior insurance since its inception. It has helped numerous troops and their families grapple with the financial burdens associated with injury and the gap in Federal assistance. S. 225 would make a retroactive benefit for all seriously injured servicemembers who served during October 7, 2001, to December 1, 2005, regardless of where they were serving when injured. We applaud this change and agree that all injured servicemembers, regardless of their service in combat theater, should be equally cared for.

The second bill we would like to testify on is S. 961, introduced by Senator Nelson, the Belated Thank You to Merchant Mariners of World War II Act of 2007. The VFW recognizes their heroic serv-

ice as instrumental in World War II. Yet we cannot support this legislation to pay a \$1,000 monthly benefit for life to a Merchant Marine and/or his surviving spouse. This benefit would be in addition to any other current veteran's benefit paid. It would create a disproportionate payment in terms of benefits and recognition for all other veterans who have also gone in harm's way at the behest of their country.

The next bill is the draft bill introduced by Senator Webb, Post-9/11 Veterans Education Assistance Act of 2007. This legislation would enhance military strength, provide an education benefit to fill an ever-widening gap in transition assistance, and equip a generation of veterans to face the challenges of tomorrow. The VFW has advocated for a GI Bill in the spirit of the original World War II-style GI Bill for many years. This bill would cover the cost of tuition, housing, fees, books, and provide a cost-of-living stipend. This legislation accomplishes these goals and many more. It recognizes the tens of thousands of Guard and Reservists who have served an aggregate of 24 months on active duty. It lengthens the post-service usage time from 10 years to 15 years from the date of discharge and establishes a post-service benefit for Guard and Reserve.

A personal note, if I may. I used the active duty GI Bill after completing four years in the Marine Corps. I graduated from Utah State University in 2004. To afford my education, I drew the GI Bill. I worked part-time jobs, I was awarded a sizable scholarship, and I accrued student loans. Hopefully, in the next four to five years, I should pay those off, given the current amortization tables. The cost of an education is growing ever higher. If Senator Webb's bill is enacted into law, I will give a great deal of consideration to going back on active service and pursuing a higher degree.

In many cases, the current GI Bill falls short, especially given that the original GI Bill helped to create a middle class by educating a generation of Americans after World War II. The Department of Defense has long used the GI Bill to recruit and retain high-quality personnel. Senator Webb's bill translates into a strong national defense program and economic prosperity for the next generation, the 9/11 generation of Americans. The VFW enthusiastically supports this bill.

And the final bill I will address today in my oral testimony is Senator Akaka's draft bill titled, Disabled Veterans Insurance Improvement Act of 2007. This bill mirrors the Independent Budget recommendations for Fiscal Year 2008. This bill will increase the Veterans Mortgage Life Insurance Benefit from \$90,000 to \$200,000. Traditionally, Department of Veterans Affairs insurance programs have not reflected commercial industry rates. This corrects this apparent shortcoming for VMLI and goes a step further to create a relief from premiums for service-connected disabled veterans at the age of 70. The VFW supports this legislation.

Thank you, Senator Akaka and Members of the Committee.

This concludes my testimony and I would be happy to answer any of your questions.

[The prepared statement of Mr. Hilleman follows:]

PREPARED STATEMENT OF ERIC A. HILLEMAN, DEPUTY DIRECTOR, NATIONAL
LEGISLATIVE SERVICE, VETERANS OF FOREIGN WARS OF THE UNITED STATES

Mr. Chairman and Members of this Committee:

On behalf of the 2.4 million members of the Veterans of Foreign Wars of the U.S. (VFW) and our Auxiliaries, I would like to thank you for your invitation to testify at today's important hearing on veterans' benefits legislation.

S. 117, THE LANE EVANS VETERANS HEALTH AND BENEFITS IMPROVEMENT ACT OF 2007

The first bill under discussion today is S. 117. This bill aims to improve VA and DOD transitioning efforts by increasing outreach services available to our Guard and Reserve members and requires comprehensive reporting by the Departments of Veterans Affairs, Labor and Defense with respect to Global War on Terror (GWOT) veterans.

VFW applauds Section 104 of this bill which would enhance outreach services for National Guard and Reserve members as they are deactivated from service. Currently there are over 80,000 Guard and Reserve members mobilized in the GWOT. Unlike their active duty counterparts, upon demobilization many receive abbreviated transition assistance and are without a support system able to guide them through the maze of VA benefits. This will help to alleviate some of the burden facing those trying to adjust back to civilian life.

The VFW supports Title II which deals with reports on effects of the Global War on Terrorism. By requiring comprehensive reporting from all of the stakeholders (VA, DOD and Labor) you will ensure that proper oversight and planning is in place to take care of the changing needs of those brave soldiers returning home from war.

S. 168, LEGISLATION THAT WOULD DIRECT THE VA TO ESTABLISH A NATIONAL CEMETERY
IN THE PIKES PEAK REGION OF COLORADO

The VFW supports S. 168. Colorado's fifth Congressional district contains the highest concentration of military retirees in the Nation and has as many as 175,000 veterans residing in the area. The VFW Department of Colorado, along with many military groups in southern Colorado, has actively supported the building of a national cemetery to serve those who wish to have their final resting place in this region. The VFW urges the Committee to move quickly on this legislation to enable this project to be completed in a timely manner.

S. 225, A BILL TO EXPAND THE NUMBER OF INDIVIDUALS QUALIFYING FOR RETROACTIVE
BENEFITS FROM TRAUMATIC INJURY PROTECTION COVERAGE UNDER
SERVICEMEMBERS' GROUP LIFE INSURANCE

The VFW strongly supports S. 225. From inception the VFW has supported the Wounded Warrior Bill as a way to provide immediate financial assistance for those severely injured servicemembers and their families. This legislation would provide those not included in the original legislation a chance to receive equal payment for their serious injuries by allowing all injured servicemembers who served between October 7, 2001 and December 1, 2005 to be eligible for TSGLI payments irrespective of where their injuries occurred. We applaud this change and agree that all injured servicemembers, those inside and outside the combat theatre, should be treated equally when it comes to benefits afforded them.

S. 423, THE VETERANS' COMPENSATION COST-OF-LIVING
ADJUSTMENT ACT OF 2007

VFW also supports S. 423, legislation that would provide a cost-of-living adjustment to compensation, clothing allowance, and dependency and indemnity compensation (DIC) rates for veterans and their families. Maintaining the purchasing power of these benefits for service-connected veterans, their dependents, and survivors is very important, especially to those who have limited or no other sources of income.

S. 526, THE VETERANS EMPLOYMENT AND TRAINING ACT OF 2007

This legislation seeks to increase the types of education programs eligible for accelerated payments under the GI Bill. Currently, only education programs in the high-technology industry qualify, allowing GI Bill recipients to receive lump sum payments for computer training and electronics repair. The proposed expansion of eligible programs would include the fields of transportation, construction, hospitality, and the energy sector.

Enhancing the GI Bill has long been a high priority for the VFW. This bill would expand the application of accelerated payments based on today's economic needs. While supportive of this bill, we are concerned that it will dramatically increase the number of "schools of training" seeking veterans as their clients. With this increase we expect many will be reputable, seeking accreditation to earn GI Bill dollars, but also impacting the VA's need for greater oversight of the accreditation process. Also, with the wealth of new schools seeking veteran clients, we remain fearful that valuable education benefits may be squandered on less than reputable businesses squeaking through without proper vetting. We urge caution in considering this expansion of eligible schools of training.

S. 643, THE DISABLED VETERANS INSURANCE ACT OF 2007

VFW supports the next bill under consideration today, S. 643. This bill would increase the amount of insurance a disabled veteran can purchase under Service-Disabled Veterans Insurance from \$20,000 to \$40,000. Many disabled veterans have difficulty purchasing commercial life insurance and are only able to purchase insurance through VA's insurance benefit program. This increase is long overdue and will provide some peace of mind for our disabled veterans seeking more coverage.

S. 698, THE VETERANS' SURVIVORS EDUCATION
ENHANCEMENT ACT OF 2007

This Act would increase the maximum amount of GI Bill benefits available for eligible veterans' survivors and dependents from the current \$788 a month, paid over 45 months equaling \$35,460, to \$80,000 total. It allows the benefit to be used for special restorative training, apprenticeships, on-the-job training, and tutoring assistance. And it allows survivors and dependents to draw the benefit until their 30th birthday, extending the usage age from 26th birthday.

We deeply respect the loss, challenge and pain survivors and dependents suffer. Benefits paid to widows/widowers and orphans grant a degree of security when faced with the sudden loss of a loved one. The VFW fully supports enhancement of educational assistance for survivors and dependents of veterans, but we also feel the benefit should move in tandem with the education benefit available to the chapter 38 active duty GI Bill.

The current chapter 38 active duty GI Bill benefit total is approximately \$37,000 and the survivors education benefit is approximately \$35,500; thus, giving some relative parity in the two benefits. S. 698 would award survivors twice the earned benefit available to active duty troops. The VFW views such a dramatic increase as creating an unfortunate inequity.

S. 847, A BILL THAT WOULD EXTEND THE PERIOD OF TIME DURING WHICH A VETERAN'S MULTIPLE SCLEROSIS IS TO BE CONSIDERED TO HAVE BEEN INCURRED IN, OR AGGRAVATED BY, MILITARY SERVICE DURING A PERIOD OF WAR

VFW supports S. 847. Multiple Sclerosis (MS) is an idiopathic inflammatory disease of the central nervous system with subtle symptoms at onset and periods of remission. It is often very difficult to diagnose. Consequently, many individuals may not seek medical care until months or years after the initial symptoms appear, as many of the symptoms come and go and often are not related to each other. Because the course of the disease is variable and uncertain, it may take years for a doctor to recognize the symptoms as those of MS. By allowing for an open extension of presumption of service, you will be including those veterans who may not have been correctly diagnosed with this debilitating disease before time under the law has run out.

S. 848, THE PRISONER OF WAR BENEFITS ACT OF 2007

The proposed changes in this bill repeal the 30-day requirement for former prisoners of war to file for presumptive disabilities related to their captivity. It also creates a flexible law giving the Secretary of Veterans Affairs the authority to add or remove presumptive disabilities on the public registry based on medical science. The Advisory Committee on Former Prisoners of War will review and recommend all proposed decisions by the Secretary.

Many ailments, injuries, and diseases incurred or aggravated by captivity may not manifest themselves until many years after discharge from service. The law must allow flexibility to keep pace with the ever-changing nature of war and advances in medicine. For example, presumptive disabilities like that of Type 2 diabetes and its links to Vietnam and defoliation agents were not discovered until many years

after the end of the conflict. This legislation is a sound attempt to stride the chasm between medical science and law.

VFW supports S. 848, which would provide improved benefits for veterans who are former POWs. We especially applaud the repeal of the 30-day minimum period of confinement prior to presumption of service-connection for certain listed diseases for purposes of payment of veterans' disability compensation. By eliminating the 30-day minimum period so that eligibility starts from the moment of capture, those POWs who have been held for shorter intervals but have certainly suffered most of the same physical and psychological trauma as other POWs will be eligible for compensation.

S. 961, THE BELATED THANK YOU TO THE MERCHANT MARINERS
OF WORLD WAR II ACT OF 2007

This bill seeks to expand the current dates of service for WWII Merchant Marines who are recognized as veterans, and to pay a \$1,000 monthly benefit to these WWII Merchant Marines or to their surviving spouses. The VFW recognizes the heroic service of Merchant Marines during WWII. Their sacrifices and heroic efforts were instrumental in winning WWII. We cannot, however, support this legislation to pay a monthly benefit, which would be in addition to any current veterans' benefit that would be otherwise payable. We believe that this payment would be disproportionate, in terms of recognition and benefits, to what other veterans who have gone in harm's way in service to the country currently receive.

With regard to their service as Merchant Marines, and the proposal that they should be recognized for this Merchant Marine service in addition to being recognized as veterans, or for a period extending beyond the currently recognized dates of WWII, the VFW has not taken a position on this matter.

S. 1096, THE VETERANS' HOUSING BENEFITS
ENHANCEMENT ACT OF 2007

This legislation would provide VA housing and automobile grants to servicemembers and veterans with burn injuries and those with traumatic brain injuries (TBI). S. 1096 broadly impacts the existing grant program by including these new types of injuries, but it also adds a reporting requirement with the intent of tracking the types of adaptations needed specifically in regard to TBI. So much is unknown about the long-term effects of this injury that every effort to document and track the nature of this injury should be made. We believe that adaptive housing and automobile grants should be awarded to disabled veterans based on the nature of their injury. The VFW supports S. 1096.

S. 1163, THE BLINDED VETERANS PAIRED ORGAN ACT OF 2007

VFW is happy to support S. 1163, a legislation that would improve compensation and specially adapted housing for veterans who have impairment of vision involving both eyes and allow the use of the National Directory of New Hires for income verification purposes.

S. 1215, LEGISLATION TO EXTEND AND IMPROVE
CERTAIN AUTHORITIES OF VA

VFW supports S. 1215. We are happy to see funding for State Approving Agencies (SAAs) increased to \$19 million instead of the previous cap of \$13 million. SAAs work side-by-side with VA in administering its education program. The funding will be well spent in monitoring educational and vocational training programs chosen by veterans. We also applaud the section of the bill that extends the amount paid for institutional training for full-time students to the current 85-percent rate and allows those veterans who wish to use their on-the-job or apprenticeship training to become claims adjudicators. VBA is in desperate need of employees who are dedicated to the needs of veterans, and who better understand the process than those who have lived it?

We also support the inclusion of Global War on Terrorism veterans with respect to DOL Veterans Employment and Training reports on employment and unemployment statistics. Remaining vigilant as to employment trends is a critical oversight tool in helping to ease the transition process of today's servicemen and women.

S. 1261, THE MONTGOMERY GI BILL FOR LIFE ACT OF 2007

The Montgomery GI Bill (MGIB) has opened the door to higher education for millions of Americans. This bill seeks to eliminate time limits that often prevent servicemembers from using a life-altering benefit when they need it the most. S.

1361 would eliminate the post-service 10-year time limit for the active duty MGIB and the in-service 14-year time limit for Guard and reservists. Time limits prevent servicemembers from seeking training and education later in life or at mid-career milestones. The VFW supports the lifelong career approach to the benefit. If a servicemember has earned the benefit, why prevent them from using it?

Many servicemembers seek education and retraining later or at mid-career. This helps them adapt to the ever-changing economy, transitioning from fields that may offer more job security. Also, many younger veterans and servicemembers have family obligations that prevent them from seeking an education early in life. The VFW supports S. 1261 and the repeal of time limits on the GI Bill.

S. 1265, LEGISLATION TO EXPAND ELIGIBILITY FOR VETERANS' MORTGAGE LIFE INSURANCE (VMLI) TO INCLUDE MEMBERS OF THE ARMED FORCES RECEIVING SPECIALLY ADAPTED HOUSING ASSISTANCE FROM VA

VFW supports S. 1265. Current law allows those medically retired servicemembers to receive VA specially adapted housing benefits before leaving service but does not provide the same eligibility under the VA insurance program. This legislation closes that gap and allows those who may have difficulty getting commercial insurance the opportunity to receive reasonable coverage under VMLI.

S. 1266, THE VETERANS DIGNIFIED BURIAL ASSISTANCE ACT OF 2007

VFW supports S. 1266. Current law allows a veteran who is not buried in a national cemetery, a plot allowance of up to \$300. VFW has long supported legislation that will increase the burial plot allowance as recent increases have not keep pace with the cost of purchasing a final resting place for those who honorably served our nation. As co-author of the Independent Budget (IB), we have strongly advocated increasing the burial plot allowance. We believe an increase to \$400 is a good place to start but would like to see the amount closer to the IB recommendation of \$745.

We also support the bill's intent to increase grants for state cemeteries to help with operational and maintenance costs and the provision which waives the 2-year limitation on burial of remains of veterans located in a state veterans' cemetery. Preserving the dignity of our national cemeteries and those buried in it is the right thing to do.

DRAFT BILL, THE POST-9/11 VETERANS EDUCATION ASSISTANCE ACT OF 2007

This legislation enhances military strength while providing a servicemember's education benefit to aid in transition assistance and equips a generation of veterans to face the challenges of tomorrow. We have long advocated a GI Bill in the spirit of the original WWII bill, which would cover tuition, housing, fees, books, and provide a cost-of-living stipend. This legislation accomplishes these goals and more. It recognizes the tens of thousands of Guard and Reserve members who have actively served an aggregate of 24 months defending our nation. It lengthens the post-service usage period from 10 to 15 years from date of discharge and establishes a post-service benefit for the Guard and Reserve.

The original GI Bill helped to create the middle class by improving access to education and creating an unprecedented number of opportunities for millions of Americans. It has eased the transition from active duty into civilian life for millions of veterans while equipping its recipients with the tools to adapt to the ever-changing marketplace. The Department of Defense has long used the GI Bill to recruit and retain high quality personnel. The GI Bill has profoundly improved our military's strength and the quality of life for all of its recipients. The VFW enthusiastically supports this bill.

DRAFT BILL, THE DISABLED VETERANS INSURANCE IMPROVEMENT ACT OF 2007

VFW also supports draft legislation entitled the Disabled Veterans Insurance Improvement Act of 2007. Department of Veterans Affairs (VA) insurance program premiums and coverage do not reflect commercial industry rates, and in many cases are no longer providing the intended benefit for eligible veterans. This legislation will correct that inequity by increasing the Veterans' Mortgage Life Insurance from \$90,000 to \$200,000 and create a new insurance program for veterans with service-connected disabilities. The "new insurance" will update antiquated mortality tables to those used by the commercial insurance industry and allow for coverage up to \$50,000. These provisions mirror IB recommendations for Fiscal Year 2008 insurance benefits.

DRAFT BILL, THE VETERANS' JUSTICE ASSURANCE ACT OF 2007

VFW also supports draft legislation entitled the Veterans' Justice Assurance Act of 2007. The current backlog of claims at the Board of Veterans' Appeals continues to grow at alarming rates. VFW applauds the provisions of this bill which, if enacted, will provide some relief to a burdened veterans' court system. Some of the bill's highlights include repealing term limits and allowing judges who have pending nominations before the Senate to serve in office while the process plays out. These necessary changes, as well as recalling retired judges at equal pay to current judges, will all contribute positively to the current situation and help to move some veteran's appeals forward.

S. 1290, A BILL IMPACTING THE FUNDING AND REPORTING
OF STATE APPROVING AGENCIES (SAA)

This bill would overhaul the funding and reporting mechanism for the SAAs. It would help to eliminate redundant procedures, further the flexibility of VA, and improve accountability for the SAAs. The bill would require improved coordination between the VA and SAA, the Department of Education, the Department of Labor, and other entities to reduce overlapping functions. It would ultimately change the funding structure for SAAs by allowing up to \$19 million per year for SAAs: \$13 million derived from mandatory funding and \$6 million in discretionary funding.

The VFW has no objection to this bill.

S. 1293, THE VETERANS' EDUCATION IMPROVEMENT ACT OF 2007

This legislation would expand accelerated payments for the existing GI Bill programs to allow funding for any short-term, high-cost school. The bill would also allow Guard and Reserve members and veterans' surviving dependents to use accelerated payments as part of their education benefit. S. 1293 would also allow Guard and Reserve members to qualify for the 80-percent GI Bill rate, under chapter 1607 Reserve Education Assistance Program (REAP), with an aggregate of 3 years of service. This is a change from the required 2 years of consecutive service. The bill further extends a \$600 "buy-up," similar to the active duty "buy-up," for Guard and Reserve troops eligible under REAP; awarding them an additional \$150 a month over the life of their GI Bill.

S. 1293 is an excellent step toward resolving inequities between military service and earned benefits, specifically when examining the Guard and Reserve. The VFW agrees with changing the administrative benefit qualifier Guard and Reserve GI Bill from consecutive service (a servicemember's longest tour) to an aggregate service (counting every month activated). However, the goal of fairly administering this benefit may be better served by considering a purely equitable benefit, such as: 1 month of full-time MGIB for every month a Guard or Reserve member serves activated.

In expanding the number of eligible "schools of training" in receipt of accelerated payments, we think it is reasonable to assume there will be an increased use of this benefit. The caps S. 1293 places on the education benefits: three million for Active Duty recipients, two million for Guard and Reserve Chapter 1606 recipients, and one million for Guard and Reserve Chapter 1607 recipients may be too low to meet the actual demand. This would be especially true if these caps were based on a previous year's usage levels of the benefit for only one area of training, technology. The VFW would advise increasing the caps to allow funding for all individuals seeking to draw this benefit.

We support this legislation and the spirit guiding these changes; however we ask that Congress consider the full impact of these changes.

DRAFT BILL, THE COMPREHENSIVE VETERANS BENEFITS
IMPROVEMENT ACT OF 2007

VFW supports the Comprehensive Veterans Benefits Improvement Act of 2007. This legislation mirrors Fiscal Year 2008 Independent Budget recommendations in the areas of compensation and pension, insurance, burial, housing and vocational rehabilitation benefits. The improvements made by this legislation would go a long way toward updating and correcting inequities across the range of benefits and services offered to veterans. We urge Congress to enact this legislation quickly.

VFW strongly supports this legislation, which would expand eligibility for government markers for marked graves of veterans at private cemeteries. Public Law 107-103 included a provision to allow VA to furnish headstones or markers for veterans buried in private cemeteries as long as the death occurred on or after September 11, 2001. The law does not include veterans who died before that date.

Congress has endorsed restoring the right of every veteran to receive a grave marker that recognizes and pays tribute to their service from a grateful Nation. This legislation would amend the current law and include those veterans who have died since November 1, 1990. VFW Resolution 627 calls on Congress to correct this inequity and allow those who died between November 1, 1990 and September 10, 2001 to be honored with a government headstone or marker.

DRAFT BILL, THE SERVICEMEMBERS' CELLULAR PHONE CONTRACT
FAIRNESS ACT OF 2007

VFW supports the Servicemembers' Cellular Phone Contract Fairness Act of 2007, legislation that would amend the servicemembers Civil Relief Act by providing relief for servicemembers with respect to contracts and cell phone fees for cellular phone service. Most cellular phone contracts require a term of 2 years or more for service provided.

If a contract is canceled before the service has ended, hundreds of dollars in termination fees are collected. Many of our servicemembers are deployed to areas where cell phones are of no use and cannot be activated. Most service providers will not suspend a contract while soldiers are deployed. Our soldiers should not have to pay a provider for termination or monthly fees on a contract for a service they cannot use. Passing this legislation is the right thing to do.

DRAFT BILL, THE VETERANS OUTREACH IMPROVEMENT ACT OF 2007

The VFW supports the Veterans Outreach Improvement Act of 2007. This bill aims to improve outreach activities within the Department of Veterans Affairs (VA) by coordinating the efforts among the offices of the Secretary, Public Affairs, Veterans Health Administration, Veterans Benefits Administration and the National Cemetery Administration.

In order to increase effectiveness of VA outreach, it directs the Secretary to establish a grant program for state veterans' agencies by providing funding under Section 561 of Title 38, CFR for state and local outreach services available to veterans.

The VFW has always encouraged and supported increased awareness of benefits and services provided by VA to veterans. We believe that all veterans and their survivors should have access to up-to-date information about services and benefits for which they may be eligible. However, since success of this initiative will result in increased claims submissions to VA, we urge that funding for VBA adjudication keep pace with increases in the number of claims filed as a result of greater outreach at the local level. We also encourage substantial outreach efforts at the local and state level be made on behalf of National Guard and Reserve members and would like to see additional language which specifies oversight by Congress regarding use of funds granted to state and local governments that perform outreach services, to ensure that these funds are being spent properly.

DRAFT BILL, THE IRAQ AND AFGHANISTAN VETERANS
MENTAL HEALTH AND ADVOCACY ACT OF 2007

VFW does not support the draft legislation entitled Iraq and Afghanistan Veterans Mental Health and Advocacy Act of 2007 as written.

Mr. Chairman and Members of the Committee, this concludes the VFW's testimony, I would be happy to answer any of your questions. Thank you.

RESPONSE TO WRITTEN QUESTION SUBMITTED BY HON. DANIEL K. AKAKA TO ERIC
HILLEMANN, DEPUTY DIRECTOR, NATIONAL LEGISLATIVE SERVICE, VETERANS OF
FOREIGN WARS OF THE UNITED STATES

Question. What are the top five legislative priorities of the Veterans of Foreign Wars of the United States?

Response. The Veterans of Foreign Wars of the United States 2008 legislative priority goals are:

VA Budget

The VFW calls on Congress to pass a sufficient budget for the Department of Veterans Affairs to properly care for the health care demands of all veterans, especially the thousands of young servicemembers accessing their earned benefits for the first time.

The VFW urges an assured funding mechanism for the Department of Veterans Affairs that guarantees a full, timely and predictable funding stream for veterans' health care that is provided consistently on time year after year.

Congress must ensure that the unique health care and benefits needs of OEF/OIF veterans are met, to include increasing funding for research into Traumatic Brain Injuries and other related disabilities, as well as improved access to care, especially for those veterans suffering from mental illnesses.

VA Benefits and Compensation

The VFW calls on Congress to provide adequate resources to enable the Veterans Benefits Administration (VBA) to reduce the current backlog of claims. VBA is the gateway to all VA benefits and health care.

We must ensure that the disability compensation program is fully funded and preserved in its current form to protect the needs of current and future veterans. The VFW opposes any changes to the current definition of "line of duty," structural changes to the programs for disability and survivors' benefits, or curtailment of veterans' or beneficiaries' rights of entitlement, or to appeal benefit decisions.

Education

The VFW calls on Congress to enact a comprehensive GI Bill for the 21st Century in the spirit of the original WWII GI Bill, covering the total cost of education including tuition, books, fees and living expenses for attendance at any educational institution.

The VFW supports legislation that invests in the future of our Nation's veterans, promotes national security as strong military recruiting tool, and recognizes the burdens of war carried by our National Guard, Active Reserve, and Active Duty Forces.

Congress must weigh the short term and long term gains for such a comprehensive earned benefit. A high quality military force is a direct result of offering potential recruits a robust benefits package and the best training in the world. A GI Bill for the 21st Century is an investment in our Nation, our military, and the individual lives of veterans.

Military Quality of Life

The VFW calls on Congress to fully fund all programs that enable our troops to succeed in their mission. We must ensure our active duty, Guard and Reserve members are provided increase pay, affordable health care, and adequate housing and work facilities for themselves and their families.

Chairman AKAKA. Thank you very much, Mr. HILLEMAN.
Kimo Hollingsworth?

**STATEMENT OF KIMO S. HOLLINGSWORTH, NATIONAL
LEGISLATIVE DIRECTOR, AMERICAN VETERANS (AMVETS)**

Mr. HOLLINGSWORTH. Mr. Chairman, Members of the Committee, I am pleased to offer testimony on behalf of American Veterans regarding pending benefits legislation.

AMVETS believes that veterans should be given the benefit of the doubt when trying to establish a service-connected injury or illness. In the past, Congress has mandated the presumption of service-connection in certain conditions and AMVETS supports these efforts where applicable.

AMVETS supports several modifications to the current Montgomery GI Bill education program, to include elimination of the \$1,200 member contribution. We would also like to see accelerated payments for fields other than those leading to high-technology employment. We also believe that Congress should eliminate the time period that veterans must use their benefits.

Overall, we fully support efforts to improve the business practices between the Department of Veterans Affairs and State Approving Agencies for education and training programs. We also support efforts to fund adaptive housing grants and other insurance benefits for active duty personnel.

Mr. Chairman, AMVETS fully supports authorizing VA to reimburse the cost of a private headstone or a marker that was not supplied by VA.

With regard to the claims backlog, it is a relatively old issue. It is complicated and it is multi-faceted. Overall, we believe that quality control is central to this issue. In addition, AMVETS believes strongly that Congress should require DOD to conduct mandatory separation physicals and also require DOD to utilize the Benefits Delivery at Discharge that was jointly developed and agreed to by both agencies. It was used very briefly during the mid-1990s.

We support initiatives that would raise rates of veterans compensation to keep pace with the cost of living in this country, and we would support such a measure to be automatic without an act of Congress.

With regards to the Service Members Civil Relief Act, AMVETS supports modification and updates to the law when and where needed.

Mr. Chairman, this concludes my testimony. I will be happy to answer questions.

[The prepared statement of Mr. Hollingsworth follows:]

PREPARED STATEMENT OF KIMO S. HOLLINGSWORTH, NATIONAL LEGISLATIVE
DIRECTOR, AMERICAN VETERANS (AMVETS)

Mr. Chairman and Members of the Committee:

I am pleased to offer testimony on behalf of American Veterans (AMVETS) regarding pending benefits legislation before this Committee.

Last October, AMVETS hosted the "National Symposium for the Needs of Young Veterans" in Chicago, Illinois. More than 500 veterans, active duty and National Guard and Reserve personnel, family members, and others who care for veterans examined the growing needs of our returning veterans. The Symposium findings revealed the need to better assist returning veterans transitioning to the civilian sector through improved education benefits, and employment training.

Mr. Chairman, following the first Persian Gulf War, Congress enacted legislation that provided for the presumption of service-connection for a veteran's unexplained illness. AMVETS believes that veterans should be given the benefit of the doubt when trying to establish a service-connected injury or illness. This legal concept is codified in Title 38 Code of Federal Regulations, chapter 3, paragraph 3.102 that is generally referred to as "the benefit of the doubt rule." This is especially true for combat veterans and prisoners of war.

There appears to be some diseases and illnesses, to include multiple sclerosis, that have a higher reported incidence among the veteran population than non-veterans, but there is no clear medical evidence to support a service-connected condition at this time. AMVETS Service Officers have unofficially reported a higher percentage of multiple sclerosis diagnosis among Air Force veterans than any other group of veterans for claims that they process. The Secretary of Veterans Affairs has the authority to review certain illness and diseases for certain groups of veterans and make recommendations based on the findings. Despite this authority, it is a long and time-consuming process. In the past, Congress has mandated the presumption of certain conditions and AMVETS supports these efforts where applicable.

Over the last 10 years, there have been significant improvements to Montgomery GI Bill (MGIB) education benefits. Both the House and Senate Veterans' Affairs Committees were at the forefront in raising the educational stipend to an acceptable level. Unfortunately, payments to colleges on behalf of our veterans are taking longer to process. In some cases payments are taking so long that it causes a financial hardship to the veteran and the veteran's family. Congress must take steps to provide funding to the VA to ensure adequate staffing and adequate technological improvements so that payments are approved, processed, and disbursed within 35 days of receipt of the appropriate documentation.

AMVETS supports several modifications to the current Montgomery GI Bill education program to include elimination of the \$1,200 member contribution. AMVETS would also like to see accelerated benefits payments for fields other than those leading to "high technology" employment. Many work related training programs that require licensing or certification are short-term in duration, but are time intensive. These types of training programs also generally require upfront payment of tuition or fees.

AMVETS also believes that Congress should eliminate the time period that veterans must use their MGIB benefits. Transitioning from the military can be a very difficult process. This is especially true for married personnel and those with families. The top priority for these veterans is finding employment and a place to live. Many veterans opt to return to their home of record and later find that meaningful employment opportunities are in other geographic locations that require another move. By the time many of these veterans settle into a career and begin the college testing, application and acceptance process, they are near the 10-year time limit requirement. This process is further complicated for combat veterans that may be experiencing mental or health problems, or other types of general readjustment problems.

In addition, AMVETS believes that MGIB benefits should be excluded from being considered as income for purposes of determining eligibility for education grants or student loans. In essence, many veterans are being penalized for earning a benefit that many other grant or loan applicants opted not to earn. Overall, Congress must ensure that this program is capable of maintaining parity, in a timely manner, with the rising costs of a college education and also in keeping pace with the trends in how students earn or receive an education.

One of the biggest problems facing our service members today is civilian employment. Despite some of the best technical training and years of aggressively using their military occupational skill sets, civilian licensing and certifying agencies may not certify or license a veteran without additional training and education. We would like to thank the House and Senate Veterans' Affairs Committees for including language in Public Law 109-461 that authorized a pilot program within the Office of the Assistant Secretary for Veterans' Employment and Training (ASVET). Overall, AMVETS fully supports efforts to improve the business practices between the Department of Veterans Affairs and the State Approving Agencies for education and training programs.

Mr. Chairman, AMVETS has been a vocal critic of both the Department of Defense and the VA with regard to seamless transition. AMVETS fully supports efforts by both departments to continue to better coordinate and share resources, where applicable. AMVETS supports efforts to fund adaptive housing grants and other insurance benefits for active duty personnel.

Public Law 106-117 required VA to contract for an independent study on improvements to veterans' cemeteries. Overall, VA provided this Committee three volumes as part of the Study on Improvements to Veterans Cemeteries. AMVETS fully supported the Study on Improvements to Veterans Cemeteries and believes it serves as a valuable planning tool for VA and Congress in establishing standards and priorities with regards to VA national cemeteries.

In accordance with the above mentioned independent Study on Improvements to Veterans Cemeteries, AMVETS continue to recommend that Congress establish a 5-year, \$250 million "National Shrine Initiative" to restore and improve the condition and character of NCA cemeteries. Enacting a 5-year program with dedicated funds and an ambitious schedule, the national cemetery system holds the potential to fully serve all veterans and their families with the utmost dignity, respect, and compassion.

Mr. Chairman, AMVETS fully supports authorizing VA to reimburse the cost of a private headstone or a marker that was not supplied by VA, up to the cost of a government headstone or marker. There has also been serious erosion in the value of the burial allowance benefits over the years. In 2001, the plot allowance was increased for the first time in more than 28 years, to \$300 from \$150. AMVETS, along with its other partners in the Independent Budget, recommends increasing the plot allowance from \$300 to \$745, an amount proportionally equal to the original benefit.

In the 108th Congress, the burial allowance for service-connected deaths was increased from \$500 to \$2,000. Prior to this adjustment, the allowance had been untouched since 1988. AMVETS, along with its Independent Budget partners, recommends increasing the service-connected burial benefit from \$2,000 to \$4,100, bringing it back up to its original proportionate level of burial costs. The non-service-connected burial allowance was last adjusted in 1978, and we recommend increasing the non-service-connected burial benefit from \$300 to \$1,270.

AMVETS believes it is also grossly unfair for disabled military retirees to forfeit a dollar of their retirement pay for every dollar they receive in VA disability compensation. A disabled veteran who has served this country for 20 years should not be penalized for choosing a military career over a civilian career. In fact, no other category of Federal employee faces the same restriction on disability and retirement pay. Again, because of action by some on this Committee, Congress has enacted legislation to incrementally correct this inequity. We thank you for these past efforts and we would urge this Congress to fully enact concurrent receipt legislation.

The Department of Veterans Affairs (VA) claims backlog is a relatively old issue that is complicated and multi-faceted. Currently, the backlog is way over the 600,000 mark and it continues to grow at a rapid rate. Rather than making headway and overcoming the chronic backlog, VA has lost ground on the problem. By VA's estimates, over 263,000 Operation Enduring Freedom (OEF)/Operation Iraqi Freedom (OIF) veterans will seek VA services; most of them will want to file a claim. Secretary Nicholson has said that reducing the backlog is one of VA's highest management priorities.

The reasons for the claims backlog are many—veterans repeatedly filing claims, a lack of quality control, misplaced or lost documentation and a lack of staffing. Overall, AMVETS believes that a lack of quality control is central to this issue. VA must establish a long-term strategy focused on attaining quality and not merely achieving quotas in claims processing. Veterans Benefits Administration (VBA) can greatly reduce the backlog by hiring more staff, initiating quality training programs, and most importantly, instituting an accountability program.

Despite years of collaboration on a single separation physical and the development of the Benefits Delivery at Discharge exam (BDD), the Department of Defense (DOD) and VA still conduct separate separation physicals and separate compensation and pension exams. Furthermore, separation physicals are still not mandatory. Congress should require the DOD to conduct mandatory separation physicals and also require DOD to utilize the BDD that was jointly developed and agreed to by both agencies. The effective Benefits Delivery at Discharge joint physical was successfully demonstrated from 1995 through 1998 and still isn't universally adopted.

AMVETS would encourage the VA to expand the practice of putting adjudication officers in VA offices aboard active duty military bases. For example, VA has an office aboard Camp Lejeune, NC. The office is staffed with qualified contract medical personnel and full-time VA claims adjudicators. Separating servicemembers are provided compensation exams on base. Many claims are adjudicated and issued a temporary rating decision pending receipt of a DD-214. Once discharged, many new veterans are receiving compensation and disability benefits within 30 days of final release from active duty.

The claims backlog has spanned several Administrations and it is clear that the VA is either unwilling or unable to resolve this issue. While veterans, the VSOs, the VA and the Congress all share responsibility for this debacle, what is very clear is that congressional intervention is now necessary. It is also very clear that the Department of Defense (DOD) has been absent in sharing responsibility for the backlog of VA claims. DOD must be forced to comply with congressional intent with regards to seamless transition. If Congress does not intervene, the system will fail.

AMVETS believes that a review of claims backlog legislation would be incomplete without a discussion of Congress' authorization of private attorneys to access VA and charge veterans for representation in veterans' disability claims. The Veterans Benefits Administration has indicated allowing attorneys to represent veterans will only complicate and lengthen the resolution of veterans' disability claims. Despite these findings, Congress ignored the recommendation of VA and the VSOs and passed legislation to allow private attorneys to represent veterans during the claim process.

AMVETS has 58 National Service Officers located across the country whose sole job is to aid veterans with their claim. We do provide—free of charge—a more thorough and complete representation for veterans and their families. We do not have any financial interests in a claim, and our National Service Officers know the Veterans Benefits Administration system. Recently, the Board of Veterans' Appeals released its Fiscal Year 2006 Report. Out of the major VSOs, AMVETS has the lowest numbers of appeals submitted. Ultimately the report proves that organizations like AMVETS are filing well-developed and meaningful claims. Allowing attorneys to represent veterans will most likely complicate the process by legal maneuvering in lieu of good sound claim development. AMVETS asks that this Committee review its decision, and rescind this law.

AMVETS firmly believes that service-connected disabled veterans should receive fair, timely, and appropriate compensation for their injuries. We fully support initiatives that would raise the rates of veterans' compensation to keep pace with the rising cost-of-living in this country or efforts to automatically increase veterans' disability benefits each year by the Consumer Price Index (CPI), without an act of Congress.

AMVETS also recognizes the sacrifices that the Merchant Mariners made in service to the Nation during World War II. We have a resolution that supports efforts to provide Merchant Mariners benefits. We do, however, have serious concerns about the cost and how it would impair VA's ability to provide the benefits it al-

ready manages. AMVETS would be strongly opposed to funding benefits for this group of veteran at the expense of other veterans.

Mr. Chairman, on December 19, 2003, the President of the United States signed Public Law 108-189, the Servicemembers Civil Relief Act. This law completely rewrites the Soldiers and Sailors Civil Relief Act of 1940, expanding many of the previous law's civil protections. Overall, the law will allow military members to suspend or postpone some civil obligations so the military member can devote his or her full attention to military duties. It is designed to protect active duty military members, reservists who are in active Federal service, and National Guardsmen who are in active Federal service. AMVETS support modifications and updates to the law when applicable.

Mr. Chairman, this concludes my testimony.

RESPONSE TO WRITTEN QUESTION SUBMITTED BY HON. DANIEL K. AKAKA TO KIMO S. HOLLINGSWORTH, NATIONAL LEGISLATIVE DIRECTOR, AMERICAN VETERANS (AMVETS)

Question. What are the top five legislative priorities of the American Veterans (AMVETS)?

Response. The following are the AMVETS legislative priorities for 2007:

The Department Veterans Affairs (VA) Fiscal Year 2008 Budget—The President's budget request for VA in Fiscal Year (FY) 2008 seeks approximately \$86.7 billion for veterans' benefits and services. This amounts to \$39.4 billion in discretionary funding and \$44.9 billion in mandatory appropriations. In Fiscal Year 2008, AMVETS requests roughly \$43.6 billion in discretionary funding.

Mandatory Funding for VA Health Care—In May 2001, President George W. Bush signed Executive Order 13214 creating the President's Task Force to Improve Health Care Delivery for Our Nation's Veterans (PTF). In May 2003, the PTF issued its final report and recommended that the Federal Government should provide full funding . . . and that full funding should occur through modifications to the current budget and appropriations process by using a mandatory funding mechanism. Recent history demonstrates why Congress should pass legislation to make VA health care funding mandatory spending. In Fiscal Year 2005, VA faced a \$1.3 billion shortfall in spending and Congress had to include additional funding in emergency appropriations. For Fiscal Year 2007, Congress failed to pass the annual VA spending bill and the Department is operating under a Continuing Resolution well below Fiscal Year 2007 requested levels.

Extend Enrollment for OEF/OIF Veterans—H.R. 612 and S. 383 introduced in the House of Representatives and the Senate, respectively, would extend from 2 years to 5 years, following discharge or release from active duty, the eligibility period for veterans who served in combat during or after the Persian Gulf War. Continued eligibility would allow veterans to receive hospital care, medical services, or nursing home care provided by the Secretary of Veterans Affairs, notwithstanding a lack of evidence to conclude that their condition is attributable to such service. AMVETS fully supports the passage of legislation to extend the 2-year priority enrollment for OEF/OIF veterans.

Seamless Transition—In March 2007, GAO testified that the Department of Defense (DOD) and VA were still having problems sharing the necessary medical records the VA needed to determine whether servicemembers' medical conditions allowed participation in VA's rehabilitation activities. Congress should require the two agencies to develop electronic medical records that are interoperable, bidirectional, and standards-based. Congress should also require DOD to conduct mandatory separation physicals for all separating service personnel and also utilize the Benefits Delivery at Discharge (BDD) joint separation exam that was developed and agreed to by both agencies.

Post Traumatic Stress Disorder (PTSD) and Traumatic Brain Injury (TBI)—VA operates a network of more than 190 specialized Post Traumatic Stress Disorder (PTSD) outpatient treatment programs throughout the country. Vet Centers are seeing a rapid increase in their enrollment. Equally important, AMVETS is concerned about the lack of awareness and screening among health care professionals for Traumatic Brain Injury (TBI). PTSD and TBI clinically present the same symptoms and the problem for medical personnel is trying to differentiate between PTSD and TBI. VA's approach to PTSD is to promote early recognition of this condition and the same must be done for TBI. In addition, there is no medical diagnostic code specific to TBI. AMVETS is asking Congress to increase funding for PTSD and TBI, with an emphasis on developing improved screening techniques and assigning a new medical code specifically for TBI.

VA Burial Allowance—VA reimbursement benefits were first instituted in 1973 and provided \$150 in reimbursements for deaths that were not service-related. In 2001, the plot allowance was increased for the first time in more than 28 years, to \$300. The non-service-connected burial allowance was last adjusted in 1978 and now also provides \$300. AMVETS supports increasing the non-service-connected burial benefit from \$300 to \$1,270 and increasing the plot allowance from \$300 to \$745, an amount proportionally equal to the original benefit. In 2001, Congress increased the burial allowance for service-related deaths from \$500 to \$2,000. Prior to this adjustment, the allowance had been untouched since 1988. AMVETS recommends increasing the service-related burial benefit from \$2,000 to \$4,100, restoring the value of burial costs to its original proportionate level.

VA Claims Backlog—The VA Claims Backlog is now over 600,000 outstanding claims and it continues to grow at a rapid rate. VA's estimates that over 263,000 OEF/OIF veterans will seek VA services and most will want to file a claim. At the end of Fiscal Year 2006, rating-related compensation claims were pending an average of 127 days, which is 16 days more than at the end of Fiscal Year 2003. During the same period, the inventory of rating-related claims grew by almost half, in part because of increased filing of claims, including those filed by veterans of the Iraq and Afghanistan conflicts. Meanwhile, appeals resolution remains a lengthy process, taking an average of 657 days in Fiscal Year 2006. Overall, a lack of quality control is central to this issue and VA must establish a long-term strategy focused on attaining quality and not merely achieving quotas in claims processing. AMVETS supports increased funding for VA to hire more Full Time Equivalents (FTEs) in order to address the backlog. AMVETS also supports the practice putting adjudication officers in VA offices aboard active duty military bases.

Chairman AKAKA. Thank you very much, Mr. Hollingsworth.
Mr. Brian Lawrence?

STATEMENT OF BRIAN E. LAWRENCE, ASSISTANT NATIONAL LEGISLATIVE DIRECTOR, DISABLED AMERICAN VETERANS

Mr. LAWRENCE. Yes, sir. Good morning, Chairman Akaka and Members of the Committee. On behalf of the 1.3 million members of the DAV, thank you for the opportunity to present our views on the bills under consideration today.

There are a number of noteworthy provisions in these bills and we are encouraged that the Committee is considering so many ways to expand and enhance benefits for disabled veterans and their families. It is difficult to know where to begin with such an array of beneficial measures, but as the title implies, the Comprehensive Veterans Benefits Improvement Act of 2007 would be a huge stride toward a more perfect system to help veterans of the Armed Forces. The bill was reflective of many recommendations of the Independent Budget and DAV resolutions and we hope the Committee will consider it favorably.

S. 225 would amend the Veterans Housing Opportunity and Benefits Improvement Act of 2006 to ensure that certain members of the Armed Forces injured while serving our country are covered by traumatic injury protection under the SGLI program. The DAV supports this measure.

The Disabled Veterans Insurance Act of 2007 would increase the amount of supplemental insurance available for totally disabled veterans from \$20,000 to \$40,000. The DAV supports S. 643.

S. 847 would remove the time limit during which multiple sclerosis is considered to have been incurred in or aggravated by military service. It would ensure that no veteran who contracts MS as a result of service is left without benefits, regardless of when the disease becomes manifest, and we support this bill.

The POW Benefits Act of 2007 would eliminate the requirement that a prisoner of war must have been captive for a minimum of

30 days to be presumed service connected for certain listed diseases. The bill would also add diabetes Type 2 and osteoporosis to the list of presumptive diseases and would require VA to expand the list to include conditions that warrant such presumption by reason of having an association with the experiences of POWs. S. 848 would ensure that no former POW who contracts certain diseases as a result of an internment is left without benefits regardless of the amount of time he or she was held captive and we support this bill.

The Veterans Housing Benefits Enhancement Act of 2007 would provide home improvements and structural alterations to totally disabled members of the Armed Forces prior to their discharge and we support this bill.

We also support the Blinded Veterans Paired Organ Act of 2007, S. 1265.

The Veterans Dignified Burial Assistance Act of 2007, S. 1266 is beneficial, as the title implies. It would give veterans more access to a dignified burial. We do have a concern regarding a provision that allows VA to make grants to States for the operation and maintenance of State veterans cemeteries. We just want to make sure that it didn't take necessary funds away from national cemetery programs.

The Disabled Veterans Insurance Improvement Act of 2007 would increase the amount of Veterans Mortgage Life Insurance from \$90,000 to \$200,000. It would create a new level premium life insurance for veterans with service-connected disabilities who are less than 65 years of age. We support the creation of that new program. We do question the provision that restricts to veterans who become entitled to service connection within 10 years of separation from the Armed Forces. Such a restriction might preclude eligibility for veterans service-connected for late onset conditions, such as certain types of cancer associated with defoliating agents.

And lastly, I would like to acknowledge the tremendous positive impact the Post-9/11 Veterans Educational Assistance Act of 2007 would have for veterans as well as for future generations of Americans. S. 22 would provide post-9/11 era veterans with educational benefits parallel to those provided to servicemembers at the end of World War II, when veterans using the GI Bill became a catalyst that spurred economic growth and expansion for an entire generation of Americans. Today's veterans carry the same potential and we should grant them the highest level of resources possible to reward them for their service.

Thank you, Chairman Akaka, for your time.

[The prepared statement of Mr. Lawrence follows:]

PREPARED STATEMENT OF BRIAN LAWRENCE, ASSISTANT NATIONAL
LEGISLATIVE DIRECTOR, DISABLED AMERICAN VETERANS

Mr. Chairman and Members of the Committee:

I am happy appear before you to present the views of the Disabled American Veterans (DAV) on the various bills under consideration today. In accordance with its congressional charter, the DAV legislative mission is focused on benefits and services provided to veterans on account of their service-connected disabilities. We are therefore pleased to support the bills insofar as they fall within that scope. We are also pleased to acknowledge other provisions within these bills that transcend the DAV legislative focus, but are nonetheless beneficial to many veterans.

S. 22

The Post-9/11 Veterans Educational Assistance Act of 2007 would entitle certain members of the Armed Forces who served on active duty on or after September 11, 2001, to enhanced educational assistance. The legislation would require completion of a secondary school diploma, or its equivalent, for eligibility. In most cases the duration of such assistance would be 36 months and assistance amounts would be subject to several criteria such as the frequency of attendance and charges for the program of education. The legislation would allow assistance for the pursuit of: programs on a full or part-time basis; apprenticeship or other on-job training; correspondence courses; flight training; tutorial assistance; and licensure and certification tests. The bill would also allow for the pursuit of an approved program of education while the member served on active duty. All programs would be subject to approval by the Department of Veterans Affairs (VA).

S. 22 would provide 9/11 era veterans with educational benefits parallel to those provided to servicemembers at the end of World War II. Following WWII, veterans using the GI Bill became a catalyst which spurred economic growth and expansion for an entire generation of Americans. Today's veterans carry the same potential and we should grant them the highest level of resources possible to reward them for their service. History has clearly illustrated that when our Nation invests in veterans' educational opportunities we are ensuring our Nation's economic vitality. Because the DAV maintains an acute focus on benefits that are specific to disabled veterans and their families, our legislative agenda does not include resolutions pertaining to the education benefits. However, the DAV acknowledges that S. 22 could have a tremendously positive impact for veterans and future generations of Americans, and we certainly have no opposition to its passage.

S. 57

The Filipino Veterans Equity Act of 2007 would grant eligibility for VA benefits to members of the organized military forces of the Government of the Commonwealth of the Philippines and the Philippine Scouts who performed in active military service before July 1, 1946. The DAV has no opposition to the enactment of this bill.

S. 117

The Lane Evans Veterans Health and Benefits Improvement Act of 2007 would grant eligibility for a number of health services to veterans who served on active duty during a period of war, without requiring medical evidence that the condition is attributable to such service. Such services would include mental health evaluation and hospital care, medical services, nursing home care, and family and marital counseling for any identified mental health condition. S. 117 would require: post-deployment medical and mental health screenings to be conducted within 30 days after a deployment; provision of an electronic copy of all military records to separating members; and outreach to members of the National Guard and Reserves concerning benefits and services available upon discharge or deactivation. The legislation would require VA to establish and maintain a Global War on Terrorism Veterans Information System, and it would require VA, the Department of Labor (DOL), and the Department of Defense (DOD) to submit quarterly reports on how veterans are affected by the Global War on Terrorism. While the DAV does not have resolutions specific to this legislation, it would be beneficial to veterans seeking health care services and benefits. As such, the DAV has no objection to the favorable consideration of this bill.

S. 161

The Veterans' Disability Compensation Automatic COLA Act would require that, whenever there is an increase in benefit amounts payable under title II of the Social Security Act, the VA shall make the same percentage increase to the rates of disability compensation for veterans with service-connected disabilities, additional compensation for dependents, the clothing allowance for certain disabled adult children, and dependency and indemnity compensation for surviving spouses and children.

To maintain the value of veterans' benefits they must be adjusted to keep pace with the rising cost of living. Clearly, disabled veterans warrant automatic COLA increases to ensure their standard of living does not decline. As such the DAV supports S. 161. Along with the provisions of S. 161, the DAV encourages the Committee to consider a similar measure that would provide an automatic COLA for specially adapted housing and auto grants, which also must be adjusted annually if they are to remain meaningful benefits and keep pace with the cost of living. A

provision that would do so is contained within another bill under consideration today. Section 701 of the Comprehensive Veterans Benefits Improvements Act of 2007 would establish an automatic COLA for specially adapted housing and auto grants. As such, the DAV would encourage the Committee to favorably consider this provision along with S. 161.

S. 168

This legislation would require the VA to establish a national veterans' cemetery in the Pikes Peak Region of Colorado, and would require the VA to consult with appropriate state and local officials in site selection, and with the Administrator of General Services or other appropriate officials regarding the availability of Federal lands in that area suitable for those purposes.

The DAV has no resolution to support this issue, but we have no objection to the enactment of this legislation to make more burial space available for veterans.

S. 225

This legislation would amend the Veterans' Housing Opportunity and Benefits Improvement Act of 2006 to remove the requirement that, in order to qualify for retroactive benefits from traumatic injury protection coverage under the Servicemembers' Group Life Insurance program during the period beginning on October 7, 2001, and ending on November 30, 2005, the Secretary of the military department concerned must determine that the loss was a direct result of a traumatic injury incurred in the theater of operations. The DAV supports S. 225.

S. 423

The Veterans' COLA Adjustment Act of 2007 would increase, effective as of December 1, 2007, 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. Within the bill is a provision that "Each dollar amount increased under paragraph (1), if not a whole dollar amount, shall be rounded to the next lower whole dollar amount." While the DAV supports the overall intent of this bill, we have testified for the past several years that rounding down the adjusted rates to the next lower dollar amount will gradually erode the value of benefits and they will not keep pace with the rise in the cost of living. Rounding down veterans' cost-of-living adjustments unfairly targets veterans for convenient cost savings for the government. The DAV supports S. 423, but we urge the Committee to strike the provision regarding the rounding down of the COLA. A provision that would do so is contained within another bill under consideration today. Section 602 of the Comprehensive Veterans Benefits Improvements Act of 2007 would eliminate the rounding down of the annual COLA. As such, the DAV would encourage the Committee to favorably consider this provision along with S. 423.

S. 526

The Veterans Employment and Training Act of 2007 would expand the scope of programs of education for which accelerated payments of educational assistance under the Montgomery GI Bill (MGIB) may be used. The DAV has no resolutions pertaining to this bill but because it would benefit veterans and their family members, the DAV has no objection to its favorable consideration.

S. 643

The Disabled Veterans Insurance Act of 2007 would increase the amount of supplemental insurance available for totally disabled veterans. More specifically, it would amend section 1922A(a) of title 38, United States Code, by striking \$20,000 and inserting \$40,000. The DAV supports S. 643.

Regarding the issue of veterans' insurance benefits, the DAV also encourages the Committee to consider increasing the amount of coverage available under Service-Disabled Veterans Insurance (SDVI). The \$10,000 maximum coverage under the base SDVI policy has not been increased since it was established in 1917. Additionally, SDVI premiums are much higher than standard commercial rates because they are based on 1941 mortality tables. Because life expectancy has improved since 1941, the program no longer fulfills congressional intent to provide life insurance to service-connected disabled veterans at standard rates.

The DAV supports increasing the face value of SDVI, along with basing SDVI premiums on current mortality tables. A provision that would do so is contained within another bill under consideration today. Section 301 of the Comprehensive Veterans Benefits Improvements Act of 2007 would base SDVI premiums on current mortality

table. As such, the DAV would encourage the Committee to favorably consider this provision along with S. 643.

S. 698

The Veterans Survivors Education Enhancement Act of 2007 would eliminate the 45-month limitation on the use of dependents' educational assistance for eligible veterans' survivors and dependents, and the use of such assistance for special restorative training. It would also make survivors and dependents eligible for educational assistance until their 30th (currently 26th) birthday. The bill would make the aggregate amount of educational assistance \$80,000, and it would make survivors and dependents eligible for tutorial assistance. The DAV has no resolutions pertaining to this bill but because it would benefit veterans and their family members, the DAV has no objection to its favorable consideration.

S. 847

This legislation would remove the time limit during which multiple sclerosis is to be considered to have been incurred in, or aggravated by, military service.

Normally, to establish eligibility for service-connected benefits, a veteran must provide evidence of a correlation between military service and the condition being claimed. Under presumption of service connection, VA presumes the service connected relationship exists based on the other qualifying criteria, such as statistical information indicating a higher than normal affliction rate among veterans. Multiple sclerosis is one of the insidious conditions that may appear years after a veteran leaves active duty. This bill recognizes that manifestation of multiple sclerosis may occur beyond the current 7-year presumptive period. S. 847 would ensure that no veteran who contracts multiple sclerosis as a result of service is left without benefits, regardless of when the disease becomes manifest. The DAV supports this bill.

S. 848

The POW Benefits Act of 2007 would eliminate the requirement that a prisoner of war (POW) must have been interned for a minimum of 30 days to be presumed service connected for certain listed diseases. The bill would also add diabetes (type 2) and osteoporosis to the listed presumptive diseases; and it would require VA to expand the list to include diseases that warrant such presumption by reason of having a positive association with the experience of being a prisoner of war.

S. 848 would ensure that no former POW who contracts certain diseases as a result of internment is left without benefits, regardless of the amount of time he or she was held captive. The DAV supports this bill.

S. 961

The Belated Thank You to the Merchant Mariners of World War II Act of 2007 would require the VA to pay a monthly benefit of \$1,000 to certain Merchant Mariners who served between December 7, 1941, and December 31, 1946, and who received honorable-service certificates. The surviving spouse of an eligible Merchant Mariner would be eligible to receive the same monthly payment provided that he or she had been married to the Merchant Mariner for at least one year prior to the Merchant Mariner's death.

This legislation would provide a non service-connected benefit, to certain Merchant Mariners or their surviving spouses, that exceeds the amount of compensation the VA pays to a 60 percent service connected disabled veteran. Along with the disparity illustrated by this comparison, the DAV is concerned about the cost of this provision. In its April 18, 2007 testimony before the House Veterans' Affairs Committee regarding H.R. 23, the companion bill to S. 961, the VA estimated that enactment of the legislation would cost approximately \$234.1 million in the first fiscal year and an additional benefit cost of \$1.4 billion over 10 years.

The DAV statement of policy specifies that we will not oppose legislation unless it is evident that it will jeopardize benefits for service-connected disabled veterans. As such, we would strongly oppose offsetting the costs associated with S. 961 against other VA programs. While the DAV acknowledges the bravery, sacrifice, and contributions of the Merchant Mariners of WWII, we cannot support S. 961.

S. 1096

The Veterans' Housing Benefits Enhancement Act of 2007 would provide home improvements and structural alterations to totally disabled members of the Armed Forces prior to their discharge or release from active service. The bill would also expand the number of veterans eligible for such benefits to include disabled vet-

erans with severe burns. It would require VA to submit to Congress a report that contains an assessment of the adequacy of the authorities available to the VA to assist disabled veterans in acquiring: suitable housing units with special fixtures or movable facilities required for their disabilities; adaptations to their residences that are reasonably necessary because of their disabilities; or, residences already adapted with special features determined by the VA to be reasonably necessary as a result of their disabilities. S. 1096 would provide assistance for automobiles and adaptive equipment to disabled veterans with severe burns. It would provide partial housing grants for those veterans residing with a family member to include servicemembers still on active duty and awaiting their final VA disability rating. This legislation will also require the VA to report on the need for a permanent housing grant for wounded veterans who reside with family members.

S. 1096 would provide immediate, meaningful assistance to disabled veterans and their families by strengthening and expanding current laws. The DAV fully supports this commendable bill.

S. 1163

The Blinded Veterans Paired Organ Act of 2007 would grant eligibility for compensation and specially adapted housing to certain veterans with impairment of vision involving both eyes. The VA disburses home adaptation grants of up to \$10,000 to veterans with a service-connected blindness in both eyes. Current law requires that such veterans have a visual acuity of 5/200 or less in order to be eligible for these grants. This legislation would ease this standard to include veterans who have a visual acuity of 20/200 or less. It would also make specially adapted housing grants available to veterans with a visual acuity of 20/200 or less, or a peripheral field of vision of 20 degrees or less. The bill would also provide for the use of the National Directory of New Hires for income verification purposes.

This commendable legislation takes into consideration the high number of injuries related to improvised explosive devices (IEDs). Along with traumatic brain injuries, IEDs frequently cause damage to servicemembers' vision. This bill will allow those who have suffered severe vision impairment to speed their readjustment by adapting their homes to accommodate the disability. Additionally, those who have suffered blindness in one eye will be assured that they are provided for in the event that they lose sight in the other eye. The DAV appreciates and strongly supports this provision of S. 1163, but we have no resolution pertaining to the use of the National Directory of New Hires for income verification purposes.

S. 1215

This legislation would raise the cap on funds for State Approving Agencies and extend authority for a pilot program for on-the-job claim adjudicators' training. It would also: update various reporting requirements; authorize case-by-case waiver of residency requirement for a Director for Veterans' Employment and Training; modify an unemployment study to cover veterans of the Global War on Terror; extend an increase in benefit for individuals pursuing apprenticeship or on-job-training. The DAV has no opposition to the enactment of this bill.

S. 1261

The Montgomery GI Bill for Life Act of 2007 would repeal the 10-year limit on the use of veterans' educational benefits. It would extend entitlement that was set to expire to allow a veteran to complete the quarter or semester, and it would repeal the 14-year limit on the use of selected reserve educational assistance benefits. The DAV has no resolutions pertaining to this bill, but because it would benefit veterans and their family members, the DAV has no objection to its favorable consideration.

S. 1265

This legislation would expand eligibility for Veterans' Mortgage Life Insurance to include members of the Armed Forces receiving specially adapted housing assistance from the VA. Because this bill would provide additional coverage for severely disabled veterans who have sacrificed so much on behalf of the security of their fellow citizens, the DAV supports this commendable legislation.

S. 1266

The Veterans' Dignified Burial Assistance Act of 2007 would increase plot or interment allowance from \$300 to \$400, and it would repeal the time limit for States filing for reimbursement of interment costs. This bill would also authorize VA to

make grants to States for the operation and maintenance of State veterans' cemeteries.

Overall, S. 1266 is a bill that is beneficial as it helps to ensure, as its title implies, that veterans have access to a dignified burial that provides the level of honor they deserve. However, a concern arises regarding the provision that allows VA to make grants to States for the operation and maintenance of State veterans' cemeteries. While this provision appears favorable because it would make more burial space available for veterans, the DAV wants to ensure that it would not have the unintended consequence of creating competition between State and National cemetery programs for funding. Should such certainty be made, we would welcome the provision. Last, along with the proposed increase for the burial plot allowance, the DAV would encourage the Committee to consider legislation to increase the burial allowance payable in the case of death due to service-connected disability and to provide for automatic annual adjustments indexed to the rise in the cost of living. During the most recent DAV National Convention, our members voted to again adopt a long standing resolution calling for an increase for burial allowance, which seems worthy of mention considering the objective of this commendable legislation. This bill is consistent with the recommendation of the The Independent Budget (IB) on this issue. The IB is a budget and policy document that sets forth the collective views of the DAV, AMVETS, the Paralyzed Veterans of America (PVA), and the Veterans of Foreign Wars of the United States (VFW). While the DAV supports the favorable consideration of S. 1266, it is noteworthy that another bill under consideration today, the Comprehensive Veterans Benefits Improvements Act of 2007, would increase the plot allowance to \$745. As such, the DAV would encourage the Committee to approve the more favorable plot allowance provision.

THE DISABLED VETERANS INSURANCE IMPROVEMENT ACT OF 2007

This draft bill would increase the amount of veterans' mortgage life insurance (VMLI) from \$90,000 to \$200,000. It would create a new level-premium life insurance for veterans with service connected disabilities who are less than 65 years of age. The amount of insurance granted would be a maximum of \$50,000. Eligible veterans could elect lesser amounts of life insurance, which would be available in \$10,000 increments. For veterans insured under this program who reached 70 years of age, the amount available would be reduced to equal 20 percent of the amount previously covered. Premiums would be based on the 2001 Commissioners Standard Ordinary Basic Table of Mortality and interest rate of 4.5 per centum per annum. The bill would expand coverage of Servicemembers' Group Life Insurance to include members of the individual ready Reserve.

Overall, this bill is favorable to both veterans and disabled veterans. The DAV specifically supports the creation of level-premium life insurance for veterans with service connected disabilities. While this provision expands benefits for disabled veterans, the DAV questions the rationale for restricting it to veterans who became entitled to VA service connection within 10 years of separation from the Armed Forces. Such a restriction would preclude eligibility for veterans service connected for latent onset conditions such as certain types of cancer associated with defoliant agents. We hope that the Committee will strike this restriction to prevent the unintended inequity it would create for a significant number of disabled veterans.

THE VETERANS' JUSTICE ASSURANCE ACT OF 2007

This draft bill would repeal term limits for judges of the United States Court of Appeals for Veterans' Claims, and it would increase the salary amount for the chief judge of the Court. The bill would establish provisions to recall retired judges of the Court, and it would grant the Court discretion to set reasonable practice and registration fees. It would require the Court to submit an annual report to Congress that summarizes the Court's workload during the previous fiscal year. Last, the bill would produce a report on the feasibility of establishing a Veterans Courthouse and Justice Center.

With regard to the repeal of term limits for judges of the Court, the DAV does not believe that appointing judges to longer terms is desirable. Appointments to extended terms during good behavior are generally reserved for judges of Article III courts. Since judges of the Court may be removed by the President by reason of misconduct, 38 U.S.C. § 7253(f), there is no doubt that the Court is part of the executive branch. The proposed departure from the present 15-year term might raise a question about the status of the Court because there seems to be no precedent for life tenure within the executive branch. The DAV has no objection to the Chief Judge of the Court of Appeals for Veterans Claims receiving a higher rate of compensation than the other judges of the Court. Regarding the recall of retired judges, the DAV

notes that the proposed provisions for doing so are somewhat complex and may raise issues for judges who have retired far from Washington, DC. The Committee might want to consider simpler staffing solutions, such as increasing the number of judges authorized for the Court. The DAV believes that the proposed annual report to Congress from the Court should be more specific and include, along with the number and type of dispositions, the number of dispositions based on settlements, joint motions for remand, voluntary dismissals, and the number of memorandum decisions made by each judge. The DAV supports the establishment of a dedicated Veterans Courthouse and Justice Center. During the most recent DAV National Convention, our members voted to again adopt a long standing resolution calling for such a facility. Our resolution envisions an architectural design and location that is reflective of the United States' respect and gratitude for veterans of military service. Rather than designating the office building where the Court currently leases space as the permanent facility, we encourage the Committee to authorize the construction of a new Veterans Courthouse and Justice Center that features the design and location worthy of its status.

THE VETERANS' EDUCATION AND VOCATIONAL BENEFITS IMPROVEMENT ACT OF 2007

This draft bill would provide a temporary expansion of courses for which accelerated payment of educational assistance for veterans and their dependents may be made. It would also enhance educational assistance for Reserve component members supporting contingency operations and other operations. The DAV has no resolutions pertaining to this bill but because it would benefit veterans and their family members, the DAV has no objection to its favorable consideration.

DRAFT BILL

This draft bill would provide additional discretion to VA in contracting with State Approving Agencies. The DAV has no resolutions pertaining to this bill but because it would benefit veterans and their family members, the DAV has no objection to its favorable consideration.

COMPREHENSIVE VETERANS BENEFITS IMPROVEMENTS ACT OF 2007

This draft bill contains a number of provisions to improve benefits and services for veterans. Many such provisions are reflective of both the DAV Legislative Program resolutions and the recommendations of the IB. Where applicable, this testimony points out the bill's provisions that relate to DAV resolutions or IB recommendations. Mr. Chairman, per your instruction, the portion of the bill pertaining to health care matters is not addressed in this testimony.

Section 201 of the bill would repeal the prohibition on concurrent receipt of VA compensation and military longevity retirement pay. This provision is consistent with both DAV Resolution Number 003 and the IB recommendation on this issue.

Currently, some former servicemembers who are retired from the Armed Forces on the basis of length of service must forfeit a portion of the retired pay they earned through faithful performance of military service to receive VA compensation for service-connected disabilities. This is inequitable because military retired pay is earned by virtue of a veteran's long service on behalf of the Nation. Entitlement to compensation, on the other hand, is because of disability incurred during that military service. Most non-disabled military retirees pursue second careers after serving, in order to supplement their income, thereby justly enjoying a full reward for completion of a military career along with the added reward of full pay in civilian employment. In contrast, military retirees with service-connected disabilities do not enjoy the same full earning potential. Their earning potential is reduced commensurate with the degree of service-connected disability. To put them on equal footing with non-disabled military retirees, disabled retirees should receive full military retired pay and compensation, to account for diminution of their earning capacities.

The DAV supports the provision of this bill that would repeal the offset between military longevity retired pay and VA disability compensation for those service connected less than 50 percent. The DAV has no resolutions pertaining to concurrent receipt for Chapter 61 retirees with less than twenty years of military service, but because it would benefit veterans and their family members, the DAV has no objection to its favorable consideration.

Section 202 would increase the rates special monthly compensation. This provision is consistent with the recommendation of the IB on this issue. The VA, under the provisions of title 38, United States Code, section 1114(k) through (s), provides additional special compensation to select categories of veterans with very severe, debilitating disabilities, such as the loss of a limb, loss of certain senses, and to those who require the assistance of an aide for the activities of daily living, such as dress-

ing, toileting, bathing, and eating. The payment of special monthly compensation, while minimally adjusted for inflation each year, is now no longer sufficient to compensate for the special needs of these veterans. As such the DAV supports this commendable provision to increase this crucial benefit.

Section 203 would establish a minimum VA disability rating of 10 percent for veterans with service connected hearing loss requiring a hearing aid. This provision is consistent with both DAV Resolution Number 122 and the IB recommendation on this issue. Currently, The VA Schedule for Rating Disabilities does not provide a compensable rating for hearing loss at certain levels severe enough to require hearing aids. The minimum disability rating for any hearing loss warranting use of hearing aids should be 10 percent, and the schedule should be changed accordingly. A disability severe enough to require use of a prosthetic device should be compensable. Beyond the functional impairment and disadvantages of artificial restoration of hearing, hearing aids affect the wearer's physical appearance. As such, the DAV supports this provision to provide a minimum 10 percent disability rating for hearing loss for which a hearing aid is required.

Section 204 would increase the rate of dependency indemnity compensation for surviving spouses of members of the Armed Forces who die while on active duty. This provision is consistent with the recommendation of the IB on this issue, and the DAV supports its favorable consideration.

Section 205 would lower the age threshold for eligibility for restoration of dependency and indemnity compensation to remarriage of survivors of veterans who die from service-connected disabilities. This provision is consistent with the recommendation of the IB on this issue, and the DAV supports its favorable consideration.

Section 206 would eliminate an inequity in current law controlling the beginning date for payment of increased compensation based on periods of incapacity due to hospitalization or convalescence. Hospitalization in excess of 21 days for a service connected disability entitles the veteran to a temporary total disability rating of 100 percent. This rating is effective the first day of hospitalization and continues to the last day of the month of discharge from hospital. Although the effective date of the temporary total disability rating corresponds to the beginning date of hospitalization or treatment, the provisions of 38 U.S.C. § 5111 delay the effective date for payment purposes until the first day of the month following the effective date of the increased rating. This provision deprives veterans of any increase in compensation to offset the total disability during the first month in which temporary total disability occurs. This deprivation and consequent delay in the payment of increased compensation often jeopardizes disabled veterans' financial security and unfairly causes them hardships. Therefore, the DAV supports this measure to authorize increased compensation on the basis of a temporary total rating for hospitalization or convalescence to be effective, for payment purposes, on the date of admission to the hospital or the date of treatment, surgery, or other circumstances necessitating convalescence.

Section 207 would produce a report on the adequacy of dependency and indemnity compensation to ensure the level of VA financial support is adequate to maintain these beneficiaries above the poverty level. This provision is consistent with the recommendation of the IB on this issue, and the DAV supports its favorable consideration.

Section 301 would lower premiums for Service Disabled Veterans' Insurance (SDVI) policies based on improved life expectancy under current mortality tables. Because of service-connected disabilities, disabled veterans have difficulty getting or are charged higher premiums for life insurance on the commercial market. Congress therefore created the SDVI program to furnish disabled veterans life insurance at standard rates. When this program began in 1951, its rates, based on mortality tables then in use, were competitive with commercial insurance. Commercial rates have since been lowered to reflect improved life expectancy shown by current mortality tables. VA continues to base its rates on mortality tables from 1941 however. Consequently, SDVI premiums are no longer competitive with commercial insurance and therefore no longer provide the intended benefit for eligible veterans. This provision, which would restore SDVI to its intended purpose, is consistent with both DAV Resolution Number 191 and the IB recommendation on this issue. Section 301 would also increase the amount of coverage from \$10,000 to \$50,000. This increase is also reflective of the IB and DAV Resolution Number 022. As such, the DAV supports this provision.

Section 401 would increase plot or interment allowance from \$300 to \$745, and it would provide for an automatic annual COLA for the plot allowance to keep pace with rising costs. This provision is consistent with the recommendation of the IB on this issue, and the DAV supports its favorable consideration.

Section 402 would increase plot allowance and burial expenses for disabled veterans, from \$300 to \$1,270 and from \$2,000 to \$4,100 respectively. This provision is consistent with both DAV Resolution Number 202 and the IB recommendation on this issue. Therefore, the DAV supports this provision.

Section 403 would authorize \$37 million for the State veterans' cemetery grants for Fiscal Year 2008. This provision is consistent with the recommendation of the IB on this issue, and the DAV supports its favorable consideration.

Section 501 would increase specially adapted housing grants. The current \$50,000 grant would be increased to \$60,000, and the current \$10,000 grant would be increased to \$12,000. This section would also provide for future automatic annual adjustments indexed to the rise in the cost-of-living. VA currently provides specially adapted housing grants of up to \$50,000 to veterans with service-connected disabilities consisting of certain combinations of loss or loss of use of extremities and blindness or other organic diseases or injuries. Veterans with service-connected blindness alone or with loss or loss of use of both upper extremities may receive a home adaptation grant of up to \$10,000. Increases in housing and home adaptation grants have been infrequent, although real estate and construction costs rise continually. Unless the amounts of the grants are periodically adjusted, inflation erodes the value and effectiveness of these benefits, which are payable to a select few but among the most seriously disabled service-connected veterans. This provision, which would address the need for such increases, is consistent with both DAV Resolution Number 021 and the IB recommendation on this issue; therefore, the DAV supports this provision.

Section 502 would increase the amount of VMLI from \$90,000 to \$150,000. This provision is consistent with the recommendation of the IB on this issue, and the DAV supports its favorable consideration.

Section 503 would make members of the National Guard and Reserves, who serve on active duty for at least one year, eligible for housing loans. The DAV has no resolutions pertaining to this bill, but because it would benefit veterans and their family members, the DAV has no objection to its favorable consideration.

Section 504 would adjust housing loan fees to rates in effect before the enactment of the Veterans' Benefits Act of 2003. The DAV has no resolutions pertaining to this bill, but because it would benefit veterans and their family members, the DAV has no objection to its favorable consideration.

Section 601 would authorize the Court of Appeals for the Federal Circuit (CAFC) to review and set aside changes to the VA Schedule for Rating Disabilities found to be arbitrary and capricious or clearly in violation of statutory provisions. Under 38 U.S.C. § 502, CAFC may review challenges to VA's rulemaking. Section 502 exempts from judicial review actions relating to the adoption or revision of the VA Schedule for Rating Disabilities, however. Formulation of criteria for evaluating reductions in earning capacity from various injuries and diseases requires expertise not generally available in Congress. Similarly, unlike other matters of law, this is an area outside the expertise of the courts. Unfortunately, without any constraints or oversight whatsoever, VA is free to promulgate rules for rating disabilities that may not fall within the broad parameters of 38 U.S.C. § 1155. Therefore, the CAFC should have jurisdiction to review and set aside VA changes or additions to the rating schedule when they are shown to be arbitrary and capricious or clearly violate basic statutory provisions. Section 601 would grant the CAFC such authority; therefore, the DAV supports this provision.

Section 602 would eliminate the rounding down of COLAs for 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. As mentioned previously in this statement with regard to S. 243, COLA increases normally require that each partial dollar amount increased shall be rounded to the next lower whole dollar amount. The DAV has testified for the past several years that continually rounding down the adjusted rates to the next lower dollar amount will gradually erode the value of benefits and they will not keep pace with the rise in the cost of living. Rounding down veterans' cost-of-living adjustments unfairly targets veterans for convenient cost savings for the government. As such, the DAV supports section 602 and we urge the Committee to eliminate the rounding down of the COLA.

Section 603 would establish a clinical information data exchange bureau that facilitates data between the DOD and VA health systems. Recently, there has been a great deal of effort to develop proposals to promote VA/DOD initiatives within the medical care arena. The IB believes DOD and VA must continue to develop electronic medical records that are interoperable. Better coordination of the two electronic medical record systems will afford the opportunity to see tangible initiatives of VA/DOD programs. It will also expedite the handling of patient information espe-

cially in the transition of the patient from the DOD system to the VA system. Section 603 is consistent with the recommendation of the IB on this issue, and the DAV supports its favorable consideration.

Section 604 would require VA and DOD to conduct a joint study regarding the interoperability of their respective disability rating systems. This provision would seek to address a longstanding problem in the military disability evaluation system. Injured servicemembers, are routinely denied benefits to which they are entitled. This occurs primarily because some military services consistently underrate the severity of those disabling conditions found to render the servicemember unfit for further service. Military services do not adhere to the VA Schedule for Rating Disabilities as required by chapter 61 of title 10 United States. The DAV asserts that this statute and the ruling by the U.S. Court of Claims in *John F. Hordechuck vs. The United States* (U.S. Ct. Cl. 492, 1959) make it clear that DOD must use the VA schedule as its standard for rating disabilities. While section 604 of this bill would be a step toward resolving this problem, the DAV encourages the Committee to consider legislative action to eliminate any ambiguity on this issue. Such legislation should make it unmistakably clear that: (1) there is only one rating schedule, the one adopted by the VA, and that DOD does not have authority to modify that schedule; and (2) that decisions of the Court of Appeals for Veterans Claims interpreting the rating schedule must also be followed by DOD.

Section 701 would increase the amount of automobile assistance allowance for disabled veterans. The VA provides certain severely disabled veterans grants for the purchase of automobiles or other conveyances. This grant also provides for adaptive equipment necessary for safe operation of these vehicles. This program also authorizes replacement or repair of adaptive equipment. To restore the comparability between the cost of an automobile and the allowance, the allowance, based on 80 percent of the average new vehicle cost, would be \$22,484. Section 701 would increase the amount to this level, and it would provide for an automatic annual COLA. This provision is consistent with the recommendation of the IB on this issue, and the DAV supports its favorable consideration.

Section 702 would change the law to permit refund of an individual's MGIB contributions when his or her discharge was characterized as general or under honorable conditions because of minor infractions or inefficiency. This provision is consistent with the recommendation of the IB on this issue, and the DAV supports its favorable consideration.

DRAFT BILL

This draft bill would make permanent authority for the VA to furnish government markers for graves of veterans buried in private cemeteries. While the DAV has no resolution on this issue, the bill would accomplish a beneficial purpose, and we certainly have no objection to its passage.

THE SERVICEMEMBERS' CELLULAR PHONE CONTRACT FAIRNESS ACT OF 2007

This draft bill would allow servicemembers who must relocate for military reasons to terminate cellular phone contracts without penalty. While the DAV has no resolution on this issue, the bill would accomplish a beneficial purpose, and we certainly have no objection to its passage.

THE VETERAN'S OUTREACH IMPROVEMENT ACT OF 2007

This legislation would direct the VA to establish procedures for effective coordination of outreach activities between the various offices and administrations within VA. It would also authorize the VA to make grants to state veteran agencies for state and local outreach services.

The DAV understands the importance of reaching out to veterans to inform them of benefits to which they may be entitled, and expends considerable resources in this regard. Both the DAV Veterans' Information Seminar program and the DAV Mobile Service Office (MSO) program are designed to educate disabled veterans and their families on veterans' benefits and services. In both programs, highly trained members of DAV National Service Officer Corps provide service deep within veterans' communities across the country to counsel and assist veterans in completing applications for benefits from the VA and other government agencies.

While outreach is important, we believe a higher budget priority for VA is to decrease the number of backlogged VA compensation claims. Therefore, the funding that would be authorized by this bill for outreach would be better utilized if it was put toward a program that would help reduce the backlog. For instance, the Benefits Delivery at Discharge (BDD) is a program that assists servicemembers at par-

icipating military bases with development of VA disability compensation claims prior to release from active duty. The discharge physical is conducted under VA disability examination protocols either by VA medical staff, contract medical examiners or military personnel. BDD fosters a seamless transition from the military to the VA system and accelerates claims for compensation. In summary, the DAV does not oppose this bill, but we would prefer to see additional funding directed toward the more urgent need for resources within the VA claims processing system.

DRAFT BILL

This draft bill would make veterans diagnosed with Post Traumatic Stress Disorder eligible for hospital care, medical services, and nursing home care, despite insufficient medical evidence to conclude that such disability may be associated with military service. It would also assess the feasibility of making grants available to legal service organizations to assist servicemembers and veterans in obtaining pro bono legal representation to ensure they receive health care, benefits and services. The DAV supports these provisions. While we do not recognize a widespread need for legal representation for veterans seeking health care, we do acknowledge that pro bono legal representation could be beneficial to a large number of veterans seeking benefits. Accordingly, the DAV has recently entered into an agreement with LeBoeuf, Lamb, Greene & MacRae LLP, under which DAV and the firm will coordinate to provide pro bono legal services to servicemembers going before formal physical evaluation boards in Washington, DC. The DAV hopes to conclude a similar agreement with another large firm in the near future. The goal of this effort is to ensure that every servicemember who desires the assistance of an attorney while the servicemember is proceeding through the military disability evaluation system in Washington, DC, is provided that assistance at no cost. The DAV believes that similar efforts can, and should, be organized in other cities without the need to expend public funds. There are many veterans' service organizations, and attorneys have an obligation to perform pro bono service. DAV believes that large numbers of attorneys will welcome the opportunity to complete that obligation by serving veterans.

CLOSING

Mr. Chairman and Members of the Committee, the DAV appreciates the opportunity to present our views on these bills. We look forward to our continued work with the Committee to serve our Nation's disabled veterans and their families.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. DANIEL K. AKAKA TO BRIAN LAWRENCE, ASSISTANT NATIONAL LEGISLATIVE DIRECTOR, DISABLED AMERICAN VETERANS

Question. What are the top five legislative priorities of the Disabled American Veterans?

Response. As you requested during the hearing, I have provided the following list of issues the DAV believes should be considered priority subjects.

CLAIMS BACKLOG

Despite ongoing efforts to reduce the unacceptably large claims backlog, C&P has been unable to gain ground on its pending claims. Experience has shown that this problem has persisted primarily because of inadequate resources compounded by higher claims volumes. The VA needs to be provided with adequate resources that will allow it to hire enough employees to clear the mountain of backlogged claims. The VA also requires resources to establish and improve training programs to enable newly hired personnel to absorb the tremendous volume of information contained in the laws, regulations, and court decisions affecting veterans' claims. Lastly, VA must hold its employees accountable for quality and accuracy in their work. DAV has long stressed quality over quantity; mere completion of a large number of claims decisions is ineffective if many of them must be reworked. It is more important to do the work right the first time. It is paramount that substantial measures be taken immediately to fix the backlog in claims processing before the system collapses under its own weight. To solve the claims backlog problems, VA must have:

- Adequate staffing levels and resources.
 - Congress should authorize 10,675 total full time employees for VA Compensation and Pension Service for Fiscal Year 2008.

- Comprehensive training programs to enable claims processing personnel to make accurate decisions.
- Accountability for the accuracy of claims decisions.
 - Quality control measures should be established for each individual making claims decisions.

REPEAL THE ATTORNEY PROVISION

The DAV is deeply concerned that allowing fee-charging lawyers and agents into the VA claims process will profoundly change the system to the detriment of veterans and other claimants. We believe there is potential wide-ranging unintended consequences. Beyond the cost to veterans, added administrative costs for VA are likely to be substantial, without commensurate advantages. It is reasonable to expect that this provision will negatively impact productivity in the claims adjudication process and further bog down an already overloaded system, and will eventually lead to the need for even more increases in VA staffing. For example, VA will have the responsibility of oversight and administration of fee agreements, but no consideration has been given by either Congress or the VA regarding the amount of monetary or human resources that will be necessary to perform these functions.

- Lawyers and agents must not be allowed to charge fees for assisting veterans with VA disability claims.
- The provision in S. 3421, Public Law 109-461, which allows lawyers and agents to charge such fees, must be repealed.

ASSURED FUNDING FOR VA HEALTH CARE

The DAV firmly believes that service-connected disabled veterans have earned the right to VA medical care through their extraordinary sacrifices and service to our Nation. Year after year the DAV has fought for sufficient funding for VA health care but despite our efforts, the cumulative effects of insufficient funding have resulted in the rationing of health care. VA reports that it has reached capacity at many of its health care facilities.

The funding for VA health care is a discretionary program. The DAV believes that making such funding mandatory would ensure the government meets its obligation to provide health care to service-connected disabled veterans by eliminating the year-to-year uncertainties about funding levels that have prevented VA from being able to adequately plan for and meet the growing number of veterans seeking treatment.

- Funding for VA health care should be transferred from the discretionary budget and appropriations process and made mandatory.

CONCURRENT RECEIPT

Recent laws have been enacted to phase in a new benefit and incrementally eliminate the unfair law that bans concurrent receipt of career retirement pay and VA disability compensation. However, only career retirees who are at least 50 percent disabled are eligible. The DAV believes an unfair law should also be repealed for everyone affected by it; there should be no eligibility criteria, based on a veteran's level of disability, to determine entitlement to justice. Something unfair to a veteran who is 50 percent disabled, is equally unfair to a veteran with a 40 percent disability. The attempt to partially and incrementally correct the unfair offset has also led to the creation of a hodge-podge of programs with different eligibility criteria. Besides giving rise to much confusion, each new program has created unforeseen inequities that required further corrective actions. The complexity and vagueness of these programs have undoubtedly added to the costs of administration.

- Congress should take steps to fully repeal the unfair prohibition on the concurrent receipt of military retired pay and VA disability compensation for all disabled career military retirees.

RESTORE MARKET VALUE OF DISABLED VETERANS' READJUSTMENT BENEFITS

Specially Adapted Housing/Auto Grants

In addition to compensation, the VA provides special benefits to accommodate a veteran or servicemember with severe disabilities that resulted from an injury or disease incurred or aggravated during active military service. Such benefits include grants for housing and home adaptation, and grants for the purchase of an automobile and automobile adaptive equipment. VA currently provides specially adapted housing grants of up to \$50,000 to veterans with service-connected disabilities consisting of certain combinations of loss or loss of use of extremities and blindness or

other organic diseases or injuries. Veterans with service-connected blindness alone or with loss or loss of use of both upper extremities may receive a home adaptation grant of up to \$10,000.

Increases in these grants have been infrequent, although associated costs rise continually. Unless the amounts of the grants are periodically adjusted, inflation erodes the market value and effectiveness of these benefits. Congress should increase the value of these programs and provide for automatic adjustments annually.

- Congress should increase the automobile grant amount from \$11,000 to an amount based on the average new vehicle cost.

- Congress should increase specially adapted housing grants. The current \$50,000 grant should be increased to \$60,000, and the current \$10,000 grant should be increased to \$12,000.

SERVICE DISABLED VETERANS INSURANCE (SDVI)

Disabled veterans have historically found difficulty obtaining life insurance or they are charged higher premiums for life insurance on the commercial market. Congress therefore created the SDVI program to furnish disabled veterans life insurance at standard rates. When this program began in 1951, its rates, based on mortality tables then in use, were competitive with commercial insurance. Commercial rates have since been lowered to reflect improved life expectancy shown by current mortality tables. VA continues to base its rates on mortality tables from 1941 however. Consequently, SDVI premiums are no longer competitive with commercial insurance and therefore no longer provide the intended benefit for eligible veterans.

Also, when life insurance for veterans had its beginnings in the War Risk Insurance program, first made available to members of the Armed Forces in October 1917, coverage was limited to \$10,000. Today, more than 88 years later, maximum coverage under the base SDVI policy is still \$10,000. Given that the annual cost of living is many times what it was in 1917, the same maximum coverage well over three quarters of a century later clearly does not provide meaningful income replacement for the survivors of service-disabled veterans.

- Congress should enact legislation to authorize VA to revise its premium schedule for SDVI to reflect current mortality tables.

- Congress should enact legislation to increase the maximum protection under base SDVI policies to at least \$50,000.

Chairman AKAKA. Thank you very much, Mr. Lawrence.
Mr. Norton?

STATEMENT OF COLONEL ROBERT F. NORTON, USA (RET.), DEPUTY DIRECTOR, GOVERNMENT RELATIONS, MILITARY OFFICERS ASSOCIATION OF AMERICA

Colonel NORTON. Thank you, Mr. Chairman and distinguished Members of the Committee, for this opportunity to appear before you today on behalf of the Military Officers Association of America. I also want to say it is good to see you, Senator Webb, having worked for you at the Pentagon back in the last millennium.

Senator WEBB. If I may, Mr. Chairman, for a moment. It is really great to see Colonel Norton. He worked on my staff when he was a wet-behind-the-ears major and I was a wet-behind-the-ears Assistant Secretary of Defense many years ago. He did some terrific work on the IRR, which I think we paid off over the past couple of years. It is good to see you.

Colonel NORTON. Thank you, Senator.

MOAA is very grateful, Mr. Chairman, for the growing bipartisan interest in upgrading educational benefits for our Nation's returning warriors. I will focus my remarks on this issue.

First, to put the GI Bill in context, there have been no substantive improvements in most of the GI Bill programs since prior to 9/11. Two exceptions are the commendable increases in survivors' and dependents' educational benefit rates, including extending the usage time line for survivors out to 20 years after the death

of the military member. Accelerated benefits for high-technology courses is also a very useful improvement.

Most Americans and perhaps many of the troops may not know that for Guard and Reserve veterans of Iraq and Afghanistan, the only veterans benefit denied them is access to their educational benefits after they complete their service. Let me repeat, the only veterans benefit denied Guard and Reserve active duty veterans of the War on Terror is the Montgomery GI Bill. The Nation has now called 600,000 citizen warriors since 9/11 and 85,000 have served two or more tours. When it is time for these volunteers to be discharged or retire from the Reserve forces, they get not a single penny of their Montgomery GI Bill benefits earned in service to the Nation as a readjustment benefit.

One example of this inequity is the experience of the 39th Brigade Combat Team of the Arkansas Army National Guard. It returned from Iraq in 2005 and has been alerted for redeployment again this year. That is a rotation pace that exceeds many active Army units. Not only will these veterans not be able to use their benefits when they get out, they can't even earn more GI Bill entitlement during their second or future call-ups in the National Guard.

There are many other Guard and Reserve units also facing second and third tours in Iraq and Afghanistan and they are similarly situated. They cannot earn additional Montgomery GI Bill entitlement and they cannot access these benefits after they separate from the Reserve forces.

The sad reality, Mr. Chairman, is that our warrior citizens can't access these benefits unless they agree to remain in the service. Active duty service men and women don't have such golden handcuffs on their GI Bill benefits. They can use them on active duty or when they become veterans. Reservists can only use theirs if they agree to remain in the service. There is no readjustment benefit for Reservists under the GI Bill.

MOAA strongly supports some progress on GI Bill benefits this year. In the context outlined above, we are particularly supportive of the provision in Senator Webb's S. 22 that permits Guard and Reserve veterans to aggregate multiple active duty service toward entitlement to the GI Bill. The cost of war should not overlook the service and sacrifice of all of our veterans.

MOAA also endorses Senator Craig's bill that would expand accelerated benefits for short job-related courses and establish buy-up provisions for the Reserve and survivor programs. Unfortunately, for Guard and Reserve veterans of Iraq and Afghanistan, they would have no access to such benefits when they get out of the service.

We also think Senator Cantwell's bill to create lifetime entitlement under the Montgomery GI Bill has merit. In our view, however, the first order of business needs to be establishment of a readjustment benefit for active duty service of our Guard and Reserve veterans. They have earned these benefits in harm's way and they deserve no less.

Thank you, Mr. Chairman. I look forward to your questions.
[The prepared statement of Colonel Norton follows:]

PREPARED STATEMENT OF COLONEL ROBERT F. NORTON, USA (RET.), DEPUTY DIRECTOR, GOVERNMENT RELATIONS, MILITARY OFFICERS ASSOCIATION OF AMERICA

Mr. Chairman and distinguished Members of the Committee, on behalf of the nearly 362,000 members of the Military Officers Association of America (MOAA), I am honored to have this opportunity to present the Association's views on legislative proposals being considered before you today.

MOAA is an original founding member of the Partnership for Veterans' Education, a consortium of military, veterans, and higher education groups which advocate for passage of a "total force" approach to the Montgomery GI Bill to meet the needs of our operating forces—active duty, National Guard and Reserve—in the 21st century.

MOAA does not receive any grants or contracts from the Federal Government.

EXECUTIVE SUMMARY

MOAA appreciates the growing interest in Congress in improving educational benefits under the Montgomery GI Bill (MGIB) for our Nation's returning warriors. Legislative proposals range from modest improvements at the margins to restoration of a "World War II-style" GI Bill that would cover all costs of a veteran's education or training plus a living-expense stipend.

MOAA certainly supports almost all of these proposals. The question is how will the Committee and this Congress "rack and stack" them given other competing priorities and direct spending realities.

In addressing these questions, MOAA recognizes that all good things are not going to happen in one session of Congress. In our close collaboration with the 45 associations that make up the Partnership for Veterans' Education, MOAA believes that the following priorities should inform the work of the Committee on the MGIB. In order:

1. Establishment of a readjustment benefit under the MGIB for Guard and Reserve veterans of the War on Terror. This is the *only veterans' benefit denied* returning Guard and Reserve warriors. (S. 644 addresses this gross inequity.)

2. Integration of the Reserve MGIB programs with active duty provisions in Title 38 and establishment in law of a principle that benefits should be proportional to length and type of duty performed (e.g., buy-up provisions for Guard and Reserve participants, etc. would follow).

3. Benchmarking MGIB rates to the average cost of a 4-year public college or university education, including restoration of proportional parity between active and Selected Reserve rates.

4. Improvement in the flexible delivery of MGIB benefits such as accelerated payments (see #2).

5. Elimination of the \$1200 payroll reduction for active duty service entrants.

6. Extension of time-limits toward the goal of lifetime learning for remaining MGIB entitlement.

From this perspective, MOAA is pleased to offer our views on the legislation being considered by the Senate Committee on Veterans' Affairs today.

This testimony focuses on legislation before the Committee that concerns educational benefits for members of the armed forces, including National Guard and Reserve servicemen and women, veterans and survivors.

Denial of a Core Veterans' Benefit to Operational Reservists'

National Guard and Reserve servicemen and women who have been called into Federal service on active duty in the War on Terror are entitled to all veterans' benefits upon completion of their service with one glaring exception: a readjustment benefit under the Montgomery GI Bill (MGIB).

Since, September 11, 2001, approximately 600,000 Guard and Reserve veterans have served on active duty. Contingency operation service enables them to access VA health care, apply for service-connected disabilities, VA home loans, and other benefits authorized in law. About 85,000 have served multiple combat tours.

The Defense Department's "operational reserve" policy means that reservists can expect to serve on active duty multiple times during a normal 20 to 30-year Guard or Reserve career. DOD now plans to activate reservists 1 year out of 5 years for 12 months per tour. However, with 85,000 members of the reserve forces have already served two or more tours since 9/11 and more units slated for re-deployment, "operational reservists" are deploying at or above active duty force rotations. When Guard and Reserve veterans complete these commitments, the one benefit denied them is to access Montgomery GI Bill benefits under Chapter 1607 of Title 10 U.S. Code after they are discharged or retire.

There is no MGIB readjustment benefit available to reservists who have served the Nation on active duty.

MOAA and our colleagues in the Partnership for Veterans' Education are deeply committed to righting this fundamental injustice. The Partnership for Veterans' Education includes the 35 members of The Military Coalition (which includes MOAA, the VFW and AMVETS), other major veterans' service organizations and higher education associations.

It is in this context that MOAA is surprised and disappointed that the Committee is not including consideration of S. 644 (Senators Lincoln [D-AR] and Collins [R-ME]) at this hearing. In our view, S. 644 directly concerns the jurisdiction of this Committee in that a fundamental purpose of the bill is to integrate the two Reserve MGIB programs into Title 38 so that, going forward, educational benefits can be properly scaled according to the length and type of duty performed by members of the Nation's total force team—active duty, National Guard, and Reserve.

Unfortunately, the Nation's total force military policy is not matched by educational benefits programs that maximize MGIB purposes, namely, support for recruitment, reenlistment, and readjustment.

From this perspective, MOAA is pleased to respectfully offer its views on some of the bills before the Committee at this hearing.

S. 22 (Revised), Post-9/11 Veterans Educational Assistance Act of 2007 (Webb)

Senator Webb's (D-VA) bill, S. 22, would in effect re-establish and enhance the post-World War II "GI Bill" of educational benefits.

S. 22 would establish "wartime" service GI Bill benefits that would permit servicemen and women who serve or have served since 9/11 and who meet the requisite active duty service requirements in the legislation to be reimbursed for the entire cost of a college, university, or training program of their choice.

Reimbursement rates would match the cost paid by non-veterans at such programs. Additionally, veterans would receive a \$1,000 per month stipend for 36 months, matching the maximum entitlement reimbursement period. Veterans would have up to 15 years after their service to exhaust entitlement. The existing bar to duplication of benefits would preclude paying other MGIB benefits concurrently.

National Guard and Reserve "wartime" veterans with qualifying active duty service would be entitled to the benefits described in the bill.

MOAA Comment on S. 22

MOAA supports S. 22. S. 22 represents a vision, perhaps even a GI Bill "holy grail," that our Nation's warriors surely have earned in service to the Nation. We worry, however, that absent a strong signal of support from this Committee and the full Senate and House, the likelihood of this bill's passage is remote at best.

MOAA has long supported many of the features in S. 22, especially: the increase in GI Bill benefit rates, the elimination of the \$1,200 payroll reduction, extension of the post-service usage period, and establishment of a readjustment benefit for mobilized reservists. However, based on the fact that the last substantive upgrades to the MGIB-Active Duty program were enacted before 9/11, stakeholders must wonder if there is genuine resolve to upgrade the MGIB.

MOAA's approach on military and veterans benefits is to work with Congress to find realistic ways to make progress on military and veteran people's issues that support a strong national defense, military readiness, and fair treatment of those who have worn the uniform of the country. Sure, MOAA would prefer to have all the features of S. 22 and all at once. Our experience has shown that Congress rarely acts that way.

For many years and over the course of many sessions of Congress, retired Ranking Member of the House Veterans' Affairs Committee, Lane Evans—a distinguished Vietnam veteran—sponsored legislation similar to S. 22. Unfortunately, none of his bills attracted enough support to gain serious consideration.

A practical shortcoming in S. 22 is the absence of MGIB "kicker" authority for the military services—Section 3015(d), 38 U.S. Code. DOD has long used financial incentives—"kickers"—as tools to distribute military manpower into high demand skills needed for readiness. Kickers have proven very effective in combination with the MGIB-AD (Chapter 30) to support Armed Forces recruiting goals.

It may be that the quantum leap in GI Bill benefits under S. 22 would suffice for overall recruiting purposes, obviating the need for "kickers." Manpower planners, however, probably will be extremely reluctant to test this theory.

If forced to choose, we believe the most glaring inequity that needs to be addressed immediately in GI Bill legislation is the absence of a readjustment benefit under the MGIB for activated reservists.

S. 1293, the Veterans' Education and Vocational Benefits Improvement Act of 2007
(Craig)

Senator Craig's draft bill has two broad features. It would temporarily expand the payment of accelerated benefits under the MGIB during the period between October 2008 and September 2012. Eligible participants would receive accelerated benefits for short term, high cost courses, not just "high technology" coursework as currently authorized.

Accelerated payments would be available to participants in the MGIB Active Duty (Chapter 30), MGIB Reserve Programs (Chapter 1606 and Chapter 1607, 10 U.S. Code), and Survivors and Dependents Educational Assistance (Chapter 35). Each program would have an annual expenditure cap ranging from \$3 million for MGIB-AD, \$2 million for MGIB-Selected Reserve (Chapter 1606), and \$1 million each for the Reserve Educational Assistance Program (REAP) (Chapter 1607), and Survivors and Dependents (Chapter 35).

The second feature would establish the opportunity for members of the Guard and Reserve to "buy up" their benefits under REAP. They could contribute up to \$600 in \$20 increments in order to receive an additional \$150 per month in MGIB benefits.

MOAA supports the greater flexibility envisioned in the accelerated payment provisions. As a practical matter, the annual expenditure caps may substantially limit participation in the program, given the tens of thousands of MGIB users.

The "buy up" feature proposed for REAP confirms our view that the Reserve MGIB programs are not properly synchronized with basic benefits under Chapter 30. The reality is that there have been no adjustments to the reserve MGIB programs since the late 1990s, other than annual COLAs.

MOAA appreciates the intent and direction of the buy-up provisions in the bill and we endorse its provisions.

A hopefully unintentional consequence of the proposed REAP buy-up provision is that returning Guard and Reserve warriors who honorably complete their service and separate or retire, would *not be authorized access to their buy-up benefits under REAP following service. Again, there is no readjustment benefit under law for Guard and Reserve veterans.* All such benefits are forfeited upon honorable completion of service resulting in discharge or retirement.

Veterans who elect to increase their REAP accounts can only use them if they agree to remain in the Guard or Reserve. The buy-up provision comes with "golden handcuffs." In our view, our All Volunteer Force should be structured under the principle of willing service. Active duty servicemembers have readjustment benefits under the MGIB, but operational reservists returning from war zones do not.

MOAA does not support separate treatment of active duty veterans and Guard/Reserve active duty veterans in terms of access to their earned MGIB benefits. Any Guard or Reserve veteran with REAP entitlement who elects buy-up, would forfeit all such benefits at separation.

MOAA recommends that the REAP buy-up provision be authorized in conjunction with post-service access to those benefits.

Toward a Total Force MGIB for the 21st Century

MOAA appreciates the growing interest in adapting and improving MGIB programs to fit the needs of the 21st century force. Numerous Senate and House bills address various facets of the MGIB.

MOAA believes that the first priority in creating a more effective MGIB is to evaluate proposals against the principle of aligning benefits with the length and type of duty performed by members of our Nation's Armed Forces team—active duty, National Guard and Reserve. In short, a "total force" approach is needed for the MGIB.

In achieving this objective—an objective we believe will better accomplish recruitment, reenlistment, and readjustment purposes—MOAA strongly endorses as a first order of business two affordable steps.

First, all active duty and reserve MGIB programs would be consolidated under Title 38. DOD and the Services would retain responsibility for cash bonuses, MGIB "kickers", and other enlistment/reenlistment incentives. Second, MGIB benefit levels would be structured according to the level of military service performed.

The Total Force MGIB would restructure MGIB benefit rates as follows:

- Tier one, the Active Duty MGIB (Chapter 30, Title 38)—initially, no statutory change. Individuals who enter the active Armed Forces would earn MGIB entitlement unless they decline enrollment.

- Tier two, the Selected Reserve MGIB (Chapter 1606, Title 10)—MGIB benefits for a 6-year enlistment or reenlistment the Guard or Reserve. Chapter 1606 would transfer to Title 38. Congress should consider adjusting benefit rates in proportion

to the active duty program. Historically, Selected Reserve benefits have been 47–48 percent of active duty benefits.

• Tier three, Reserve Educational Assistance Program (Chapter 1607, Title 10),—MGIB benefits for mobilized members of the Guard/Reserve on “contingency operation” orders. Chapter 1607 would transfer to Title 38 and be amended to provide mobilized servicemembers one month of “tier one” benefits (currently, \$1,075 per month) for each month of activation after 90 days active duty, up to a maximum of 36 months for multiple call-ups.

A servicemember would have up to 10 years to use remaining entitlement under Tier One or Tier Three programs upon separation or retirement. A Selected Reservist could use remaining Second Tier MGIB benefits only while continuing to serve satisfactorily in the Selected Reserve. Reservists who qualify for a reserve retirement or are separated/retired for disability would have 10 years following separation to use all earned MGIB benefits. In accordance with current law, in cases of multiple benefit eligibility, only one benefit would be used at one time, and total usage eligibility would extend to no more than 48 months.

MGIB–SR Benefit Upgrades Ignored by DOD/Services Since Prior to 9/11

For the first 15 years of the Reserve MGIB program’s existence, benefits earned by individuals who initially join the Guard or Reserve for 6 years or who reenlist for 6 years, paid 47 cents to the dollar for active duty MGIB participants. Since 9/11, however, the ratio has dropped to 29 cents to the dollar. One consequence of the rate drop is that reservists feel their service is devalued. The following chart illustrates the sharp decline in rate parity since 9/11.

Montgomery GI Bill Program Benefit History—Full Time Study Rates

Month	Year	Active Duty Chapter 30 (\$)	Selected Reserve Chapter 1606 (\$)	(in percent)
July	1985	\$300.00	\$140.00	47
	1986	300.00	140.00	47
	1987	300.00	140.00	47
	1988	300.00	140.00	47
	1989	300.00	140.00	47
	1990	300.00	140.00	47
October	1991	350.00	170.00	49
	1992	350.00	170.00	49
April	1993	400.00	190.00	48
October	1994	404.88	192.32	48
October	1995	416.62	197.90	48
October	1996	427.87	203.24	44
October	1997	439.85	208.93	48
October	1998	528.00	251.00	48
October	1999	536.00	255.00	48
October	2000	552.00	263.00	48
November	2000	650.00	263.00	40
October	2001	672.00	272.00	40
December	2001	800.00	272.00	34
October	2002	900.00	276.00	31
October	2003	985.00	282.00	29
October	2004	1,004.00	288.00	28.6
October	2005	1,034.00	297.00	28.6
October	2006	1,075.00	309.00	28.7

Guard and Reserve Warriors are Denied Veterans’ Benefits Under REAP

Certain MGIB benefits are earned by mobilized reservists who serve the Nation on active duty for at least ninety days during a national emergency under contingency operation’ orders. The REAP (Chapter 1607, 10 U.S. Code) benefit package was cobbled together with little consultation/coordination with the Departments of Defense and Veterans Affairs, and other stakeholders. For example, the benefit rate structure is based on an administratively cumbersome percentage of active duty MGIB Chapter 30 benefits. Ironically, substantial benefits are awarded after 90 days service, but no post-service access to those benefits is authorized. Clearly, the principle of scaling benefits proportional to service performed was not used in fashioning REAP.

The Total Force MGIB would address these concerns by establishing in law month-for-month entitlement to active duty MGIB benefits (Chapter 30). With enactment of a portability feature for earned REAP benefits, the program ultimately would be fairer to all members of the force and serve as an incentive for continued service in the Guard or Reserves.

A restructured REAP would support DOD policy of calling up the “operational reserve” for no more than 12 months per tour every 5 or 6 years. The proposal would enable a G–R member to potentially acquire full MGIB entitlement after 36 months aggregate service on contingency operation orders. Presently, Chapter 1607 benefits are awarded only for a single tour of active duty. Additional service offers no additional benefit, even though over the course of a 20-year Guard or Reserve career, reservists will serve multiple tours of active duty. Under the Total Force MGIB, the more one serves the more MGIB entitlement is earned.

A key feature of S. 644 is that reservists mobilized for at least 90 days under Federal contingency operation orders would have access to use remaining REAP benefits after separation. That is, they would be entitled to post-service readjustment benefits under the MGIB.

America’s volunteer military—active duty and reserve component—become veterans when they complete their active duty service agreements. For mobilized reservists, when they return from an active duty call-up (under contingency operation orders) they are veterans, and no American would dispute that fact, no less their sacrifice. Why then should they be treated as second-class citizens for purposes of the MGIB? If an active duty member who serves 2 years on active duty and one tour in Iraq may use MGIB benefits for up to 10 years after leaving service, do we not owe equal treatment to a Guard or Reserve member who serves 2 or more years in Iraq over a period of 6 or 8 years of Guard/Reserve service?

DOD’s own survey of reserve component members (DOD Status of Forces Survey, November 2004) indicates that “education” is not a key component in extension or reenlistment decisions. Moreover, a reenlistment or extension decision enables the servicemember to retain original Reserve MGIB benefits (currently, Chapter 1606) as well as the potential to earn more active duty MGIB entitlement through successive call-ups. That’s not possible under the REAP program today. Reservists who choose to remain in the Selected Reserve and are subsequently activated would earn one month of active duty MGIB benefits for every month mobilized, up to 36 months of benefits, under the Total Force MGIB proposal. Under S. 644, they would still have up to 12 months remaining usage under Chapter 1606, since current law allows dual-benefit accrual up to 48 months maximum entitlement. In short, there is a *built-in incentive* to continue serving in the Selected Reserve because of the potential to earn more MGIB entitlement under S. 644.

MOAA strongly supports enactment of S. 644 to consolidate military/veteran MGIB programs in Title 38 and align benefit rates according to the length and type of service performed, a Total Force MGIB.

S. 1261, Montgomery GI Bill for Life Act of 2007 (Cantwell)

Senator Cantwell’s bill, S. 1261, would repeal the 10-year limitation on post-service usage of the MGIB–AD (Chapter 30) and the 14-year in-service usage limitation on the MGIB–SR (Chapter 1606, 10 U.S. Code). The elimination of the MGIB–SR time limit may help to encourage overstressed Guard and Reserve members with remaining entitlement to extend their reserve component service.

MOAA supports this legislation. Establishment of a lifetime learning benefit for unused MGIB–AD benefits is a worthy goal. However, if forced to choose, MOAA believes this legislation must rank considerably below other issues outlined in this Statement for reforming and re-structuring the MGIB for our Nations’s forces.

S. 1215, State Approving Agencies (SAA) Funding and for Other Purposes (Akaka)

Chairman Akaka’s (D–HI) bill, S. 1215, would raise the cap on SAA funding so that these offices can more effectively provide essential services to veterans seeking educational and training opportunities in the states. The bill also extends the current rates of payment for veterans who are enrolled in an apprenticeship or other on-the-job training program. As a result, more veterans of the War on Terror will be able to pursue training for an occupation or profession. SAAs are the vital link for effective oversight of the GI Bill at the state level. MOAA supports S. 1215.

RESPONSE TO WRITTEN QUESTION SUBMITTED BY HON. DANIEL K. AKAKA TO COLONEL ROBERT F. NORTON, USA (RET.), DEPUTY DIRECTOR, GOVERNMENT RELATIONS, MILITARY OFFICERS ASSOCIATION OF AMERICA

Question. What are the top five legislative priorities of the Military Officers Association of America?

Response. The top legislative priorities of the MOAA are:

1. Fully fund the VA health care system to meet rising demand for VHA services from Iraq and Afghanistan veterans. Recommendation is consistent with the report of the President's Task Force to Improve Health Care Delivery for our Nation's Veterans (2003) that the VA health system should be fully funded by "using a mandatory funding mechanism, or by some other changes in the process to achieve the desired goal." MOAA recommends the goal can be achieved by funding the VA to meet its own published access standards.

2. Seamless Transition/Wounded Warrior Care. MOAA recommends that Congress establish a separate Federal agency responsible for overseeing development and implementation of "seamless transition" objectives including a joint, bidirectional DOD-VA electronic medical record; improved care, rehabilitative services and research for Traumatic Brain Injury (TBI) and PTSD; a "one-stop" separation physical that meets DOD-VA requirements; a single disability determination process at separation or retirement from military service.

3. Improve VA disability claims system quality, processes, and timeliness. As of mid-February 2007, the backlog of VA claims was 626,429 according to the VA. At year's end, total claims for disability and education will reach or exceed 800,000. MOAA supports additional resources to hire and train new claims adjudicators along with investment in technology upgrades, training, process improvement and quality control.

4. "Total Force" Montgomery GI Bill for the 21st century. Educational benefits for active duty and Reserve component servicemembers do not match the greater demands of their service and sacrifice, nor have benefits kept pace with the cost of education. MOAA recommends restructuring Montgomery GI Bill programs according to the length and type of duty performed by all servicemen and women. Benefits for active duty service should accrue on a month-for-month basis (after 90 days) for activated National Guard/Reserve servicemembers including aggregation of entitlement on a month-for-month basis for multiple callups. MGIB educational reimbursement rates for full-time study should match the cost of an education at the average four-year public college/university as measured by Department of Education data.

Chairman AKAKA. Thank you very much.
Mr. Petkoff?

**STATEMENT OF ALEC S. PETKOFF, ASSISTANT DIRECTOR,
VETERANS AFFAIRS AND REHABILITATION COMMISSION,
THE AMERICAN LEGION**

Mr. PETKOFF. Thank you, Mr. Chairman, Members of the Committee. I would just like to say this is my first time before this Committee and I feel very honored to be part of this process. Thank you very much.

I want to thank you for allowing me to testify today on the proposed legislation before us on behalf of the American Legion. The American Legion commends the Committee for holding the hearing to discuss these important and timely issues.

It is of the utmost importance to the United States that we ensure that veterans are never forgotten, marginalized, or left to slip through the cracks of a grateful Nation's bureaucratic good intentions. Flag waving and lip service do not qualify as a job well done when it comes to the serious needs of veterans and their dependents.

It was George Washington who said that the willingness with which our young people are likely to serve in any war, no matter how justified, shall be directly proportional to how they perceive veterans of early wars are treated and appreciated by our Nation.

The hurt and pain and troubles that often accompany veterans and their families after they leave service are varied and often severe. The American Legion again applauds this Committee for presenting legislation on these timely issues. I will now try to take some time to comment on some of the proposed legislation before the Committee today.

I would first like to comment kind of jointly on Senator Cantwell's bill, S. 1261, the Montgomery GI Bill for Life Act of 2007, and Senator Webb's legislation, S. 22, the Post-9/11 Veterans Education Assistance Act of 2007. The American Legion supports the passage of major enhancements to the current Montgomery GI Bill. We note that the current make-up of the operational military force requires that adjustments be made to support all Armed Forces servicemembers.

The American Legion applauds S. 22 in that it allows for members of the Armed Services to receive enhanced educational benefits more in line with today's needs. Enactment of this bill will greatly increase the recruitment and retention ability of the branches of the Armed Services. While this legislation is aimed toward the active duty force, the American Legion supports legislation that will allow Reservists to earn credits for education when mobilized, just as active duty troops do, and then use them after they leave the military service.

The Montgomery GI Bill for Life aims to repeal all timeliness to use the Montgomery GI Bill. This is a step in the right direction and we support the measures that would be enacted. In addition to the positive measures that the bill encompasses, the American Legion feels that all veterans be treated equally regardless of their Reserve or National Guard status in such that an individual who is called to duty and served honorably should not have to remain in the selected Reserve to use their earned benefits. We support legislation that would allow all Reservists and National Guard members to use their MGIB benefits, to include the Reserve Educational Assistance Program, known as REAP, for up to 10 years after separation regardless of disability status or if their enlistment contract expires.

I would also like to quickly comment on Senator Feingold's legislation that would improve the outreach activities of the Department of Veterans Affairs. The American Legion believes that proper and thorough outreach is essential to ensuring this Nation's veterans and their dependents are fully informed and aware of all these benefits to which they may be entitled to receive based on their honorable military service to our Nation. Our one concern is that the bill does not address veterans who are living in rural areas. We want to make sure that they would also be, I guess, accounted for and make sure that they are aware of all the benefits, as well.

The American Legion looks forward to working with this Committee to ensure that veterans and veterans families are receiving the care and attention they have earned and that a grateful Nation should gladly give.

Thank you, Mr. Chairman, for this opportunity to comment on the proposed legislation and I will be glad to answer any questions the Committee may have.

[The prepared statement of Mr. Petkoff follows:]

PREPARED STATEMENT OF ALEC S. PETKOFF, ASSISTANT DIRECTOR, VETERANS
AFFAIRS AND REHABILITATION COMMISSION, THE AMERICAN LEGION

Chairman and Members of the Committee:

Thank you for this opportunity to present The American Legion's views on the bills being considered by the Committee today. The American Legion commends the Committee for holding a hearing to discuss these important and timely issues.

S. 117, THE "LANE EVANS VETERANS HEALTH AND BENEFITS IMPROVEMENT ACT OF 2007"

The American Legion supports the intent of Section 104 and Title II of S. 117. Specifically concerning Title II of the bill, The American Legion is in support of tracking veterans who serve in the Global War On Terrorism (GWOT) in a new database. This bill would make data on these veterans more accessible upon request. GWOT veterans require their own system, since the exposures and experiences they encountered are different from veterans of the first Gulf War. GWOT veterans experience more combat time, multiple deployments, continuous urban warfare, blast traumas and more women have participated. The veterans of the 1991 Gulf War experienced widespread oil well fires, possible nerve agent exposure and a shorter combat time.

This bill also addresses the need to differentiate veterans who served in OIF and OEF, those who served in both and those who served in neither. The environmental exposures may differ and the combat experiences may differ. The American Legion suggests that under the Health, Counseling and Related Benefits section (section 3), the conditions should also be tracked according to whether the veteran served in OIF, OEF or both or in neither—not just by inpatient outpatient status. This would show if any trends in illness are developing among the groups. It should also show a breakdown by gender.

S. 168, "A BILL TO DIRECT THE SECRETARY OF VETERANS AFFAIRS TO ESTABLISH A
NATIONAL CEMETERY FOR VETERANS IN THE PIKES PEAK REGION OF COLORADO"

While the American Legion is not for or against the building of a national cemetery in Pikes Peak, CO, The American Legion supports the establishment of additional national and state veterans cemeteries and columbaria wherever a need for them is apparent. As such The American Legion supports the National Cemetery Administration (NCA) in completing its goals set forth in the "Millennium Act" and in Public Law (P.L.) 108—109. NCA has successfully established the cemeteries set forth in the "Millennium Act" and has received authorization for Fiscal Year 2008 for the six cemeteries to be constructed in accordance with P.L. 108—109.

S. 225, "TRAUMATIC INJURY BENEFITS"

S. 225 seeks to enlarge the group of those who, while on active duty status from October 7, 2001 through November 30, 2005, suffered a traumatic injury and associated covered loss, and under certain conditions of service qualified for retroactive benefits payments under the Traumatic Injury Servicemembers' Group Life Insurance (TSGLI) program, as initially established by P.L. 109—13 in 2005, by eliminating the original legislation's requirement that only those traumatic injuries and losses occurring from service directly in Operations Enduring Freedom or Iraqi Freedom would qualify for such retroactive benefits. S. 225 would open this group to include all servicemembers on active duty status during the retroactive period, regardless of where the traumatic injury occurred. The Department of Veterans Affairs (VA) has issued a Final Rule to its Code of Federal Regulations, as published in the Federal Register of March 8, 2007, that for purposes of TSGLI payments servicemembers did not have to actually be insured under the Servicemembers' Group Life Insurance (SGLI) program in order to be eligible for this benefit. Therefore, were S. 225 to be enacted into law as currently presented, all such servicemembers, insured under SGLI or not, who suffered a qualifying loss during the stated retroactive period, would be eligible for payment of TSGLI benefits.

The American Legion supports the intent of S. 225. It has always been the position of The American Legion that veterans' benefits entitlements should apply equally to all those in service on active duty. Military servicemembers serve under the command of their respective service departments and it is not their prerogative to determine the location of such service and the duties assigned. Such service and duties may very well be located well outside a combat theater of operations, but it is military service to the Nation nonetheless, and the nature of such military service often exposes members to hazard of life and limb. The American Legion does not

support the creation of different classes of veterans for purposes of different levels or types of veterans' benefits. We believe therefore that S. 225 should proceed successfully and be enacted into law.

S. 423, THE "VETERANS' COMPENSATION COST-OF-LIVING ADJUSTMENT ACT OF 2007"

S. 423 will increase, effective as of December 1, 2007, 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. The amount of increase shall be the same percentage as the percentage by which benefit amounts payable under title II of the Social Security Act (42 U.S.C. 401 et. seq.) are increased effective December 1, 2007.

The American Legion supports this annual cost-of-living adjustment in compensation benefits, including dependency and indemnity compensation (DIC) recipients. It is imperative that Congress annually considers the economic needs of disabled veterans and their survivors and provide an appropriate cost-of-living adjustment to their benefits, especially should the adjustment need to be higher than that provided to other Federal beneficiaries, such as Social Security.

S. 526, THE "VET ACT"

The American Legion supports the provisions of S. 526. Increasing the educational benefit available through the Montgomery GI Bill (MGIB) will provide a better incentive to veterans to complete a program with immediate employment results, without the concern of going in to short-term debt. The American Legion supports granting a veteran the option to request an accelerated payment of all monthly educational benefits upon meeting the criteria for eligibility for MGIB financial payments. The selection of courses veterans undergo remain exclusively the decision of the individual veteran. All earned veterans' education benefits should be made available to veterans in support of their endeavors. Accelerated payments allow veterans to achieve their education goals in the manner that they decide. Binding the time frame of an education payout may restrict educational options for some veterans.

In addition to the traditional institutions for higher learning, MGIB benefits can be used for training at Non-College-Degree Institutions, On-the-Job or Apprenticeship Training, Independent, and Distance or Internet training. The MGIB also allows VA to reimburse veterans for the fees charged for national tests for admission to institutions of higher learning and national tests providing an opportunity for course credit at institutions of higher learning. Examples of tests covered are SAT, GRE, CLEP, GMAT, LSAT, etc. The MGIB for veterans, and not those eligible under Survivors and Dependents Educational Assistance (DEA), is available for Flight Training and Correspondence Training.

The significance of expanding the scope of accelerated payments is that the preceding categories are eligible for MGIB payments, yet *excluded* from accelerated payments. The American Legion recommends that all MGIB-approved courses, including the On-the-job-training (OJT) and Apprenticeship courses, become eligible for accelerated payments.

S. 643, "SERVICE-DISABLED VETERANS INSURANCE"

This bill would increase the amount of supplemental life insurance offered under the VA's Service-Disabled Veterans Insurance (SDVI) program from its present \$20,000 maximum to a \$40,000 maximum.

VA's SDVI program provides life insurance coverage for veterans who are rated service-disabled by the VA, and who apply within two years of their last VA rating for a new disability, and who are in good health except for their service-connected disabilities. The program is essentially divided into two parts: Basic SDVI coverage with a maximum face value of \$10,000 and a provision for a disability waiver of premiums if the insured is unable to follow any substantially gainful employment due to a disability beginning before age 65, and supplemental SDVI with a maximum coverage of \$20,000 and no provision for a disability waiver of premiums. Supplemental SDVI has stringent eligibility requirements in that a service-disabled veteran must have a basic SDVI policy in force, must qualify for a disability premium waiver on it, must be under age 65 at time of application, and must apply within one year of being advised of the approval of the disability premium waiver on the basic SDVI policy. These requirements, which are in addition to the already strict requirements for basic SDVI, naturally greatly limit participation in Supplemental SDVI coverage.

As a further consideration, SDVI premium rates, which are the same per \$1,000 of coverage per month for both basic SDVI and supplemental SDVI, are quite expen-

sive as they are based on a long outdated 1941 insurance industry mortality table. VA has proposed on several occasions that these premium rates be set by an updated current mortality table, such as the 2001 or 2003 edition, thereby reducing these premium rates by an average of 30 percent to 40 percent, but such has not yet met with congressional approval. With the majority of applicants for SDVI coverage being currently from the Vietnam era (though an increasing number of veterans with service from the 1980s to 1990s are being seen), these premium costs can be very significant, especially since most insured veterans pay their premiums out of their VA disability compensation.

An increase of supplemental coverage to a new maximum of \$40,000 would bring the overall possible SDVI coverage for totally disabled veterans to a total of \$50,000, taking into consideration basic SDVI as well. This \$50,000 overall coverage figure has appeared in regards to enhancing SDVI, and continues to appear, for several years now in various combinations. Though such a proposed coverage increase is a positive step to attaining a much needed enhancement to the SDVI program, it remains far below, for example, the \$400,000 coverage maximum figure afforded to new and recent insured veterans under the Veterans' Group Life Insurance program, and should not be regarded as a final long term solution. A congressionally initiated comprehensive private sector study of VA benefits for survivors of veterans with service-connected disabilities, completed in May 2001 (The Program Evaluation of Benefits for Survivors of Veterans with Service-Connected Disabilities), concluded that significant increases in the SDVI coverage amounts were fully warranted.

Relatively few disabled veterans who are insured under the basic SDVI program, and who are totally disabled for insurance purposes, and under age 65, actually apply for and maintain supplemental coverage due to its high premium cost. Of these, a large percentage take out only half the maximum, or \$10,000, coverage, again due to the high premium costs. Therefore, an enhancement to SDVI which consisted solely of an increase in supplemental coverage may actually have little impact on the severely (by definition) disabled veterans in this group and provide a very limited benefit to the whole. The increased coverage benefit would mainly accrue to those relative few able to afford the much higher premiums, and to those in near-term life threatening situations at the time the option to purchase supplemental coverage is available, and who make application within the one year supplemental coverage eligibility period.

The American Legion believes that a much more equitable approach to enhancing VA's SDVI program, and of much greater benefit to these service-connected disabled veterans, would be to increase the maximum amount of coverage under the program's basic insurance portion, with its provision for a disability waiver of premiums, and to increase the supplemental coverage maximum as well. If an overall coverage maximum of \$50,000 were the goal, an increase of basic coverage to \$20,000 or \$25,000, and supplemental coverage to a maximum of \$30,000 or \$35,000, would be much more beneficial to program insured veterans than an increase in supplemental coverage alone. Such would be a significant step to meeting the proven insurance needs of the most severely disabled veterans.

In conclusion, while The American Legion agrees with the basic intent of this legislation, for the reasons stated previously, attention should be given to a more equitable division in this insurance increase between basic and supplemental SDVI. Barring this, we feel that at the least the premium rates for supplemental SDVI coverage should be based on a more updated insurance industry mortality table than the obsolete 1941 table currently in use.

S. 698, THE "VETERANS SURVIVORS EDUCATION ENHANCEMENT ACT OF 2007"

As this legislation was not received in time for us to thoroughly review, The American Legion defers comment and respectfully requests the Committee to allow us to submit for the record at a later date.

S. 847, "TO EXTEND THE PERIOD OF TIME DURING WHICH A VETERAN'S MULTIPLE SCLEROSIS IS TO BE CONSIDERED TO HAVE BEEN INCURRED IN, OR AGGRAVATED BY, MILITARY SERVICE DURING A PERIOD OF WAR"

This bill would eliminate the current 7-year period after service in which a wartime veteran must develop multiple sclerosis, in order for it to be presumptively service-connected, and extend it indefinitely so such a veteran would qualify for service-connection on a presumptive basis if the disease developed anytime after the veteran's separation from the military.

Multiple sclerosis is an autoimmune disease, the cause of which is unknown, affecting the central nervous system. The American Legion fully supports this legisla-

tion. Given the nature of this terrible disease, elimination of a delimiting period for the establishment of presumptive disability benefits is certainly warranted.

S. 848, THE "PRISONER OF WAR BENEFITS ACT OF 2007"

This bill would repeal the current requirement in Title 38, United States Code (U.S.C.) that an individual had to have been detained or interned for a period of not less than 30 days in order to be entitled to presumptive service-connection for certain prisoner-of-war (POW) diseases. It would also expand the list of POW diseases presumed to be service-connected, currently set forth in Title 38, U.S.C. section 1112(b), to include diabetes Type 2 and osteoporosis. The legislation would also specifically authorize the Secretary of Veterans Affairs to create regulations adding or deleting diseases enumerated in section 1112(b), on the basis of sound medical and scientific evidence, to include recommendations from VA's Advisory Committee on Former Prisoners of War.

The issue of the welfare and well being of those veterans who have endured the hardship and trauma of being held as a POW has long been one of the major concerns of The American Legion. To ensure that the Federal Government fulfills its obligation to these brave men and women, The American Legion has actively supported improvements in benefits provided to these individuals and their survivors. We are pleased to support the addition of the two conditions, specified in this bill, to the list of those currently presumed to be service-connected. It is hoped this legislation will provide the impetus for continuing action to further broaden the list of presumptive diseases and disabilities, which former POWs are known to suffer from. Toward this end, we are encouraged that the bill recognizes and emphasizes the important role played by VA's Advisory Committee on Former Prisoners of War. This group of esteemed individuals, many of whom are themselves former POWs, provide the necessary mechanism and forum to evaluate scientific and medical studies on former POWs to make appropriate recommendations to the Secretary regarding needed changes in VA's outreach, benefits, and medical care program for this community of veterans.

Additionally, The American Legion has long supported the elimination of the arbitrary 30-day requirement for internment. Studies have shown there can be long lasting adverse health effects resulting from even a relatively short period of confinement as a prisoner of war. Such findings are especially important considering the nature of today's warfare and the rather short period of confinement most American POWs have faced during the post-Vietnam era.

This legislation represents a solid step toward ensuring former POWs receive the compensation and medical care to which they are clearly entitled. However, in addition to those diseases that would be presumed service-connected, The American Legion recommends that the list also include chronic pulmonary disease, where there is a history of forced labor in mines during captivity, and generalized osteoarthritis, as differentiated from the currently listed disability of post-traumatic osteoarthritis.

S. 961, "BELATED THANK YOU TO THE MERCHANT MARINERS OF WORLD WARII ACT OF 2007"

S. 961 would amend title 46, U.S.C., to provide benefits to certain individuals who served in the United States merchant marine (including the Army Transport Service and the Naval Transport Service) during World War II. The benefit would be a special pension of \$1,000 a month to Merchant Mariners who served between December 7, 1941 and December 31, 1946, and their spouses.

Merchant Marines (Mariners) who served during the period from December 7, 1941 through August 15, 1945 were granted veteran status by the Civilian Military Service Review Board in January 1988. They were issued a DD-214 from the Coast Guard and are entitled to the same medical, disability, and burial benefits as other veterans.

The American Legion does not have an official position on this legislation.

S. 1096, THE "VETERANS' HOUSING BENEFITS ENHANCEMENT ACT OF 2007"

The American Legion is pleased to support this pending legislation that would allow the Secretary of the Department of Veteran Affairs improve the housing arrangements to better suit the disabled veterans' needs, with specific emphasis on severe burn injuries, and to accommodate those veterans with severe burns. The American Legion additionally applauds the intent of the legislation to assist disabled veterans to receive adaptive equipment for automobiles.

The American Legion conveys that specially adaptive housing should also include those veterans suffering from Traumatic Brain Injury (TBI), and other debilitating injuries. We are also concerned with the ambiguity of the term "severe" in that

there are many different levels of injury where a severe injury to one individual may not be as severe to another.

S. 1163, "BLINDED VETERANS PAIRED ORGAN ACT OF 2007"

This bill would amend title 38, U.S.C., to improve compensation and specially adapted housing for veterans in certain cases of impairment of vision involving both eyes, and to provide for the use of the National Directory of New Hires for income verification purposes.

Specifically, this bill would strike the word "blindness" in both places it appears in section 1160(a)(1) of title 38, U.S.C., and replace it with "an impairment of vision." It would also establish specific visual acuity levels constituting an "impairment of vision" under this section. The American Legion supports this portion of the legislation as it is consistent with provisions of the Veterans Benefits Act of 2002 (P.L. 107-330), which instituted similar changes for hearing loss evaluations.

The American Legion also supports the changes to the visual impairment requirements for specially adapted housing under section 2101 of title 38, U.S.C., as such changes conform to the visual impairment changes in section 1160.

The American Legion has no position or comment on the portion of this legislation pertaining to National Directory of New Hires.

S. 1215, "TO AMEND TITLE 38, UNITED STATES CODE, TO EXTEND AND IMPROVE CERTAIN AUTHORITIES OF THE SECRETARY OF VETERANS AFFAIRS, AND FOR OTHER PURPOSES"

Section 1

The American Legion supports the provision that will maintain the current level of funding for the State Approving Agencies at an annual rate of \$19 million.

The American Legion believes that honorable military service, combined with improved education and vocational training opportunities, enhances an individual, increases diversity, and betters society as a whole. The education pillar is continuous and ever evolving. Diminishment in support for education and ability to gain knowledge for veterans will harm the Nation as a whole, decrease the ability to recruit new servicemembers, and unfairly subject veterans to barriers of benefits that they have earned.

State Approving Agencies are instrumental in the education process. The American Legion fully supports all efforts to maintain and enhance veterans' education benefits and recommends that State Approving Agencies remain funded at \$19 million.

Section 2

The American Legion supports the extension of the pilot project on-training-on-the-job for claims adjudicators.

Section 4

The American Legion applauds the modification to create an unemployment study on Global War on Terrorism era veterans, but we are concerned with the exclusion of Vietnam era veterans. The American Legion feels that veterans of the Vietnam era unemployment study continue to be conducted in addition to a study on unemployment of Veteran of the Global War on Terrorism.

Section 5

The American Legion supports the provisions that would extend the rates of education benefits for Apprenticeship and On-the-Job-Training from 2008 to 2010; however, we feel that this date should be extended indefinitely.

S. 1261, "THE MONTGOMERY GI BILL (MGIB) FOR LIFE ACT 2007" AND (S. 22 REVISED) THE "POST-9/11 VETERANS EDUCATIONAL ASSISTANCE ACT OF 2007"

The American Legion supports passage of major enhancements to the current All-Volunteer Force Education Assistance Program, better known as the Montgomery GI Bill (MGIB). We note that the current make up of the operational military force requires that adjustments be made to support all Armed Forces members. The American Legion applauds S. 22 in that it allows for members of the armed services to receive enhanced educational benefits more in line with today's needs. Enactment of this law will greatly increase the recruitment and retention ability of the branches of the armed services. While this legislation is aimed toward the active duty force, The American Legion supports legislation that will allow Reservists to earn credits for education while mobilized, just as active-duty troops do, and then use them after they leave the military service.

The Montgomery GI Bill for life aims to repeal all time limits to use the MGIB. This bill is a step in the right direction and we support the measures that would be enacted. In addition to the positive measures that the bill encompasses, The American Legion feels that all veterans be treated equally regardless of their Reserve/National Guard status in such that an individual who was called to duty and served honorably should not have to remain in the selected reserve to use their earned benefits. We support legislation that would allow all Reservists and National Guard members to use their MGIB benefits, to include the Reserve Educational Assistance Program (REAP) for up to 10 years after separation regardless of disability status and if their enlistment contract expires.

Under current law, members of the Reserve component face many challenges in using the MGIB–SR benefits. Since September 11, 2001, the utilizations of the Reserve components to augment the Active Duty Force (ADF) presents complications for those members of the Guard and Reserves enrolled in college programs. The uncertainty associated with unit activations, lengthy activations, individual deactivations, and multiple unit activations makes utilization of educational benefits extremely difficult. Such decisions as whether to enroll for a semester, long-range planning for required courses, or whether to finish a semester are among the challenges confronted. Other factors include accrued student loan debt, falling behind peers in studies, and limbo status due solely to the military's indecision.

With the number of activations of the Reserve component since September 11, 2001, these same Reservists, who are attending colleges and universities around the country, are discovering that their actual graduation date may be extended well past their initial anticipated graduation date. It's also taking longer for students to graduate, raising the overall cost of a college degree. The College Board, an association composed of more than 5,200 schools, colleges, universities, and other educational organizations, states that the average public university student now takes 6.2 years to finish. They also report that tuition and fees represent only a fraction of the total cost of attending college. The overall cost (tuition, fees, room, board, books, and including transportation) of a typical public college is about \$16,400 a year. (College Board)

In the 20 years since the MGIB went into effect on June 30, 1985, the Nation's security has changed radically from a fixed cold war to a dynamic Global War on Terrorism. In 1991, the Active-Duty Force (ADF) of the military stood at 2.1 million; today it stands at 1.4 million. Between 1915 and 1990 the Reserve Force (RF) was involuntarily mobilized only nine times.

There is now a continuum of service for military personnel, beginning with those who serve in the Reserve component only, extending through those in the Reserve component who are called to active-duty for a considerable period of time, and ending with those who enlist in the ADF and serve for a considerable period of time. Since 9/11 more than 600,000 members of the 860,000-member Selected Reserve have been activated.

Today, approximately 40 percent of troops in Iraq are Guard personnel or Reservists. Despite this, both the MGIB–AD and the MGIB–SR still reflect benefits awarded 20 years ago with increases well behind the annual educational inflation rate. The Reserve component members rarely served on active duty at that time. The idea that any projection of U.S. power would require the activation of at least some Reservists was never considered in creating these programs.

According to the Fiscal Year 2007 MGIB pay rates, troops who serve on active-duty three or more years can collect up to \$1,075 a month for 36 months as full-time students totaling \$38,700. That benefit is available up to 10 years after discharge.

Reserve and Guard personnel can earn percentages of the full-time active-duty rate depending on length of their mobilization. If they are mobilized for 15 months—the average length of deployment—and then go to school full-time they can only receive up to a maximum of \$23,220 (FY 2007 rates) using their Reserve Education Assistance Program (REAP) benefits. However, they can collect only if they remain in a Guard or Reserve unit. If they go into the inactive Reserve (Individual Ready Reserve) or are discharged, they no longer are eligible for education benefits.

The American Legion recommends that activated Reservists get one month of benefits, at the active-duty rate, for each month of mobilization up to 36 months and there should be no delimiting date for use of the benefits from the last date of active or Reserve service.

The American Legion recommends that Congress move Montgomery GI Bill-Selected Reserve (MGIB–SR) from title 10, U.S.C., to title 38, U.S.C., and that VA have administrative authority for both the MGIB and the MGIB–SR. We recommend that the annual appropriations for the MGIB and the MGIB–SR become one annual appropriation within the VA.

The American Legion supports the termination of the current military payroll deduction (\$1,200) required for enrollment in MGIB.

The American Legion supports eliminating the 10-year delimiting period for veterans to use Montgomery GI Bill educational benefits and support legislation that would allow all Reservists and National Guard members to use their MGIB–SR benefits for up to 10 years after separation.

The American Legion supports an MGIB–SR participant reimbursement rate adjusted for time spent on Federalization activation, State activation, and normal service for a period not to exceed 36 months is created.

The American Legion recommends that the dollar amount of the entitlement should be indexed to the average cost of college education including tuition, fees, textbooks and other supplies for a commuter student at an accredited university, college or trade school for which they qualify and that the educational cost index should be reviewed and adjusted annually.

The American Legion supports that a monthly tax-free subsistence allowance indexed for inflation must be part of the educational assistance package. The American Legion believes that if a veteran enrolled in the MGIB program acquired educational loans prior to enlisting in the Armed Forces, MGIB benefits may be used to repay existing educational loans.

The American Legion supports that enrollment in the MGIB shall be automatic upon enlistment. However, benefits will not be awarded unless eligibility criteria have been met and if a veteran enrolled in the MGIB becomes eligible for training and rehabilitation under Chapter 31 of title 38, U.S.C. In such a case, the veteran shall not receive less educational benefits than otherwise eligible to receive under MGIB.

The American Legion supports that any veteran with 6 years of service will be qualified to transfer education entitlements upon re-enlistment for 4 years and to amend title 38, U.S.C., to restore the reimbursement rate for correspondence and distance learning training to 90 percent of tuition.

S. 1265, THE “VETERANS MORTGAGE LIFE INSURANCE ELIGIBILITY EXPANSION”

S. 1265 addresses the expansion of Veterans’ Mortgage Life Insurance (VMLI), a VA program offering \$90,000 of mortgage life insurance to severely disabled veterans who are awarded grants by VA for specially adapted housing, to include members of the military service who meet similar disability requirements, yet who are still in an active-duty status either due to a lengthy separation process for various reasons, or who are retained in such status due to their occupational specialties being needed by their service department or due to other manpower requirements.

The American Legion supports this proposal as these individuals obviously meet the same criteria as is used for those presently insured under the VMLI program. The only difference here is that this group is not yet separated from service, which is a requirement of the current statute. We believe the justification here is, in essence, the same and that these individuals should also have the option of being insured under the VMLI program.

S. 1266, THE “VETERANS DIGNIFIED BURIAL ASSISTANCE ACT OF 2007”

This bill seeks to: increase the burial plot allowance from \$300 to \$400; repeal the time limitation for state filing of reimbursement costs; and, modify the grants to state veterans’ cemeteries for operation and maintenance.

The American Legion strongly supports the portion of this bill that would repeal the time limitation for state filing of reimbursement costs for veterans who are interred in a private or state cemetery. This portion of the legislation will assist in the location and burial of cremated remains of veterans that go unclaimed for over two years as well as give families more time in the grieving process as they will not have to be concerned about deadlines in claiming these benefits.

The American Legion urges Congress to enact legislation that would:

1. Increase the burial allowance for veterans now eligible under title 38, U.S.C., section 2302 and 2303 from \$300 to \$1,135.

2. Increase the burial allowance for veterans who died as a result of a service-connected condition as set forth in title 38, U.S.C., section 2307 from \$2,000 to \$3,712.

3. That the burial plot allowance be increased from \$300 to \$670.

4. That VA be required to annually adjust burial allowances and burial plot allowance for inflation by tying the increased allowances to the Consumer Price Index.

The American Legion also has concerns with the provision that allows state cemeteries to receive grants up to \$5 million for improvements to state cemeteries. The purpose of the State Cemetery Grants program is to pay for the cost of establishing

a state veterans' cemetery that will then be maintained by the state and not the Federal Government. States that ask for improvement money will be breaking their obligation to maintain those cemeteries they agreed to be responsible for. Funds for improvements would take money away from new projects as well.

DRAFT LEGISLATION, THE "DISABLED VETERANS INSURANCE
IMPROVEMENT ACT OF 2007"

This proposed bill is comprised of three separate veterans insurance issues.

First, it would raise the maximum coverage in the Veterans' Mortgage Life Insurance (VMLI) program from the current \$90,000 up to \$200,000. The current maximum, established on December 1, 1992, covers only approximately 64 percent of veterans' outstanding mortgage balances; raising it to \$200,000 would cover approximately 93 percent of outstanding balances and accords with previous VA recommendations that the coverage level be increased to keep pace with rising housing costs. The American Legion supports this increase as one that is long overdue and that is certainly justified by the obvious rise in housing costs and values over the past fifteen years. However, we believe this \$200,000, which should be enacted into law, should only be regarded as a starting point and that the VMLI coverage maximum should be tied to an appropriate economic indicator to maintain a reasonable level of coverage for the extremely disabled veterans in this group of insured veterans.

Second, the bill introduces a major, long awaited, addition to the VA's Service-Disabled Veterans Insurance benefit area in a proposal to establish a Level Term Insurance program for disabled veterans with a maximum face value coverage of \$50,000.

This proposal again mirrors certain findings by the private sector study on Program Evaluation of Benefits for Survivors of Veterans with Service-Connected Disabilities, completed in spring 2001, which found an enhancement was needed in insurance coverage options for veterans with service-connected disabilities. The proposed legislation would provide such veterans up to \$50,000 Term insurance coverage on a level, permanent premium basis up to age 70, at which point the amount of insurance would reduce to 20 percent of the face value held, but which would then be in a paid-up insurance state. A standard disability waiver of premiums provision would also apply, and the aggregate of service-disabled coverage held under all such programs would not exceed \$50,000.

Qualifying criteria would be the same as for the current SDVI program, but with the added significant constraint of an overall eligibility period of applying for such within 10 years of release from active-duty, a period on principle chosen to orient this new program wholly to the current generation of disabled veterans to lower program costs, avoiding the need to offer coverage to older or even slightly older disabled veterans, and which further reflects an assumption that loss of insurability because of service-connected disabilities impacts far more heavily on those in the younger age groups. We find both this concept arguable and the 10-year time period to be nothing less than arbitrary. In many, many cases service-connected disabilities, or substantial increase in severity to them, arise more than 10 years after service, and loss of insurability can impact just as heavily at older ages as at younger one for many reasons as we all know well.

The American Legion has long been in favor of an enhancement to the VA's SDVI program which would bring it into line with today's economic realities. The standard SDVI maximum of \$10,000 has long been insufficient, and only the most disabled veterans under age 65 who cannot follow gainful employment because of their disability qualify for supplemental SDVI coverage, for which they must pay high premiums.

We feel this legislation to be a step in the right direction to address the deficiencies of the present program, but we favor a more extensive overall eligibility period than the 10 years after release from active duty specified in the bill. We also believe that service-connected disabled veterans who receive increases in their service-connected disabilities, rather than only those who receive original ratings for service-connection, should be eligible to apply for such coverage and that such provision be extended to the regular SDVI program as well. In connection with this, it has been our experience that the present two-year eligibility period from the date of notification of a rating is too restrictive and should be extended to a more appropriate time period for all SDVI programs.

In a related area, this proposed legislation does not permit the provisions of regular SDVI Gratuitous insurance to apply, retaining that limit to \$10,000 even for those veterans who would have qualified for coverage under this new program. Gratuitous SDVI permits an insurance settlement in cases where a veteran, otherwise

eligible, could not apply for SDVI because of a service-connected disability rendering him or her mentally incompetent and hence unable to do so, thus placing them on an even footing with other qualifying service-connected veterans.

The American Legion believes the same principle should govern with this new program. Beneficiaries of those deceased veterans who would otherwise have qualified for insurance under this proposed legislation, and also meet the rigorous criteria for Gratuitous insurance, should be permitted the full \$50,000 settlement. Given the rarity of such cases we do not believe this should impact adversely on program costs to a significant extent. Beneficiaries of those veterans meeting Gratuitous insurance criteria outside the overall eligibility period eventually chosen for this program (i.e., from date of release from service) for such new coverage, where the veteran would have qualified only for standard SDVI, would still be eligible for the regular \$10,000 Gratuitous insurance. The SDVI programs would then be more consistent in their application should this program proposal be enacted.

The American Legion is in full agreement with VA's proposal to switch to the Commissioners 2001 Standard Ordinary Table of Mortality for the determination of premium rates for this SDVI program, rather than the outdated 1941 Table presently in use. It is neither sensible nor fair to base premium rates for service-disabled veterans on mortality tables over sixty-five years old, and long rendered obsolete by changes in American living conditions and modern medicine, evident to all. Such action constitutes a deliberate overcharging of disabled veterans for their own benefits, and works to negate the original intent of Congress in such programs.

The American Legion supports the proposal to add a new insurance program for service-connected veterans, and strongly believes both the new issue presently under consideration, hopefully with the adjustments discussed previously, and the current SDVI program, are necessary to a viable and proper set of benefits for our country's veterans who, as recent experience has again shown, we continue to rely on in times of recurring crisis.

Lastly, The bill would offer to those in the mobilization category of the Reserves within the Individual Ready Reserve, the option to be covered by Servicemembers' Group Life Insurance (SGLI), instead of only the option to be covered by Veterans' Group Life Insurance (VGLI) as is now the case. The American Legion supports this provision, which corrects an omission in previous legislation. These individuals are in an essentially on-call status because of their professional or occupational specialties, and can be sent to active duty at any time. The option to be insured under SGLI allows them access to dependent coverage and to SGLI's much lower group premium rates. We believe this addition to be correct and fully justifiable.

DRAFT LEGISLATION, "THE VETERANS JUSTICE ASSURANCE ACT OF 2007"

As this legislation was not received in time for us to thoroughly review, The American Legion defers comment and respectfully requests the Committee to allow us to submit for the record at a later date.

DRAFT LEGISLATION, THE "VETERANS' EDUCATION AND VOCATIONAL BENEFITS ENHANCEMENT ACT OF 2007"

The American Legion supports granting veterans the option to request an accelerated payment of all monthly educational benefits upon meeting the criteria for eligibility for Montgomery GI Bill (MGIB) financial payments. The selection of courses veterans undergo remain exclusively the decision of the individual veteran, and all earned veterans' education benefits should be made available to veterans in support of their endeavors. Accelerated education payments allow veterans to achieve education goals in the manner that they decide. Binding the time frame of an education payout may restrict educational options for some veterans.

In addition to the traditional institutions for higher learning, MGIB benefits can be used for training at Non-College-Degree Institutions, On-the-Job or Apprenticeship Training, Independent, and Distance or Internet training. The MGIB also allows the VA to reimburse veterans for the fees charged for national tests for admission to institutions of higher learning and national tests providing an opportunity for course credit at institutions of higher learning. Examples of tests covered are SAT, GRE, CLEP, GMAT, LSAT, etc. The MGIB for veterans, and not those eligible under Survivors and Dependents Educational Assistance (DEA), is available for Flight Training and Correspondence Training.

The significance of expanding the scope of accelerated education payments is that the preceding categories are eligible for MGIB payments, yet *excluded* from accelerated education payments. The American Legion recommends that all MGIB-approved courses, including the On-the-job training (OJT) and Apprenticeship courses, become eligible for accelerated education payments.

The American Legion supports the expansion of P.L. 107–103 to include but not limited to:

1. Survivors and Dependents Educational Assistance (DEA, or Chapter 35).
2. Post-Vietnam Era Veterans' Educational Assistance Program (VEAP, or Chapter 32).
3. Reserve Educational Assistance Program (REAP, or Chapter 1607).

Furthermore, The American Legion expressed that all active duty time served, regardless of continuous or aggregate service, be applied toward MGIB benefits at the active duty rate in tune with a month for month benefit.

According to Fiscal Year 2007 MGIB pay rates, this bill would provide an opportunity for REAP eligibles to “buy-up” to receive a total of \$860 per month times 36 months for full-time study totaling \$30,960 (title 10, Chapter 1607). However, a provision already exists that if a servicemember has served 2 or more continuous years active duty, they retain the option of buying the MGIB–AD (title 38, Chapter 30) with \$1,200 and receiving a total of \$38,700 in benefits.

Furthermore, the provision would force the veteran that enrolls to remain in the selected reserve to use their benefits compared to the current 10-year period following discharge an MGIB–AD participant could use. It would create an unfair element to the veteran.

DRAFT LEGISLATION, “A BILL TO AMEND TITLE 38, UNITED STATES CODE, TO PROVIDE ADDITIONAL DISCRETION TO THE SECRETARY OF VETERANS AFFAIRS IN CONTRACTING WITH STATE APPROVING AGENCIES, AND FOR OTHER PURPOSES”

The American Legion has no position on accrediting courses.

DRAFT LEGISLATION, “COMPREHENSIVE VETERANS BENEFITS IMPROVEMENT ACT OF 2007” (TITLES II–VI ONLY)

As this legislation was not received in time for us to thoroughly review, The American Legion defers comment and respectfully requests the Committee to allow us to submit for the record at a later date.

DRAFT LEGISLATION, “A BILL TO AMEND SECTION 2306 OF TITLE 38, UNITED STATES CODE, TO MAKE PERMANENT AUTHORITY TO FURNISH GOVERNMENT HEADSTONES AND MARKERS FOR GRAVES OF VETERANS AT PRIVATE CEMETERIES, AND FOR OTHER PURPOSES”

The government furnished headstones and markers are a recognized symbol of service and honor. The American Legion supports this legislation that would make permanent the authority to furnish government headstones and markers for graves of veterans at private cemeteries.

DRAFT LEGISLATION, “SERVICEMEMBERS' CELLULAR PHONE CONTRACT FAIRNESS ACT OF 2007”

This bill seeks to amend the Servicemembers Civil Relief Act to provide relief for servicemembers with respect to contracts for cellular phone services, and other purposes.

The American Legion supports this bill.

DRAFT LEGISLATION, “TO AMEND TITLE 38, UNITED STATES CODE, TO IMPROVE THE OUTREACH ACTIVITIES OF THE DEPARTMENT OF VETERANS AFFAIRS (VA), AND FOR OTHER PURPOSES”

The American Legion believes that proper and thorough outreach is essential to ensuring this Nation's veterans and their dependents are fully informed and aware of all of the benefits to which they may be entitled to receive based on their honorable military service to our Nation.

The American Legion supports the provisions of this bill that would establish a separate account for the funding of outreach activities as well as separate sub-accounts for the funding of such outreach activities pertaining to the Veterans Benefits Administration (VBA), Veterans Health Administration (VHA) and the National Cemetery Administration (NCA). We also support the provision that would require the Secretary to establish and maintain procedures for ensuring the effective coordination of the outreach activities of VA between and among the Secretary's office, Public Affairs, VBA, VHA, and NCA. The aforementioned provisions would undoubtedly provide for better accountability as well as help to ensure that VA's outreach activities are conducted in a more efficient and systematic manner.

The American Legion supports the provision of this legislation pertaining to cooperative activities with, and grants to, states to accomplish the goal of improving outreach and assistance to veterans and their family members who may be eligible to receive veterans or veterans-related benefits (including benefits and services provided under state veterans' programs). We are, however, concerned that the scope of this provision is limited to or otherwise favors urban locations or other areas with larger concentrations of veterans while neglecting rural areas or locations with lower veteran populations. All veterans, no matter where they live, deserve equal treatment and access to information or assistance regarding the benefits and services to which they may be entitled. Accordingly, we strongly encourage the establishment or designation of rural veteran outreach coordinators to ensure that veterans and their families residing in areas with low veteran populations are not left out. We further recommend that an oversight hearing be conducted to assess the overall effectiveness of VA's outreach program, especially as it pertains to outreach and dissemination to veterans living in rural areas.

DRAFT LEGISLATION, "IRAQ AND AFGHANISTAN VETERANS MENTAL HEALTH AND ADVOCACY ACT OF 2007"

As this legislation was not received in time for us to thoroughly review, The American Legion defers comment and respectfully requests the Committee to allow us to submit for the record at a later date.

CONCLUSION

Thank you again, Mr. Chairman, for allowing The American Legion to present comments on these important measures. We will provide the Committee with additional views on those draft bills we did not have time to thoroughly review. As always, The American Legion welcomes the opportunity to work closely with you and your colleagues on enactment of legislation in the best interest of America's veterans and their families.

[Note: The following is an addendum to the prepared statement of Alec S. Petkoff, which was submitted after the hearing.]

S. 698, THE "VETERANS SURVIVORS EDUCATION ENHANCEMENT ACT OF 2007"

S. 698 would expand the current benefit of survivors and dependents educational assistance to an amount greater than the current value of the Montgomery GI Bill (MGIB) education benefit. The aggregate amount would become \$80,000 compared to the current full time rate MGIB benefit of \$38,700.

The American Legion supports legislation in which the dollar amount of the MGIB entitlement would be indexed to the average cost of college education including tuition, fees, textbooks and other supplies for a commuter student at an accredited university, college or trade school for which they qualify and that the educational cost index be reviewed and adjusted annually.

S. 1289, "THE VETERANS JUSTICE ASSURANCE ACT OF 2007"

S. 1289 addresses concerns regarding The United States Court of Appeals for Veterans Claims. The American Legion has the following positions on this bill:

- Section 2. Repeal of Term Limits for Judges of the United States Court of Appeals for Veterans Claims.

The American Legion does not have an official position on this provision.

- Section 3. Increased Salary for Chief Judge of United States Court of Appeals for Veterans Claims.

The American Legion does not have an official position on this provision.

- Section 4. Provisions Relating to Recall of Retired Judges of the United States Court of Appeals for Veterans Claims.

The American Legion supports the recalling of retired judges and we agree with changes to this procedure as stipulated in this provision.

- Section 5. Additional Discretion in Imposition of Practice and Registration Fees. The American Legion does not have an official position on this provision.

- Section 6. Annual Reports on Workload of United States Court of Appeals for Veterans Claims.

The American Legion supports this provision, which would require the chief judge of the United States Court of Appeals for Veterans Claims to submit annual workload reports to Congress. The information provided in this report would be extremely beneficial in ensuring the Court has adequate resources, including funding and personnel, as well as ensure proper Congressional oversight of its activities.

- Section 7. Report on Expansion of Facilities for United States Court of Appeals for Veterans Claims.

The American Legion does not have an official position on this provision.

S. 1326, "COMPREHENSIVE VETERANS BENEFITS
IMPROVEMENT ACT OF 2007"

Title I. Health Care Matters

- Section 101. Remove Government ban on enrollment of Priority 8 veterans in the VA.

- Background: In January of 2003 VA announced that it would not allow Priority Group 8 veterans to enroll into the VA health care system. Priority Group 8 veterans are those with no service-connected disabilities or service-connected disabled veterans rate zero percent (non-compensable) and with incomes higher than a geographically adjusted threshold. The Administration justified this move on the grounds that these are "higher income" veterans. The truth, however, is that these veterans can make as little as \$27,000 a year. VA estimates that more than 1.5 million Priority Group 8 veterans will have been denied enrollment in the VA health-care system by Fiscal Year 2008, not based on their military service, but simply on their geographical residence.

- This section would remove the government ban on enrollment of Priority Group 8 veterans in the VA. This section is similar to S. 1147, introduced by Senator Murray.

The American Legion supports this provision.

- Section 102. Addressing the misclassifications of Priority Group 4 veterans, exempts them from copayments.

- Background from the IB: "Reports of catastrophically disabled veterans being denied care still persist. VA has acknowledged Public Law 104-262, which specifies that veterans who are receiving an increased pension based on a need for regular aid and attendance or by reason of being permanently housebound and other veterans who are catastrophically disabled will be classified as enrollment Priority Group 4. However, after 9 years, the Veterans' Health Administration (VHA) has not developed a consistent and effective mechanism for identifying eligible veterans and properly classifying them."

- (b) This section requires the VA to properly reclassify as Priority Group 4's those misclassified veterans and provide them access to related Priority Group 4 benefits.

- (c) This section prohibits the collection of copayments and other fees for hospital or nursing home care for veterans who are catastrophically disabled.

The American Legion has no official position on this provision.

- Section 103: Change in rules regarding access to non-VA emergency services.

- Background from the IB: "The non-VA emergency medical care benefit was established as a safety net for veterans who have no other health-care insurance coverage and experience a medical emergency. Under this benefit, VA will pay for services rendered to a veteran who is found eligible and files a claim for payment for emergency treatment received from a private facility. However, some veterans' claims are denied payment due to the restrictive nature of the eligibility criteria."

- This section eliminates the provision requiring veterans to be seen by a VA health-care professional at least once every 24 months to be eligible for non-VA emergency care service. The bill requires only that the veteran be enrolled in VA health care to be eligible.

The American Legion has no official position on this provision.

- Section 104: Lung cancer screening pilot program.

- Background from the IB: "The Department of Defense (DOD) routinely distributed free cigarettes and included cigarette packages in K-rations until 1976. The 1997 Harris report to the Department of Veterans Affairs (VA) documented the higher prevalence of smoking and exposure to carcinogenic materials among the military and estimated costs to VA and TRICARE in the billions of dollars per year. For example, the percentage of Vietnam veterans who "ever smoked" is more than 70 percent, double the civilian "ever smoked" rate of 35 percent."

- This section requires that the Secretary of the VA carry out a pilot program for screening of lung cancer in veterans and then report to Congress on this pilot

program and what actions Congress should take to establish a permanent program. VA will work with the International Early Lung Cancer Action Program and other public and private entities to develop this pilot program.

The American Legion supports this provision.

Title II. Compensation and Pension Matters

- Section 201: Full concurrent receipt.

- Background: The Concurrent Receipt or Disabled Veterans' Tax issue exists because of a 19th century law that required a dollar-for-dollar offset of earned military retired pay by the amount of awarded disability compensation received from VA. The American Legion strongly believes retired pay is earned for a career of uniformed service and VA disability compensation is recompense for pain, suffering and lost future earning power due to service-connected disabilities. For that reason veterans should receive both payments and not have one offset the other.

- This legislation would allow veterans to receive both compensation/pension benefits and retired or retirement pay. This section is similar to S. 439, introduced by Senator Reid.

The American Legion supports the complete repeal of the Disabled Veterans' Tax for all service-connected disabled military retirees awarded a VA disability rating regardless of their total service time on active-duty or degree of disability.

- Section 202: Increase in Special Monthly Compensation.

- Background from the IB: "The Department of Veterans Affairs, under the provisions of title 38, United States Code, section 1114(k) through (s), provides additional special compensation to select categories of veterans with very severe, debilitating disabilities, such as the loss of a limb, loss of certain senses, and to those who require the assistance of an aide for the activities of daily living, such as dressing, toileting, bathing, and eating. . . . The payment of special monthly compensation, while minimally adjusted for inflation each year, is now no longer sufficient to compensate for the special needs of these veterans."

- This section increases the special monthly compensation under title 38, United States code, section 1114(l) through (s) by an immediate 20 percent above the current base amount and additionally, increases by 50 percent the current base amount of special monthly compensation under title 38, United States Code, Section 1114(k).

The American Legion supports this provision.

- Section 203: Presumption of service connected disability for combat and military-work related hearing loss and tinnitus and minimum hearing loss disability rating of 10 percent.

- (a) Background from the IB: "The VA Schedule for Rating Disabilities does not provide a compensable rating for hearing loss at certain levels severe enough to require hearing aids. The minimum disability rating for any hearing loss warranting use of hearing aids should be 10 percent, and the schedule should be changed accordingly."

- This section amends the Schedule for Rating Disabilities to provide a minimum 10 percent disability rating for any hearing loss for which the wearing of a hearing aid or aids is medically indicated.

- (b) Background from the IB: "Many combat veterans and veterans that had military duties involving high levels of noise exposure who now suffer from hearing loss or tinnitus likely related to noise exposure or acoustic trauma during service are unable to prove service connection because of inadequate testing procedures, lax examination practices, or poor recordkeeping."

- This provision enacts a presumption of service-connected disability for combat veterans and veterans who performed military duties typically involving high levels of noise exposure and who subsequently suffer from tinnitus or hearing loss of a type typically related to noise exposure or acoustic trauma.

The American Legion supports this provision.

- Section 204: Repeal the offset between dependency and indemnity compensation and the Survivor Benefit.

- Background: Under current law, the survivors of veterans who die as a result of service-connected causes are entitled to compensation known as dependency and indemnity compensation (DIC). In addition, military retirees can have money deducted from their retiree pay to purchase a survivors annuity. This is called the Survivor Benefit Plan (SBP). However, if the military retiree dies from service-connected causes his or her survivors will receive a SBP payment offset dollar for dollar by the amount of the DIC payment they receive. Like the offset between military retiree pay and VA disability payments, this SBP/DIC offset unfairly denies beneficiaries the full amount of two programs that are meant to compensate for different losses.

- This section repeals the offset between dependency and indemnity compensation and the Survivor Benefit Plan. This section is similar to S. 935, introduced by Senator Bill Nelson.

The American Legion supports this provision.

- Section 205: Authorize dependency and indemnity compensation (DIC) eligibility at increased rates to survivors of deceased military personnel on the same basis as that for the survivors of totally disabled service-connected veterans

- Background from the IB: “Current law authorizes the Department of Veterans Affairs to pay additional, enhanced amounts of dependency and indemnity compensation, in addition to the basic rate, to the surviving spouses of veterans who die from service-connected disabilities, after at least an 8-year period of the veteran’s total disability rating prior to death. However, surviving spouses of military servicemembers who die on active duty receive only the basic rate of DIC.”

- This section sets DIC eligibility at increased rates to survivors of deceased military personnel on the same basis as that for the survivors of totally disabled service-connected veterans.

The American Legion has no official position on this provision.

- Section 206: Lower the existing eligibility age for reinstatement of DIC to remarried survivors of service-connected veterans, from 57 years of age to 55 years of age.

- Background from the IB: “Current law permits remarried survivors of veterans who die from service-connected disabilities to requalify for DIC benefits if the remarriage occurs at age 57 or older, or if already remarried, they apply for reinstatement of DIC at age 57. While The Independent Budget veterans service organizations appreciate the action Congress took to allow this restoration of rightful benefits, the current age threshold of 57 years is based on no objective data related to this population or its needs. Remarried survivors of retirees in other Federal programs obtain a similar benefit at age 55.”

- This section lowers the existing eligibility age for reinstatement of DIC to remarried survivors of service-connected veterans, from 57 years of age to 55 years of age.

The American Legion supports this provision.

- Section 207: Effective date change for temporary total compensation awards.

- Background from the IB: “An inequity exists in current law controlling the beginning date for payment of increased compensation based on periods of incapacity due to hospitalization or convalescence. Hospitalization in excess of 21 days for a service-connected disability entitles the veteran to a temporary total disability rating of 100 percent. This rating is effective the first day of hospitalization and continues to the last day of the month of discharge from hospital. Similarly, where surgery for a service-connected disability necessitates at least one month’s convalescence or causes complications, or where immobilization of a major joint by cast is necessary, a temporary 100 percent disability rating is awarded effective the date of hospital admission or outpatient visit. Although the effective date of the temporary total disability rating corresponds to the beginning date of hospitalization or treatment, the provisions of 38 U.S.C. §5111 delay the effective date for payment purposes until the first day of the month following the effective date of the increased rating.”

- This section amends the law to authorize increased compensation on the basis of a temporary total rating for hospitalization or convalescence to be effective, for payment purposes, on the date of admission to the hospital or the date of treatment, surgery, or other circumstances necessitating convalescence.

The American Legion supports this provision.

- Section 208: Review of dependency and indemnity compensation (DIC) program by GAO.

- Background from the IB: “The VA Dependency and Indemnity Compensation program provides monthly financial support to the widow or widower of a veteran who dies from a service-connected disability (including the survivor of an active duty servicemember who dies while still in military service). Historically, DIC was intended to enable a survivor of a veteran to maintain a standard of living above the poverty level that might have ensued because of the loss of a spouse’s life income and earning power. Current payment rates for DIC are set in law, and generally the maximum monthly payment is limited to \$1,033—about 41 percent of the level of maximum service-connected disability payment to a totally disabled veteran—and considerably less than pensions paid to a survivor of a Federal retiree, which is set in law at 55 percent of that Federal annuity. Because of inflation and other economic factors, many widows (and some widowers) are in fact now living in poverty due to lack of income other than DIC.”

○ This section requires the Government Accountability Office (GAO) to examine the VA's DIC program to ensure that current policy adequately provides for the survivors of veterans (at a standard of living above the poverty level) who died as a result of service-connected disabilities and make legislative recommendations to Congress to correct any inequities observed from such examination.

The American Legion supports this provision.

Title III. Insurance Matters

• Section 301: Lower premiums for Service-Disabled Veterans Insurance (SDVI) due to changed mortality rates.

○ Background from the IB: "Because of service-connected disabilities, disabled veterans have difficulty getting or are charged higher premiums for life insurance on the commercial market. Congress therefore created the SDVI program to furnish disabled veterans life insurance at standard rates. When this program began in 1951, its rates, based on mortality tables then in use, were competitive with commercial insurance. Commercial rates have since been lowered to reflect improved life expectancy shown by current mortality tables. VA continues to base its rates on mortality tables from 1941, however. Consequently, SDVI premiums are no longer competitive with commercial insurance and therefore no longer provide the intended benefit for eligible veterans."

○ This section revises the premium schedule for SDVI to reflect current mortality tables and increase the maximum protection under base SDVI policies to at least \$50,000 while allowing options for the level of insurance veterans can choose from.

Sec. 301, S. 1326 looks to be the best of the several recent legislative proposals for finally updating and enhancing the Service-Disabled Veterans Insurance (SDVI) program. It takes the present SDVI program and just raises the maximum coverage limit from the current \$10,000 to \$50,000. It leaves the provision for a disability waiver of premiums in place for those veterans unable to follow substantially gainful employment due to their disabilities (for most these are service-connected disabilities). It changes the long outdated mortality table, upon which premiums are based, from the current 1941 table to the 2001 table, which will lower premiums on average quite a bit (in the 30–40 percent range) for all SDVI policyholders not on premium waiver, and it permits veterans the option to have a mix of permanent plans as well as Term coverage. (Permanent plans, while more expensive, build loan and cash values.)

The bill would cap SDVI at \$50,000 under any combination of SDVI or Supplemental SDVI coverage. In fact, it effectively eliminates Supplemental SDVI for new policyholders who qualify for disability waiver of premiums since they would naturally go for the maximum for free. However, the Supplemental SDVI program is of course still needed since many would probably take out a lesser amount of coverage due to premium costs (even with a new rate table being used). Should these insured veterans become TD and qualify for a premium waiver at a later date prior to age 65, when they may very well no longer be eligible for new SDVI coverage, they may very much need and want Supplemental coverage at that time.

The overly strict qualifying criteria are still maintained. That is, a veteran must apply within two years of his or her last NEW service-connected rating, and must be in good health except for service-connected disabilities. While the good health criteria isn't really arguable for this type of insurance, by definition, the two-year period should be increased to at least five years (a large portion of denials are because of a veteran being outside of the two-year period, which is an arbitrarily derived one, of course). Also, increases in service-connection ratings—the natural progression of such disabilities—should be permitted as well for purposes of the eligibility period. This is often when such veterans realize they need coverage the most and, as in Compensation, recognition should be given to this factor. Again, the NEW disability rule is an arbitrary one designed to keep eligibility down for budget purposes. There is also no provision for an open period of one or two years for those existing SDVI insured veterans, who no longer would meet the eligibility criteria for new SDVI coverage, to come in and apply for more coverage should this initiative be passed.

The American Legion is concerned with a possible deletion of the long-standing provision for Gratuitous SDVI in Title 38, Sec. 1922(b)(1). Due to the wording of S. 1326 (a)(1) and (2), there is confusion as to whether this may delete Title 38 (b)(1) due to the wording of the bill.

The American Legion certainly wishes the provision for Gratuitous SDVI to remain, at least as it has been (\$10,000) if it should not be possible for it also to be included in the proposed \$50,000 increase. This provision entails relatively few cases annually (perhaps several hundreds), but is very needful for those beneficiaries fall-

ing under it. Gratuitous insurance is to permit an insurance settlement in cases where a veteran is mentally incompetent from a service-connected disability, and would qualify for SDVI, but died before being able to make an application for it. The requirements, listed in Title 38, 1922(b)(1), are quite restrictive, so this does not impact much on the overall budget. However, we feel this should remain as a matter of equity and fairness for this class of service-connected veterans. The provision has stood the test of time in this regard, has endured for generations, and The American Legion should be most opposed to its removal. We should bring it up only as a concern. Actually, as a matter of equity, should the main intent of S. 1326 become law, the increase to \$50,000 should also apply to Gratuitous SDVI, as well as regular SDVI, since in these cases it is virtually always that the veteran has died from service-connected disabilities that also rendered him or her mentally incompetent, and so unable to make decisions for benefits such as insurance, plus the families involved are usually in the worst of financial straits.

Title IV. Burial and Memorial Matters

- Section 401: Increase in burial benefits.
 - Background from the IB: “There has been serious erosion in the value of burial allowance benefits over the years. While these benefits were never intended to cover the full costs of burial, they now pay for only a small fraction of what they covered in 1973, when the Federal Government first started paying burial benefits for our veterans.”

- This section increases the plot allowance from \$300 to \$745 and expands the eligibility for the plot allowance for all veterans who would be eligible for burial in a national cemetery, not just those who served during wartime. This section also contains a provision to adjust these payments annually.

The American Legion supports this provision.

- Section 402: Increase in funeral and burial expenses.
 - Background from the IB: “The nonservice-connected benefit was last adjusted in 1978, and today it covers just 6 percent of funeral costs. In the 108th Congress, the allowance for service-connected deaths was increased from \$500 to \$2,000. Prior to this adjustment, the allowance had been untouched since 1988. Clearly, it is time this allowance was raised to make a more meaningful contribution to the costs of burial for our veterans.”

- The section increases the nonservice-connected benefit from \$300 to \$1,270. This section then increases the service-connected benefit from \$2,000 to \$4,100. This section also contains a provision to adjust these payments annually.

The American Legion supports this provision.

- Section 403: Authorize \$37 million for State Cemetery Grants Program.
 - Background from the IB: “The State Cemetery Grants Program (SCGP) complements the NCA [National Cemetery Administration] mission to establish gravesites for veterans in those areas where the NCA cannot fully respond to the burial needs of veterans. Several incentives are in place to assist states in this effort. For example, the NCA can provide up to 100 percent of the development cost for an approved cemetery project, including design, construction, and administration. In addition, new equipment, such as mowers and backhoes, can be provided for new cemeteries. Since 1978, the Department of Veterans Affairs has more than doubled acreage available and accommodated more than 100 percent increase in burials.”

- This section authorizes \$37 million for the State Cemetery Grants Program a \$5 million increase over the FY07 level.

The National Cemetery Administration’s request for \$32 million dollars for the current fiscal year is to be used to establish six new cemeteries (Abilene, TX; Des Moines, IA; Glennville, GA; Fort Stanton, NM; Missoula, MT; Williamstown, KY) and to expand four others (Cheltenham, MD; Crownsville, MD; Jacksonville, NC; Kona Coast, HI). Determining an “average cost” to build a new state cemetery or to expand an existing one is very difficult. Many factors influence cost, such as location, size and the availability of public utilities. Two new state cemeteries planned for obligation in Fiscal Year 2007 are Abilene, Texas (\$7.1 million) and Des Moines, Iowa (\$7.5 million). While these awards may be delayed in being granted due to the states not being ready to proceed with the construction of a new cemetery, The American Legion would suggest that it is unwise to grant money on the hopes that a state will not be able to accept the grant in a timely fashion. Therefore, for the purpose of budgeting, the VA should assume that grants will be awarded in a timely fashion.

	President's budget request for Fiscal Year 07	The American Legion's Fiscal Year 08 recommended
State Grants for Veterans' Cemeteries ..	\$32 million	\$42 million.
Abilene, Texas	\$7.1 million	\$7.1 million.
Des Moines, Iowa	\$7.5 million	\$7.5 million.
Glennville, GA Fort Stanton, NM Missoula, MT Williamstown, KY Cheltenham, MD Crownsville, MD Jacksonville, NC Kona Coast, HI	\$17.4 million (average dollars left per project is \$2.175 million)	\$27.4 million (average dollars left per project is \$3.425 million).

By only budgeting for \$4 million per project, The American Legion predicts serious shortfalls in State Grant funding. After the Texas and Des Moines' cemeteries are granted, an average of only \$2.175 million will be left for each of the eight other projects remaining. The only way to avoid this funding shortage will be to hope that states are: not ready to receive the money; take the money from other construction needs in VA; or to delay the construction of these highly needed cemeteries.

The American Legion recommends \$42 million for the State Cemetery Grants Program in Fiscal Year 2008.

TITLE V. HOUSING MATTERS

- Section 501: Increases housing grants and allowing subsequent specialty adapted housing grants.

- Background from the IB: "VA provides specially adapted housing grants of up to \$50,000 to veterans with service-connected disabilities consisting of certain combinations of loss or loss of use of extremities and blindness or other organic diseases or injuries. Veterans with service-connected blindness alone or with loss or loss of use of both upper extremities may receive a home adaptation grant of up to \$10,000. . . . Increases in housing and home adaptation grants have been infrequent, although real estate and construction costs rise continually."

- This section increases the housing grant from \$50,000 to \$60,000 and increases the amount of the home adaptation grant for veterans with service-connected blindness or with loss or loss of use of both upper extremities from \$10,000 to \$12,000. This section also establishes a mechanism for periodic increases in this grant pegged to a housing price index. This section also establishes a grant to cover the costs of home adaptations for veterans who replace their specially adapted homes with new housing.

The American Legion supports this provision.

- Section 502: Increase the maximum coverage under Veterans Mortgage Life Insurance (VMLI) from \$90,000 to \$150,000.

- Background from the IB: "The maximum VMLI coverage was last increased in 1992. Since then, housing costs have risen substantially. Because of the great geographic differentials in the costs associated with accessible housing, many veterans have mortgages that exceed the maximum face value of VMLI. Thus, the current maximum coverage amount does not cover many catastrophically disabled veterans' outstanding mortgages. Moreover, severely disabled veterans may not have the option of purchasing extra life insurance coverage from commercial insurers at affordable premiums."

- This section increases the maximum coverage under VMLI from \$90,000 to \$150,000.

Title IV, Sec. 502 proposes raising the Veterans Mortgage Life Insurance limit to \$150,000 from the current \$90,000. This is too low. VA has looked for a \$200,000 limit here for years, and the \$200,000 limit (as a start) in Senator Akaka's bill (S. 1315, Sec. 2) is much better. This would allow some 93 percent of outstanding mortgage balances to be covered (presently it is 64 percent). We all know how housing costs have gone in the past decade or so. The coverage limit should actually start at \$200,000 and be linked to some appropriate economic market indicator.

- Section 503: Full eligibility for VA Home loan guaranty program for Selected Reserve forces.

- Background from the IB: “Various incentive, service, and benefit programs designed a half century ago for a far different Guard and Reserve philosophy are no longer adequate to address demands on today’s Guard and Reserve forces. Accordingly, steps must be taken by Congress to upgrade National Guard and Reserve benefits and support programs to a level commensurate with the sacrifices being made by these patriotic volunteers. Such enhancements should provide Guard and Reserve personnel a level of benefits comparable to their active duty counterparts and provide one means to ease the tremendous stresses now being imposed on Guard and Reserve members and their families, and to bring the relevance of these benefits into 21st century application. . . . With concern about the current missions of the Guard and Reserve forces, Congress must take necessary action to upgrade and modernize Guard and Reserve benefits, to include more comprehensive health care, equivalent Montgomery GI bill educational benefits, and full eligibility for the VA Home Loan guaranty program.”

- This section gives Selected Reserve forces who have served at least a year full eligibility to the VA Home loan guaranty program.

The American Legion does not have an official position on this resolution “Until the Gulf Era is ended by law or Presidential Proclamation, persons on active duty are eligible for a home loan after serving on continuous active duty for 90 days.”

- Section 504: No increase in and return of funding fees for home loan funding to the levels agreed before the 108th Congress.

- Background from the IB: “Congress initially imposed funding fees upon VA guaranteed home loans under budget reconciliation provisions as a temporary deficit reduction measure. Now, loan fees are a regular feature of all VA home loans except those exempted. During its first session, the 108th Congress increased these loan fees. The purpose of the increases was to generate additional revenues to cover the costs of improvements and cost-of-living adjustments in other veterans’ programs. In effect, this legislation requires one group of veterans (and especially our young active duty military), those subject to loan fees, to pay for the benefits of another group of veterans, those benefiting from the programs improved or adjusted for increases in the cost of living.”

- This section returns the home loan funding fees to the levels before the Veterans Benefit Act of 2003 (108th Congress).

The American Legion supports reducing or eliminating the funding fee.

Title VI. Benefits Administration

- Section 601: Revision of the power of the Court of Appeals for the Federal Circuit and of the Rules of the Court of Appeals for Veterans Claims.

- (a) Background from the IB: “Under 38 U.S.C. § 502, the Court of Appeals for the Federal Circuit (CAFC) may review directly challenges to VA’s rulemaking. Section 502 exempts from judicial review actions relating to the adoption or revision of the VA Schedule for Rating Disabilities, however. Formulation of criteria for evaluating reductions in earning capacity from various injuries and diseases requires expertise not generally available in Congress. Similarly, unlike other matters of law, this is an area outside the expertise of the courts. Unfortunately, without any constraints or oversight whatsoever, VA is free to promulgate rules for rating disabilities that do not have as their basis reduction in earning capacity. The co-authors of The Independent Budget have become alarmed by the arbitrary nature of recent proposals to adopt or revise criteria for evaluating disabilities. If it so desired, VA could issue a rule that a totally paralyzed veteran, for example, would only be compensated as 10 percent disabled. VA should not be empowered to issue rules that are clearly arbitrary and capricious.”

- This section amends 38 U.S.C. § 502 to authorize the CAFC to review and set aside changes to the Schedule for Rating Disabilities found to be arbitrary and capricious or clearly in violation of statutory provisions.

- (b) Background from the IB: “The CAVC upholds Department of Veterans Affairs (VA) factual findings unless they are clearly erroneous. Clearly erroneous is the standard for appellate court reversal of a district court’s findings. When there is a “plausible basis” for a factual finding, it is not clearly erroneous under the case law from other courts, which the CAVC has applied to Board of Veterans’ Appeals (BVA) findings.”

- This sections amends 38 U.S.C. § 7261 of title 38 United States Code to provide that the court will hold unlawful and set aside any finding of material fact that is not reasonably supported by a preponderance of the evidence.

The American Legion has no official position on this provision.

- Section 602: Elimination of Rounding Down of Certain Cost-of-Living Adjustments.

- Background from the IB: “Disability compensation and dependency and indemnity compensation (DIC) rates have historically been increased each year to keep these benefits even with the cost of living. However, as a temporary measure to reduce the budget deficit, Congress enacted legislation to require monthly payments, after adjustment for increases in the cost of living, to be rounded down to the nearest whole dollar amount. Finding this a convenient way to meet budget reconciliation targets and fund spending for other purposes, Congress seemingly has become unable to break its recurring habit of extending this round-down provision and has extended it even in the face of prior budget surpluses. Inexplicably, VA budgets have recommended that Congress make the round-down requirement a permanent part of the law. While rounding down compensation rates for one or two years may not seriously degrade its effectiveness, the cumulative effect over several years will substantially erode the value of compensation. Moreover, extended—and certainly permanent—rounding down is entirely unjustified. It robs monies from the benefits of some of our most deserving veterans and their dependents and survivors, who must rely on their modest VA compensation for the necessities of life.”

- This section removes the round-down provisions for dependency compensation and requires the payments to be made at the full-calculated amounts.

The American Legion supports this provision.

- Section 603: Creation of a Department of Veterans Affairs and Department of Defense Joint Data Exchange Bureau to Improve Claims Processing and Clinical Data Sharing.

- One problem that currently exists between the VA and the DOD is that they do not consistently use the same clinical vocabularies and therefore clinical data exchange, which is so critical for both effective healthcare and disability rating, has created longstanding inefficiencies in both Departments. This exchange is particularly important today because the DOD has begun to amass critical amounts of data on servicemembers because of the deployment of DOD’s new electronic health record, as well as surveys that are now tracking individuals’ health at regular intervals over their service careers.

- This section creates a joint VA–DOD Data Exchange Bureau to establish technology and standards for clinical data recording and sharing between the two agencies to improve healthcare delivery and accuracy and speed of claims processing. This Bureau will establish an ongoing mapping service that will ensure that data produced by clinical software systems are understandable in both Departments. Importantly, this Bureau is envisioned to produce mappings that are completely in the public domain, which will ultimately encourage the commercial sector to use the mappings as well. Ultimately, this will speed the adoption of clinical data interoperability nationally, long understood as a major impediment to the adoption of electronic health records and their attendant promise of increased quality and cost savings.

The American Legion supports this provision.

- Section 604: Joint study and report from the DOD and the VA on automating the Veterans Administration Schedule for Rating Disabilities (VASRD).

- Background: One of the most critical tools in the disability ratings process is the Veterans Administration Schedule for Rating Disabilities (VASRD). It is used by both the VBA and the military services for rating disability claims. Given the size and complexity of the rulesets inherent in the Schedule, many claims are inaccurate, variable, and subject to appeal by veterans. There would be tremendous value in getting a complete and standardized set of data on each veteran, relevant to his or her particular problems, that can then be linked to the relevant sections of the Schedule for more accurate ratings, the same way, regardless of the skill of the rater.

- This section requires the DOD and the VA to produce a joint study on the interoperability of both of their current disability rating systems and the feasibility and advisability of automating the VASRD so as to improve the timeliness and accuracy of claims processing. The report also requires the DOD and VA to produce legislative proposals for achieving this goal and funding requirements.

The American Legion does not oppose the idea of such a study; however, as the Veterans’ Disability Benefits Commission (VDBC) has already commissioned the Institute of Medicine (IOM) to conduct a study of the VASRD that will be addressed in the Commission’s report and recommendations to Congress and the President (due October 1, 2007), it would be best to wait for the outcome of that study before mandating a similar study.

Title VII. Other Benefits Matters

- Section 701: Increasing specially adapted car grant/conveyances/adaptive equipment, p. 16/17, IB

- Background from the IB: “The Department of Veterans Affairs provides certain severely disabled veterans and servicemembers grants for the purchase of automobiles or other conveyances. This grant also provides for adaptive equipment necessary for safe operation of these vehicles. Veterans suffering from service-connected ankylosis of one or both knees or hips are eligible for only the adaptive equipment. This program also authorizes replacement or repair of adaptive equipment. Because of a lack of adjustments to keep pace with increased costs, the value of the automobile allowance has substantially eroded through the years. In 1946, the \$1,600 allowance represented 85 percent of average retail cost and a sufficient amount to pay the full cost of automobiles in the “low-price field.” By contrast, in 1997 the allowance was \$5,500, and the average retail cost of new automobiles, according to the National Automobile Dealers Association, was \$21,750. Currently, the \$11,000 automobile allowance represents only about 39 percent of the average cost of a new automobile, which is \$28,105.”

- This section increases the automobile grant, the specially adapted car grant, conveyances, and adaptive equipment grant from \$11,000 to \$22,484 and adjusts this amount automatically each year using an average retail car cost index established by the Secretary.

The American Legion supports this provision.

- Section 702: Refund GI Bill contributions where under general or honorable conditions discharge.

- Background from the IB: “The Montgomery GI Bill—Active Duty program provides educational assistance to veterans who first entered active duty (including full-time National Guard duty) after June 30, 1985. To be eligible, servicemembers must have elected to participate in the program and made monthly contributions from their military pay. These contributions are not refundable. Eligibility is also subject to an honorable discharge. Discharges characterized as “under honorable conditions” or “general” do not qualify.”

- This section allows the refund of GI Bill contributions if the Secretary of Defense determines that the discharge, under honorable or general conditions, was due to minor infractions or deficiencies.

The American Legion has no official position on this provision; however, The American Legion opposes requirement to “contribute” \$1,200 to participate in an earned benefit—the Montgomery GI Bill contribution.

- Section 703: Study by the GAO on whether there is a need for providing assisted living to veterans.

- Background from the IB: “Assisted living can be a viable alternative to nursing home care for many of America’s aging veterans who require assistance with the activities of daily living (ADLs) or the instrumental activities of daily living (IADLs). Assisted living offers a combination of individualized services, which may include meals, personal assistance, and recreation provided in a homelike setting. While assisted living is not currently a benefit that is available to veterans, even though some veterans have eligibility for nursing home care, the authors of The Independent Budget believe Congress should consider providing an assisted living benefit to veterans as an alternative to nursing home care.”

- This section directs the GAO to study the provision of assisted living and produce a report, including sections looking at possibilities of cost savings for the VA by providing assisted living.

The American Legion supports this provision.

Draft Legislation, “Veterans Mental Health Care Advocacy Act of 2007” (formerly the “Iraq and Afghanistan Veterans Mental Health and Advocacy Act of 2007”).

Section 3 of the legislation, “Pilot Program on provision of Legal Assistance to Assist Members of the Armed Forces Receive Health Care, Benefits and Services From Department of Veterans Affairs and Department of Defense,” is well intentioned. However, this provision appears to overlook the fact that these types of services are already provided by Veterans Service Organizations (VSOs) and State Departments of Veterans Affairs free of charge, thus making the pilot program addressed in this legislation unnecessary. The American Legion recommends a change of focus in this section to look at how the current support structure (VSOs, states, etc.) is currently being utilized in order to see where any improvements can be made.

CONCLUSION

Thank you again, Mr. Chairman, for allowing The American Legion to present comments on these important measures. As always, The American Legion welcomes the opportunity to work closely with you and your colleagues on enactment of legislation in the best interest of America's veterans and their families.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. DANIEL K. AKAKA TO ALEC S. PETKOFF, ASSISTANT DIRECTOR, VETERANS AFFAIRS AND REHABILITATION COMMISSION, THE AMERICAN LEGION

Question. What are the top five legislative priorities of the Disabled American Veterans?

Response. The top five legislative priorities of the American Legion are:

- Mandatory funding for VA medical care;
- Improved timeliness and accuracy of VA disabilities claims processing;
- Timely implementation of CARES construction;
- Improved mental health care; and
- Improved Long Term Care.

Chairman AKAKA. Thank you very much for all of your statements. We will now have questions and we will be asking questions in this order: Senator Webb, Senator Sanders, and Senator Brown, after I ask my questions.

[Laughter.]

Chairman AKAKA. Also, I just want to report that the 11:30 votes have been postponed to 10 of 12, so we have a little more time here.

Mr. Lawrence and Mr. Petkoff, please elaborate on your organization's basis for recommending dropping the 10-year restriction on eligibility for the new insurance program that would be created by the Disabled Veterans Insurance Improvement Act of 2007. Mr. Lawrence?

Mr. LAWRENCE. Yes, sir. For veterans that were diagnosed with latent onset diseases, that might preclude them from acquiring the benefit when they would be entitled to all other service-connected benefits. But that 10-year restriction, somebody that was diagnosed with cancer related to Agent Orange, they are more than 10 years beyond their service, would be precluded from service connection. So we would just want to ensure that no unintended consequences would bar such veterans from benefiting from it.

Chairman AKAKA. Mr. Petkoff?

Mr. PETKOFF. I am sorry, Chairman. Which bill number was this, please?

Chairman AKAKA. Mr. Petkoff, the question was I asked for elaboration of your organization's basis for recommendation dropping the 10-year restriction on eligibility for the new insurance program that would be created by the Disabled Veterans Insurance Improvement Act of 2007.

Mr. PETKOFF. Well, I think, sir, some of that information is covered in the testimony submitted for the record. If you don't mind—

Chairman AKAKA. That is fine. We will look forward to that.

Mr. Hollingsworth, in your written testimony, AMVETS endorsed the findings and recommendations of the study of improvements to veterans cemeteries. Does that mean that AMVETS opposes legislative efforts such as S. 168 to prioritize building VA cemeteries in specific locations?

Mr. HOLLINGSWORTH. Mr. Chairman, AMVETS does not necessarily oppose or support that provision. I think as I stated in the testimony, we believe the study served as a very good planning tool for VA and overall we support VA in their efforts and their recommendations.

Chairman AKAKA. Thank you.

Mr. Hilleman, in your written testimony, you expressed VFW's concern that expanding the accelerated payment program could lead to squandering education benefits on less-than-reputable businesses. Will you please elaborate on this concern and describe VFW's experience with such programs?

Mr. HILLEMAN. Thank you for the question, Senator. There are two bills that would basically open up lump-sum GI Bill payments to larger industries. Currently, it is only allowed for the high-tech industry. One of the most famous is trucking. I will use an anecdotal example to illustrate our point, if I may.

In advertising to veterans for schools of learning or opportunities that foster a career, if a trucking institution advertises a career to young veterans leaving the service and promises a great over-the-road trucking career but only trains those individuals on automatic transmissions, it is going to exclude a large portion of the trucking industry to them. It essentially comes down to truth in advertising, and expanding the benefit so broadly begs the question of what kind of regulation and oversight will be afforded to these new schools of instruction.

So we would caution that with expanding the benefit, you are opening the door for organizations that will be very reputable as well as organizations that will take advantage. A large expansion of this kind of benefit will make VA's immediate oversight of the program very difficult.

Chairman AKAKA. Thank you very much.

I have another question that I will keep for the second round, if we have time for that. Senator Webb?

Senator WEBB. Thank you, Mr. Chairman. For the record, I would like to indicate that Senator Brown just agreed to cosponsor S. 22, so we now have Senator Tester, myself, Senator Brown, Senator Sanders, and I am hoping maybe I could entice you in this supportive environment to consider putting yourself on the bill at some time.

I would like to say to all the panelists, I appreciate your testimony and the work that you were doing. Having spent a good part of my life working on veterans areas, it is a labor of love, as all of you know. You are trying to give something back.

Mr. Hilleman, I thought your comments about the package that you put together in order to get through school after the Marine Corps were very telling. On the one hand, I deeply respect all the energy you had to put into that, and on the other, I feel like you earned your scholarship. You earned your scholarship with 4 years of active duty at a time when this country is in a great deal of danger and that is what this bill is all about.

I appreciate the comments of all the witnesses here about the importance of this legislation, and as Colonel Norton pointed out, the necessity right now to embrace the service of people in the Guard and Reserve and those who have stepped forward in Federal serv-

ice to get the kind of, not only the kind of reward for service, but the assistance in transitioning into their regular civilian life afterward.

I was visited yesterday by an active duty Marine Corps General, General Leonard, a Major General who wanted to come by and thank me for this bill. And on the one hand, we hear rumblings from DOD of the sort of thing that was mentioned in the Department's testimony about the fact this might affect retention, and yet on the other hand, I was hearing from General Leonard—I know he wasn't speaking for the Marine Corps, I don't want to get him in trouble here—but he was saying pretty strongly the same sort of thing that, Mr. Hilleman, you were saying, that there were people he knew that if they were able to have this kind of strong assistance would actually come back in, serve a period as an enlisted Marine or whatever service, and then come back in as an officer. He thought this was a recruitment program and potentially a recoupment sort of a retention program. So that is really what we are up to.

I want to, just for the record here, is there any organization that is opposed to S. 22?

[No response.]

Senator WEBB. I didn't think there was. Thank you very much, Mr. Chairman.

Chairman AKAKA. Thank you, Senator Webb.

Now we will have Senator Sanders, followed by Senator Brown.

Senator SANDERS. Thank you very much, Mr. Chairman, and mostly I want to thank all of the organizations that are here today. You are doing a great job in representing the needs of the veterans. I think that this here, if we keep the pressure up, we can take a giant step forward. I think the climate is right. I think the American people want us to move forward, and working together, I think we can do just that.

Let me just ask, if I might, your views on several provisions that are included in the Comprehensive Veterans Benefits Improvement Act of 2007. I want to thank many of the organizations for working with us, and this is essentially legislation that puts into legislative language the provisions in the Independent Budget. We thank you for putting the budget together and working with us on this legislation.

Is there anyone up here, following Senator Webb's approach, who would oppose eliminating the rounding-down of the benefits that veterans receive? You all are familiar with that process? Does it make good sense that we eliminate that provision and we do not nickel-and-dime veterans? Is anyone not in agreement on that?

[No response.]

Senator SANDERS. For the record, I would note that there seems to be unanimity of support for that.

In our legislation, we have a provision that increases plot allowances from \$300 to \$745. Is anybody not supportive of that effort? Do people think that makes sense?

[No response.]

Senator SANDERS. OK, good. Thank you. We also increased burial benefits for the non-service-connected veteran from \$300 to \$1,270 and \$2,000 to \$4,100 for those who died of service-connected ill-

nesses. Does anyone want to comment on that? Does that make sense, that we increase that? Are you hearing much thought about the kinds of fees available now, payments available for burial or for funerals? Is that something, increasing that, that makes sense to people? Yes, Mr. Hollingsworth?

Mr. HOLLINGSWORTH. Senator, if I may, I know AMVETS, along with the Independent Budget partners, I believe we have already drafted a letter of support for your bill. If you haven't received it, then it is forthcoming.

Senator SANDERS. Thank you very much. And lastly, it seems to me, and there are many, many provisions of the bill, obviously, I just wanted to touch on a few—let me say a few words. We are addressing the problem, and I know some of you have already discussed this, of a veteran coming home paralyzed or not having the ability to drive a car, a normal, regular car, or access a regular home, and improving the benefits so that our veterans can enjoy a home and be able to drive a car. Is that an issue that you are hearing much about, and increasing benefits so that we can address that? Mr. Hollingsworth?

Mr. HOLLINGSWORTH. I am not aware of veterans with that particular issue, and I can't speak for the other VSOs.

Senator SANDERS. Any thoughts on that? Ms. Beck?

Ms. BECK. Yes, sir. We are aware of a number of veterans who could greatly benefit from the ability to be able to have those benefits available to them, and that actually gets to our point of having the overlap of services and benefits, because having the active duty and the veterans while they are recovering from their injuries being able to benefit from those types of offerings from the VA and DOD can relieve a lot of the confusion among families that they currently feel about having someone sitting next to them who is eligible for a benefit and they aren't eligible for the same benefit and they have the same wound.

Mr. HOLLINGSWORTH. Senator, if I may, I will share with the Committee, because AMVETS internally, we had quite a debate internally with regards to extending benefits to active duty personnel. I think at the end of the day, we want to take care of the veteran and do the right thing. However, one of our concerns internally was we believe that having VA pick up the cost in some respects for folks still serving on active duty could actually serve as an impediment to the seamless transition process, and if DOD is held accountable for some of the costs that they must incur for some of these wounded and injured service personnel, we believe that, ultimately, it could serve as a financial incentive to expedite that seamless process, get them off the Department of Defense rolls and get them into the VA system.

Senator SANDERS. My understanding is that doesn't apply to our legislation.

Let me just conclude by saying this. We have under Chairman Akaka and I think many Members of this Committee and very good support in this House, we have the opportunity to take a giant step forward. Now, one of the issues that will no doubt come down the pike—I was in the House for 16 years and I will tell you exactly what will happen—you will find Members saying, hey, every idea that you have brought forward is a great idea, and let me tell you,

I support every idea that you have brought forward. But you know what? We just can't afford it. We just can't afford it. That will be the argument that you are going to be hearing in a few months.

And I hope very much, and I don't mean to be political here, I sincerely do not, but I hope very much you will stand up and say, let us get our priorities right and before we do things like give tax breaks to billionaires, we take care of our veterans. I don't want to get you in trouble or get you into areas that you are not usually into, but in my view, this country has the resources to take care of our veterans. It is a moral obligation. It is a cost of war. If we are sending somebody abroad, we all know that the wounds of war last for a lifetime. And if we are going to send somebody abroad, we have got to take the responsibility of making that person as whole as we possibly can.

So as we move down the pike, and you are going to hear people say, oh, every one of your ideas is great. We love everything you are doing. We just don't have the money. I hope you will stand with those of us who say, let us get our priorities right, OK?

All right. Thank you very much for all that you are doing.

Chairman AKAKA. Thank you. Thank you very much, Senator Sanders.

Senator Brown?

**STATEMENT OF HON. SHERROD BROWN,
U.S. SENATOR FROM OHIO**

Senator BROWN. Thank you, Mr. Chairman.

First of all, thank you, Colonel Norton, for your comments. Sorry I missed. I had an agriculture hearing at the same time. Sorry I missed some of the earlier comments. But thank you for your comments about the Guard and Reserve. A lot of us here believe that we need to do way better than we have done. I am including many of us have proposed having someone from the Guard or Reserve have a seat at the table on the Joint Chiefs. I think that is particularly important.

I want to just give you all an opportunity, if you choose, to respond to a concern I thought that was brought up earlier. Senator Obama mentioned, before I got here, about the payments or the bonuses that were handed out—almost \$4 million in bonuses to senior officials. Under Secretary Cooper defended those bonuses. I think most of you were in the room and listened to that testimony. I apologize. As I said, I was not in the room at that point.

But apparently, the \$16,000 average bonus throughout the VA was higher than any other place in the Federal Government. I mean, maybe it is not a lot of money. It is \$4 million. It is nothing compared to what Senator Sanders is talking about, the tax cuts that have gone overwhelmingly to the wealthiest people in this country, frankly, at the expense of schools, the expense of health care, and the expense of veterans.

But do any of you have any comments on that? Does that disturb you? Do you hear about it from some of your members at the AMVETS or the Legion or the Paralyzed Vets, how important that is? Does anybody want to comment on that?

Mr. Hollingsworth?

Mr. HOLLINGSWORTH. Well, I guess I will be the bold one here. I think overall, clearly, VA needs some tools to retain quality professionals and personnel. With a lot of the specifics of the bonuses, I am not necessarily familiar with and it hasn't come to our attention on some of the specifics, but by and large, I will tell you that many of these issues, to include the issues of bonuses, have been around for years and they span multiple administrations and multiple Congresses. If there is some wrongdoing there or some folks who shouldn't have received bonuses, then clearly, I encourage this Committee to continue to investigate and look at those on a case-by-case basis.

Senator BROWN. Anybody else?

Mr. BLAKE. Senator, I would just say that, certainly, we have heard about it from a number of folks that are in our membership around the country about it and their concerns. If you know a little bit about the situation, we probably know even less as far as who got bonuses for what and those sorts of things. So we certainly encourage the Committee to investigate this further.

I think, if anything, this only highlights our concern that we have raised time and again about the need for proper accountability in the Department of Veterans Affairs and VBA and VHA across the board. This may serve as an opportunity to go down that road more fully in addressing accountability within the VA.

Senator BROWN. Thank you. My concern is that, one, it is more than any other agency; and second, that there have been some serious problems in the VA, as the newspapers and others have pointed out in the last few months. I don't know that our government is fully rewarding people quite the way that it should.

Do you want to make one more comment?

Mr. HOLLINGSWORTH. Senator, I will. There are some problems within VA, but you know what? There are some good stories within the VA, as well. All too often, I think the media tends to highlight the negative things, and I will tell you, VA does wonderful things.

Senator BROWN. And I think VA health care is the best. Thank you.

Chairman AKAKA. Thank you very much, Senator Brown.

I have a request to make of all of you at the table.

As you know, we are operating under pay-go rules so that any legislation that adds costs must be offset in some fashion, and you have heard Senator Sanders with a possible kind of an offset, because of the huge costs that we are looking at. As a consequence, one of the biggest hurdles to implementation of many of the bills on the agenda will be costs. For the record, and this is what I am asking each of you, for the record, please submit to the Committee your organization's top five legislative priorities, keeping in mind the cost constraints, of course. It would be most helpful if you can provide a response within 7 days. We will be looking toward moving on some of the bills that members have offered, and so we would like to have that.

Again, I want to thank all of you, all of our witnesses for appearing today. We truly appreciate your taking the time to give us your views on the legislation on the agenda today and we do appreciate that.

Ms. BECK. Senator, if I could, just one quick remark about that comment you just made. In many cases that we hear from our wounded warriors, our youngest generation, they are very technologically savvy. It is not necessarily in all of the cases that they need new benefits. They need to have the benefits that are there more accessible and untangled so that they can understand and access them. So in some cases—I am not going to say we don't want new benefits, but in some cases, it really is just a question of being able to understand what is already available.

Chairman AKAKA. Thank you. Are there any other comments?

[No response.]

Chairman AKAKA. Otherwise, this hearing is adjourned.

[Whereupon, at 11:42 a.m., the Committee was adjourned.]

A P P E N D I X

PREPARED STATEMENT OF HON. CHARLES A. CICCOLELLA, ASSISTANT SECRETARY,
VETERANS' EMPLOYMENT AND TRAINING SERVICE, DEPARTMENT OF LABOR

Chairman Akaka, Ranking Member Craig, and Members of the Committee:

Thank you for inviting us to submit for the record the views of the Department of Labor on S. 1215, a bill "[t]o amend title 38, United States Code, to extend and improve certain authorities of the Secretary of Veterans Affairs, and for other purposes." Per the Committee's request, my statement focuses on the residency requirement for State Directors of Veterans' Employment and Training (DVET) and the requirement for a special study on veterans' unemployment.

Current law requires that, "Each Director for Veterans' Employment and Training for a State shall, at the time of appointment, have been a bona fide resident of the State for at least 2 years." 38 U.S.C. § 4103(a)(2). Section 3 of S. 1215 titled, "Waiver of Residency Requirement for Directors for Veterans' Employment and Training," would grant the Secretary of Labor authority to waive this 2-year residency requirement for appointment of Directors for Veterans' Employment and Training in the states. Section 3 would provide the Secretary discretion in appointing qualified individuals to these positions.

The Department supports Section 3 because the current durational residency requirement runs counter to merit principles and should not, in and of itself, be a condition for employment. In the global economy of the 21st century, our goal is to provide the best possible employment services to our men and women that serve in the Armed Forces. Enactment of Section 3 would help ensure that the best qualified individuals from any state are allowed to apply for and fill a Director vacancy. It is our belief that choosing from a greater pool of talent would lead to better management at the state level and better services provided to veterans and servicemembers.

Section 4 of S. 1215, titled "Modification of Special Unemployment Study to Cover Veterans of Global War on Terror," would modify the biennial special unemployment study conducted by the Department of Labor through the Bureau of Labor Statistics (BLS). Current law requires this special unemployment study be undertaken, and further mandates that the study include the following categories of veterans:

- (A) Special disabled veterans;
- (B) Veterans of the Vietnam era who served in the Vietnam theater of operations during the Vietnam era;
- (C) Veterans who served on active duty during the Vietnam era who did not serve in the Vietnam theater of operations;
- (D) Veterans who served on active duty after the Vietnam era; and
- (E) Veterans discharged or released from active duty within 4 years of the applicable study.

See 38 U.S.C. § 4110A(a)(1). In addition, within each of the categories of veterans specified above, the study must include a separate category for veterans who are women. See 38 U.S.C. 4110A(a)(2).

Section 4 would update the categories of veterans that receive particular focus in this biennial special unemployment study. Currently, two of the five categories of veterans identified for special focus are categories of Vietnam era veterans. Section 4 would change those categories to Global War on Terror (GWOT) era veterans.

BLS collects data on total Vietnam era veterans, GWOT era veterans, and veterans of other conflict eras through both the monthly Current Population Survey (CPS) and the biennial veterans' supplement to the CPS. The data necessary to satisfy the more detailed requirements of the current 38 U.S.C. § 4110A are collected through the biennial veterans' supplement. It is important to note that BLS will continue to collect data on veterans by service era through the monthly CPS. Enactment of S. 1215 would result in the biennial veterans' supplement to the CPS shift-

ing its more detailed focus from specific categories of Vietnam-era veterans to veterans of the GWOT.

We support this change, although the Department would like to work with the Congress on the specific language of Section 4 to ensure that the biennial study 2 satisfies Congressional intent and provides information relevant to veterans of 21st century military service. One area that the Department believes is very important is the ability to identify veterans who were activated from the National Guard or Reserve Component. We would like to caution that the CPS is a sample survey of households, and questions about an individual are often answered by another household member. In addition, the CPS does not collect detailed information on military service, such as involvement in specific military campaigns such as Operation Iraqi Freedom and Operation Enduring Freedom; rather, the CPS provides a comprehensive body of data on the labor force, employment, unemployment, and persons not in the labor force.

The objective of the biennial study is to assess the labor market experiences of veterans. For example, the biennial veterans' supplement includes a series of questions on servicemembers' use and perceptions of the Transition Assistance Program (TAP) employment workshops, which are conducted by the Department's Veterans' Employment and Training Service. Those questions are administered to veteran respondents who have separated from the military since 1991. Most Vietnam era veterans are between the ages of 55–64, and likely separated from the armed services some time ago. Therefore, while BLS will continue to collect data on total Vietnam era veterans under the monthly CPS, it is appropriate to shift the more intense focus of the study that results from the biennial veterans' supplement to the CPS to veterans of the later GWOT.

On S. 117, the "Lane Evans Veterans Health and Benefits Improvement Act of 2007," a bill to require reports on the effects of the Global War on Terrorism, the Department objects to Section 204, which would require quarterly reports from the Department of Labor. The provision is vague as to the scope and implications of covered information that the Department would be required to provide. In addition, the section could possibly require extensive reprogramming of the reporting systems within the Department.

The Department defers to the Department of Veterans Affairs on the other provisions of S. 1215 and S. 117, as well as the other bills under consideration at this hearing.

Thank you for allowing me to present the views of the Department on this important legislation.

PREPARED STATEMENT OF DONALD SWEENEY, LEGISLATIVE DIRECTOR,
NATIONAL ASSOCIATION OF STATE APPROVING AGENCIES

Chairman Akaka, Ranking Member Craig and Members of the Senate Committee on Veterans' Affairs, I am pleased to offer the following comments on behalf of the National Association of State Approving Agencies on Senate Bills 1215 and 1290 and "The Post-9/11 Veterans Educational Assistance Act of 2007." We are very thankful to you for introducing S. 1215 and look forward to working with you to ensure that the bill is enacted into law.

S. 1215

We support the provisions of S. 1215, and are especially concerned with Sections 1 and 5 of the bill. Maintaining the current funding of State Approving Agencies (SAAs) at \$19 million is vital to the success of the GI Bills. As stated recently by a former Congressional Subcommittee Staff Director, "SAAs are the face of the GI Bill at the state level". As State entities acting on behalf of the Federal Government, they have been an outstanding example of the workability of the Federal-State partnership, allowing Federal interests to be pursued at the local level while preserving the identity, interests and sovereignty of State's rights in education. SAAs contribute to the success of the GI Bills in many ways which include, but are not limited to, the following:

- Determinations regarding the quality and integrity of just about any kind of learning experience imaginable (institutional, job training, flight, correspondence, etc.);
- Work with employers to develop and enroll veterans in job training programs;
- Assessments of tests for professional and occupational licensing and certification;
- Training of VA Certifying Officials at educational institutions and job training establishments;

- Briefings during transition assistance programs and retirement seminars, mailings to recently discharged veterans and Selected Reserve personnel, and other outreach activities to increase the utilization of the GI Bills;
- Providing advice and guidance directly to veterans and other GI Bill eligible persons and indirectly through educators, trainers and others who counsel veterans;
- Serving as the gatekeepers for the “GI Bill” and advocates for veterans at the state and local levels;
- Assisting the Federal Government to eliminate waste, fraud and abuse; and,
- Providing local insights to the Congress and the VA on revisions to law that would better help to meet the education and training needs of veterans.

Maintaining funding at the current Fiscal Year 2007 level is commensurate with the responsibilities of SAAs and the contributions they make to the success of the GI Bills. The approach utilized by SAAs is based on the philosophy that the GI Bill should be the premier educational assistance program in the Nation, bar none. We firmly believe that our Nation’s veterans deserve no less.

Section 1 also retains the funding of SAAs in the Readjustment Benefits account of the Department of Veterans Affairs. The initial decision to fund SAAs from this account was made in 1988 (P.L. 100–323) because of the instability that had existed in the funding of these agencies since their origin in 1946. SAAs/States need funding stability in order to plan for and execute activities that meet the requirements of law and the contract between the State and the VA in an effective and efficient manner. Many SAAs are comprised of one full time professional staff person—some have only a part time person. Program approval and monitoring activities, especially those associated with new institutional and job training programs, require expertise and timely action. Unstable and/or late funding does little to support this.

Although not directly addressed in S. 1215, we would like to request action on this bill as soon as possible to ensure that the services currently provided by State Approving Agencies are not disrupted on October 1, 2007.

Section 5 of S. 1215 extends the current rates of payment for veterans who are enrolled in an apprenticeship or other on-the-job training program. We believe that this provision is a good investment in America because it will allow more veterans who cannot or choose not to enroll in an institutional program to pursue training for an occupation or profession. This not only helps them and their families, but also helps our Nation be more competitive in the world economy.

S. 1290

Although containing some language for modernizing Title 38 of the U.S. Code that we can accept, we disagree with the major changes being offered and the underlying philosophy for making these changes. Moreover, the bill undermines the very principles and practices that have helped veterans to achieve their career goals and make the GI Bills as successful as they have been. The major revisions to Title 38 that are offered by this bill blatantly disregard the strengths that states, through State Approving Agencies, bring to the table and the contributions that they have made over the last 60 years. Our specific points of disagreement are stated below.

- Section 1(b)(2). Revises Section 3672. Removes the phrase “State Approving Agencies” and changes the word “shall” to “may”. These revisions could easily result in the reduction of the successful efforts that are currently taking place—the VA will have an option to give less attention to the educational assistance programs. We believe that our Nation’s veterans and other “GI Bill” eligible persons deserve more! Since SAAs have been actively engaged in outreach activities and promoting the development of apprenticeship and on the job training programs, the number of active training facilities has increased over 100 percent in 10 years from 2,086 (in 1997) to 4,891 (in 2006).

- Section 1(b)(3). Also revises Section 3672. Changes some of the approval criteria for correspondence programs from being too restrictive to too liberal—we have offered moderate language that would fit the needs of today’s veterans and retain safeguards.

- Section 1(c). Revises Section 3673. Gives the Federal Government direct control over state responsibilities that are constitutionally based, thus losing the important balance between the authorities of state governments and the Federal Government. We do not necessarily disagree with the apparent intent of the revision and look forward to continuing our work with the VA to “reduce overlap and improve efficiency”. What has and continues to work well is a cooperative arrangement/partnership as currently defined by Section 3673. State Approving Agency personnel have the expertise and first hand knowledge of the education and training systems in their respective states as well as established, professional rapport with educational officials and employers. The current language in Section 3673 and other sections of

Chapter 36 is more than sufficient to maintain effectiveness and efficiency in the veterans' education program.

- Section 1(d). Revises Section 3674. The suggested revisions (1) delegate state constitutional responsibilities to the Federal Government, (2) create instability in funding State Approving Agencies which will have a negative impact on states providing effective and efficient assistance with the administration of the GI Bills, and (3) fail to recognize the adequacy of current law and the expertise and services currently provided by SAAs.

- Section 1(e). Revises Section 3674A. While we agree that there is always room for improving the effectiveness and efficiency of SAAs, current law provides a tried and proven effective approach to accomplishing this task. The partnership that currently exists between the VA and SAAs is balanced and works exceptionally well. Revising Section 3674A as suggested in S. 1290 would remove the very expertise provided by SAA personnel that has helped to make the partnership strong and effective.

- Section 1(f). Revises Sections 3675 and 3676. We agree with the apparent intent of this section of the bill and believe that it is important to keep components of approval criteria up to date, especially with new and emerging trends in education and training. To this end, we historically have and will continue to make recommendations to the Congress for the modernization of approval criteria. However, we disagree with the approach that is described in this section of the bill. Our disagreement is two-fold. First, with the categories that are stated and second, with the assumption of the responsibility by the VA to define these categories and their level of application in the Federal regulatory process. Sections 3675 and 3676 of Title 38 have proven over time to be very effective in ensuring that veterans get a quality learning experience and that taxpayers are protected against waste, fraud and abuse. The components of the sections have been periodically reviewed and revised with adequate debate at the Congressional level to ensure that state responsibilities are not usurped. The suggested replacement categories of approval criteria were lifted verbatim from the recent GAO report and are not a good substitute for the current law. They are a mix of primary and secondary considerations related to planning, implementing and evaluating institutional programs of education.

THE POST-9/11 VETERANS EDUCATIONAL ASSISTANCE ACT OF 2007

We support the provisions of this bill and its underlying principle of providing the very best to those who defend the freedoms that we all so thoroughly enjoy. As stated earlier in this testimony, we believe that the GI Bill should be the premier educational assistance program in the Nation, bar none. As a founding member of the Partnership for Veterans' Education, we continue to work with various military, veterans and higher education organizations for the enactment of a Total Force GI Bill. The key components of this initiative are the simplification of the administration of the Montgomery GI Bill and equity for members of the Selected Reserve—equal program opportunities and benefits for equal service rendered. Both components are currently embodied in S. 644, a bill that we recommend be considered by the Committee.

In closing, Mr. Chairman, we again thank you for introducing S. 1215 and look forward to the bill becoming law. Thank you also for this opportunity to comment on other bills offered for consideration by the Senate Veterans' Affairs Committee. Please let us know if we can provide further information on any of the statements that we have made in this testimony or on other matters related to the educational assistance programs for our Nation's veterans.

THE "VETERANS JUSTICE ASSURANCE ACT"

PVA opposes what we understand would essentially be lifetime appointments for any newly nominated judge to the Veterans Court as outlined in Section 2 of this proposed legislation. Recognizing the concern discussed in recent years about multiple judges retiring at the same time, we believe 15-year appointments, made on a staggered basis, adequately addresses this problem.

Furthermore, we believe that the periodic introduction of new judges of varying backgrounds and perspectives that occurs now through term limits is a significant value to the development of veteran's law jurisprudence. The difference between a 15-year term and a lifetime appointment could conceivably be as much as 35–45 years. This time difference cuts multiple ways and could adversely affect the relationships among the judges, the bar and veterans in ways that are unknown at this time.

Realizing also that there is a perception that newly appointed judges are ineffective for a significant period of time, partly as a result of their learning process, and

that a lifetime appointment would result in the Veterans Court being populated with judges who are effective for longer periods of time, and even assuming that there is some truth to this perception, there are other ways in which Congress could address this issue. For example, Congress might take more care to encourage the nomination of judges who have some prior experience in Veterans Law. Congress could also ensure that the Court maintain an experienced and skilled central legal staff that would be in a position to assist newly appointed judges. Congress also may encourage the Court to look at creating a more active mentoring process, perhaps using retired judges for newly appointed judges—a practice that is used successfully in other Courts.

Ultimately, PVA believes that changing the term of a Veterans Court judge from a term of 15 years to a lifetime appointment is a significant departure from the current practice with many unknown consequences. This is not a direction that should be taken without a thorough understanding of what the change is intended to accomplish and without trying other less drastic alternatives.

PVA would also like to suggest a couple of changes to language included in the legislation. In Section 4, we would like to see the following language added: (d)(5)(B) “and other recognized bar associations.” We would also like to see a new section “(E) The Veterans Pro Bono Consortium Program.” These organizations would have valuable input and should not be excluded from the current list of organizations the chief judge might consult with. In Section 6, we would like to see the following language added: “(9) The number of appeals taken to the U.S. Court of Appeals for the Federal Circuit, to include the number of appeals taken by the Secretary.”

PVA also has some concerns about the study proposed in Section 7 of the legislation. The study should also include the impact, if any, on PVA, (an entity that works with the Court and which currently leases space in the same commercial facility in which the Court is located) of establishing a dedicated Veterans Courthouse and Justice Center in the existing commercial facility. Currently, PVA leases space in the same commercial facility in which the Court is located. The study should consider whether additional provision should be required to ensure that PVA is not disadvantaged in any way vis-a-vis other entities that work with the Court and are not currently located in the same commercial facility as the Court.

DRAFT BILL, THE VETERANS’ JUSTICE ASSURANCE ACT OF 2007

VFW also supports draft legislation entitled the Veterans’ Justice Assurance Act of 2007. The current backlog of claims at the Board of Veterans’ Appeals continues to grow at alarming rates. VFW applauds the provisions of this bill which, if enacted, will provide some relief to a burdened veterans’ court system. Some of the bill’s highlights include repealing term limits and allowing judges who have pending nominations before the Senate to serve in office while the process plays out. These necessary changes, as well as recalling retired judges at equal pay to current judges, will all contribute positively to the current situation and help to move some veteran’s appeals forward.

[AMVETS—NOTHING]

THE VETERANS’ JUSTICE ASSURANCE ACT OF 2007

This draft bill would repeal term limits for judges of the United States Court of Appeals for Veterans’ Claims, and it would increase the salary amount for the chief judge of the Court. The bill would establish provisions to recall retired judges of the Court, and it would grant the Court discretion to set reasonable practice and registration fees. It would require the Court to submit an annual report to Congress that summarizes the Court’s workload during the previous fiscal year. Last, the bill would produce a report on the feasibility of establishing a Veterans Courthouse and Justice Center.

With regard to the repeal of term limits for judges of the Court, the DAV does not believe that appointing judges to longer terms is desirable. Appointments to extended terms during good behavior are generally reserved for judges of Article III courts. Since judges of the Court may be removed by the President by reason of misconduct, 38 U.S.C. § 7253(f), there is no doubt that the Court is part of the executive branch. The proposed departure from the present fifteen-year term might raise a question about the status of the Court because there seems to be no precedent for life tenure within the executive branch. The DAV has no objection to the Chief Judge of the Court of Appeals for Veterans Claims receiving a higher rate of compensation than the other judges of the Court. Regarding the recall of retired judges, the DAV notes that the proposed provisions for doing so are somewhat complex and may raise issues for judges who have retired far from Washington, DC. The Com-

mittee might want to consider simpler staffing solutions, such as increasing the number of judges authorized for the Court. The DAV believes that the proposed annual report to Congress from the Court should be more specific and include, along with the number and type of dispositions, the number of dispositions based on settlements, joint motions for remand, voluntary dismissals, and the number of memorandum decisions made by each judge. The DAV supports the establishment of a dedicated Veterans Courthouse and Justice Center. During the most recent DAV National Convention, our members voted to again adopt a long standing resolution calling for such a facility. Our resolution envisions an architectural design and location that is reflective of the United States' respect and gratitude for veterans of military service. Rather than designating the office building where the Court currently leases space as the permanent facility, we encourage the Committee to authorize the construction of a new Veterans Courthouse and Justice Center that features the design and location worthy of its status.

DRAFT LEGISLATION, "THE VETERANS JUSTICE ASSURANCE
ACT OF 2007"

As this legislation was not received in time for us to thoroughly review, The American Legion defers comment and respectfully requests the Committee to allow us to submit for the record at a later date.

Finally, WWP would like to support S. 1289, The Veterans' Justice Assurance Act. This legislation would, among other things, modify the current authorities affecting the recall of judges retired from The United States Court of Appeals for Veterans Claims. The changes included in this legislation would help to ensure that the Court is capable of handling its cases in a timely manner, an issue of great concern for all wounded warriors who wish to challenge their disability compensation rating from the VA.

UNITED STATES COURT OF APPEALS
FOR VETERANS CLAIMS,
Washington, DC, May 24, 2007.

Hon. DANIEL K. AKAKA,
Chairman, Senate Committee on Veterans' Affairs,
412 Russell Senate Office Building,
Washington, DC.

DEAR MR. CHAIRMAN: Thank you for the opportunity to formally provide views on S. 1289, the Veterans' Justice Assurance Act of 2007. Upon review of the language of the bill and the accompanying floor statement, it appears that the two main purposes of S. 1289 are to assist the United States Court of Appeals for Veterans Claims in addressing its increased caseload and to provide for a seamless transition when the terms of the current judges end and new judges are confirmed. These are laudable goals; however, the proposed modifications raise significant issues that need to be considered. I believe a brief overview of the Court and its status in the Federal judiciary will help put my comments in perspective.

There are 15 United States Courts of Appeals, including 13 Article III courts and two designated as Article I courts: ours and the Court of Appeals for the Armed Forces. Although there is a long history of controversy over what is an Article I or an Article III court, as a practical matter, the difference between a designated Article I court and an Article III court is that all of the Article I courts have a narrow, specialized jurisdiction, and the judges all sit for specified terms, after which they may continue to serve part-time or retire. (With the exception of the Supreme Court, all courts are created by Congress. U.S. Const. art. I § 8, cl. 9.)

The U.S. Court of Appeals for Veterans Claims (Court) has exclusive jurisdiction over adverse decisions by the Board of Veterans' Appeals. With the exception of two judges appointed for a 13-year term for the purpose of staggering the dates on which judges would retire, see Public Law No. 106-117 (November 30, 1999), the judges are appointed for 15-year terms. At the end of that term, unless retired earlier, each judge may: (1) agree to reappointment if offered; (2) accept recall-eligible status which permits the judge to be recalled involuntarily by the Chief Judge for up to 90 days each year and up to 180 days if agreeable; or (3) fully retire. In contrast, an Article III court generally has both criminal and civil jurisdiction, or at least a broader jurisdiction than the currently designated Article I courts, and the judges all serve during good behavior or, otherwise stated, for life. These judges may retire based upon the rule of 80, or they may elect senior status during which they receive pay of the office if they undertake 25 percent or more of the workload of an active

judge (equivalent to the 90-day recall period for judges of our Court). Like these senior judges, our current recall-eligible-retired judges receive pay of the office.

Turning to the proposed bill, section 2(a) would provide for appointment of judges to the Court to hold office during good behavior, as opposed to term appointment. I take no position on whether the Court should be designated as an Article I court or not, but only note that this change in tenure likely may impact such designation. Additionally, this change in tenure may be incompatible with 38 U.S.C. § 7253(f), which permits removal by means other than impeachment. Section 2(a) also would grandfather the term appointments of the currently sitting judges by specifically providing for 15-year terms; however, it fails to consider that two of these judges only have 13-year appointments.

Section 3 would provide for an increase in the Chief Judge's salary; however, such change would be wholly inconsistent with the other Federal courts, appellate or district, as only the Chief Justice of the Supreme Court is provided a differential salary for serving as the head of a Federal court. Nevertheless, the Court has matured over the past 18 years since its creation and Associate Professor Michael Allen of the Stetson University College of Law, when commenting on proposed changes to the Court's Rules of Practice and Procedure, observed that the U.S. Court of Appeals for Veterans Claims is one of the busiest Federal appellate courts, nationwide. Professor Allen points out that, in 2006, with 3,729 new cases, the Court's incoming caseload was greater than the First (with 1,852 cases), Seventh (3,634), Eighth (3,312), Tenth (2,742), District of Columbia (1,281), and Federal (1,772) Circuits. With only seven active judges, the Court's case-per-judge average is 533, about twice as many cases as the 263 average per judge for the Article III circuit courts of appeal. Accordingly, I am prompted by the proposed section 3 amendment to strongly urge the Committee to consider equating our pay to that of all of the other Federal appellate judges.

The amendments described in section 4 appear to be directed at helping the Court deal with the increase in its caseload by providing judges an incentive to serve longer periods of recall. But, with the exception of one section that provides that a judge can no longer be involuntarily recalled after he or she has provided 5 years of recall service, all of these provisions necessarily are applicable only to newly appointed judges. There is only one vacancy expected within the next 10 years. Accordingly, absent an imminent increase in number of active judges, it will be many years before any of the proposed changes in section 4 have any real impact.

Moreover, although newly appointed judges would be appointed for life, they could fully retire or change their status to recall eligible upon satisfying the rule of 80. Section 4 would provide that, if the judge retired fully, his or her pay would essentially freeze at the pay when retired. If the judge takes recall-eligible status, his or her pay would be the pay of the office during periods of recall, but when not actually recalled, the pay would be what he or she was receiving at the time of retirement. Although this provision is intended to encourage a judge to retire into recall-eligible status, it actually might have the effect of delaying retirements which would then deprive the court of a pool of experienced recall-eligible judges ready to address caseload spikes. Judges might decline to retire or accept recall status rather than take the risk that they would not be recalled or recalled only for a portion of a year, after which pay would revert back to the pay at the time of retirement. Section 4 also would provide that, once a judge has served in the aggregate of at least 5 years in recall status, he or she could no longer be recalled. The proposed statutory language, however, does not appear to specifically preserve pay of the office.

Regarding section 4, I note that continued pay of the office for recall-eligible judges is consistent with continued pay of the office for senior judges of the Article III courts. I believe this parity should remain. One change that might be considered, particularly given our heavy caseload and the prospect that it will continue, is changing the recall-eligible status for future judges to a senior judge status similar to that for Article III judges. Under this change, a judge could fully retire at pay at time of retirement or elect to enter senior status with pay of the office during which he or she performs 25 percent or more of the work of an active judge. This would encourage judges who are ready to take less than a full caseload to stay in the system.

Section 4(d) would require the Chief Judge to establish guidelines for recalling a judge. I perceive no need for this requirement as I am exercising my authority to recall our available judges at this time and, given our caseload, will do so for the foreseeable future. Seeing no need, I am concerned that this provision can be perceived as interfering with the independence of the Court, particularly given the requirement to consult with the litigants before the Court. Although I support consideration of a senior-judge status that takes the Chief Judge out of the recall business, should recall remain tied to a determination of need, I believe it is best to leave

that determination to the Chief Judge, who must be presumed to fulfill his duties in a responsible manner.

The interest in the Court's increased caseload expressed through this proposed legislation is appreciated. However, the proposed bill does not consider all potential ways to address this challenge. Thus, one question that might be asked is whether, considering the increased and increasing caseload, there should be an immediate increase in the number of active judges on this Court. Another question that might be asked is whether there is a continuing need for serial appellate review by our Court and then the U.S. Court of Appeals for the Federal Circuit. We now have a settled body of specialized jurisprudence that was lacking when this independent judicial appellate review was established in 1988. It may be time to consider the structural usefulness of continued Federal Circuit review of this Court's decisions and opinions.

The Court supports fully the provisions in the bill increasing admission fees and directing certain actions toward the proposed U.S. Courthouse and Veterans Justice Center. Your support in these endeavors is very much appreciated.

Again, thank you for the opportunity to comment on this proposed bill.

Sincerely,

WILLIAM P. GREENE, JR.,
Chief Judge.

cc: The Honorable Larry E. Craig, Ranking Member.

CHISHOLM CHISHOLM & KILPATRICK LLP,
Providence, RI, May 30, 2007.

Hon. DANIEL K. AKAKA,
Chairman, Senate Veterans Affairs' Committee,
Room 412 Russell Building,
Washington, DC.

DEAR CHAIRMAN AKAKA: I am writing to you on behalf of the National Organization of Veterans' Advocates ("NOVA") in response to your letter dated May 17, 2007 regarding our views on S. 1289, "the Veterans Justice Assurance Act of 2007."

In 2005, when the Court of Appeals for Veterans Claims ("CAVC") case load increased by one third, the Court had to confront this challenge with new judges as all but one of the original appointees of the Court had recently retired. S. 1289 seeks to address these and other concerns by eliminating the 15 year term limits that judges presently serve on the CAVC. In addition, this bill, if enacted, will eliminate the 180 day time limit a judge could serve in recall status and provide a financial incentive for a judge to serve in recall status for a period of five years. NOVA supports these provisions to help the Court deliver justice to our nation's veterans in a timely manner.

Regarding the specific provisions of the bill, NOVA offers the following thoughts:

Section 2 of S. 1289 would repeal the 15 year term limits for future appointees to the CAVC. This change would eliminate the problem the CAVC confronted beginning in 2003 when the judges, who were initially appointed to CAVC, all retired within a few years of each other. While NOVA has not studied any Constitutional questions this may raise, this seems to be a reasonable measure to avoid the loss of all the judges every 15 years.

Section 3 of S. 1289 would increase by \$7,000.00 the salary of any judge who is serving as Chief Judge. Given the duties and responsibilities of the Chief Judge, this seems reasonable to NOVA.

Section 4 of S. 1289 would eliminate the 180 day cap on the period of time that a retired judge could serve in recall status. More importantly, this section would provide a financial incentive for a retired judge to serve in recall status by paying the judge the full rate of pay for a sitting justice. Finally, this bill would permit a retired judge who served in recall status for a total of five years to no longer be subject to recall status and receive the same pay as a sitting judge. The intent behind this section is to provide an incentive for a retired judge to serve in recall status for a period of five years.

Section 6 of S. 1289 would require the CAVC to annually report key data regarding the Court's workload. NOVA supports this and believes that Congress should additionally require the CAVC to report the median amount of time it takes from when a case is fully briefed until the decision is issued.

Finally, section 7 of S. 1289 addresses the fact that the Court needs more space than it presently has to continue to meet the demands of its case load. NOVA believes that one option is for the Court to take over all the space at its present location, 625 Indiana Avenue, NW Washington, DC; and this option should be explored.

NOVA believes that S. 1289 will assist in the more timely resolution of veterans' appeals, therefore, NOVA fully supports this bill.

ROBERT V. CHISHOLM,
*Past President,
National Organization
of Veterans' Advocates.*

AMERICAN ACADEMY OF OPHTHALMOLOGY,
Washington, DC, May 21, 2007.

Hon. DANIEL K. AKAKA,
*Chairman, U.S. Senate Committee on Veterans Affairs,
Russell Senate Office Building,
Washington, DC.*

Dear Chairman Akaka: On behalf of the entire American Academy of Ophthalmology (the Academy), I am writing in support of S. 1163, the Blinded Veterans Paired Organ Act of 2007.

This important legislation would update eligibility requirement benefits provided to veterans with a service-connected disability because of blindness. Many veterans with severe vision impairment are currently excluded from benefits that could significantly improve the quality of their lives.

As you know, the bill would modify eligibility requirements for two separate benefits available to blinded veterans. Currently, both of these benefits are restricted to a narrow group of veterans who have sustained the most serious degree of vision impairment. Passage of the Blinded Veterans Paired Organ Act would extend benefits to all veterans who meet the standard definition of legal blindness that the Social Security Administration has used for over 40 years to determine disability. With so many members of our Armed Forces currently deployed overseas and in combat situations, this legislation is vital to help ensure that veterans receive the benefits they deserve.

As the world's largest organization of eye physicians and surgeons with more than 27,000 members, over 17,000 of which are in active practice in the United States, we thank you for introducing this important legislation and for your record of commitment to America's veterans and the brave men and women who serve in our Armed Forces.

Sincerely,

MICHAEL X. REPKA, M.D.,
Secretary of Federal Affairs.