

**STATEMENT OF
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THE AMERICAN LEGION
BEFORE THE
SUBCOMMITTEE ON BENEFITS
COMMITTEE ON VETERANS' AFFAIRS
UNITED STATES HOUSE OF REPRESENTATIVES
ON
VETERANS' BENEFIT ISSUES**

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Mr. Chairman and Members of the Subcommittee:

The American Legion appreciates the opportunity to provide testimony to the distinguished members of this subcommittee on the following bills that seek to improve benefits for America's veterans.

HR 3173

Servicemembers and Military Families Financial Protection Act of 2001

H.R. 3173, the Servicemembers and Military Families Financial Protection Act of 2001 seeks to amend the Soldier's and Sailors' Civil Relief Act (SSCRA) of 1940 to increase the maximum monthly lease amount for SSCRA protection from \$1,250 to \$1,950. Additionally, H.R. 3173 would increase the available amount covered under the Servicemembers' Group Life Insurance (SGLI) and the Veterans' Group Life Insurance from \$200,000 to \$500,000, \$750,000, or \$1,000,000.

The American Legion has long supported the goal of improving the quality of life benefits for members of the Reserve and National Guard. While The American Legion does not have a specific resolution supporting this bill, the provisions outlined in H.R. 3173 are a solid step toward reaching that goal.

HR 3735

Department of Veterans Affairs Overpayment Administration Improvement Act of 2002

When an overpayment is made on a VA compensation or pension, the VA places in motion a complex set of rules and procedures for recovering the alleged overpayment. By statute, the veteran is entitled to request a waiver of the overpayment on grounds of equity and good conscience. The Request for Waiver of Recovery of Overpayment must be filed with the VA Regional Office within 180 days of the first notice of the existence of the overpayment. This first notice merely notifies the veteran that a debt has been

determined to exist and that he or she will be advised of the exact amount at a later date. In many cases, the veteran files a notice of disagreement (NOD) with the RO, putting the overpayment decision into appellate status at the Board of Veterans Appeals (BVA) in Washington, DC.

Section 2(a) of this bill distinguishes between overpayments that have been appealed and those that have not. For appealed decisions, the 180-day clock will begin to run when the veteran is formally notified of the final determination of the amount of the overpayment to be recovered. The American Legion supports this provision in its current form. However, the 180-day waiver request period should always begin with the final determination of the amount of the overpayment. The veteran will then be able to make an informed decision on how to proceed. Further, under the doctrine of exhaustion of administrative remedy, a decision of the RO Committee on Waivers and Compromises (CWC) should be required before a NOD may be filed. Many waiver requests will be resolved in favor of the veteran locally, thereby precluding remand by the BVA to the RO for a CWC decision.

Section 2(b) allows the VA to establish guidelines to administratively waive recovery of overpayments when the amounts involved are so small and the costs of assessment and collection so great as to impede the efficient or effective administration of benefits. We note that authority exists in 38 CFR 1.942(d) to terminate collection activity when the cost of further collection effort is likely to exceed the amount recoverable. This bill will allow the VA to waive such debts "for the convenience of the Government" without the time and resource consuming requirement of a formal determination. The American Legion supports this effort to streamline the administration of veterans' benefits.

HR 3771

Exclusion of veterans' benefits paid by States and localities from consideration as income for the purposes of non-service-connected disability pension.

Veterans who have served their country during a period of war, and are permanently and totally disabled from non-service-connected (NSC) disability and who have incomes below the limits established by law may be entitled to a pension. To be eligible, a veteran must be subsisting at or below the poverty level. The current NSC pension maximum for a single veteran with no dependents and no countable income is \$9556.00 per year. This amount is reduced by the veteran's income from any other source, except those excluded under 38 USC § 1503(a) such as public and private assistance, unreimbursed medical expenses and casualty losses. This legislation would add money paid to the veteran from local and State governments to the list of excluded income, so long as the funds are paid as a veteran's benefit.

The American Legion fully supports this bill. Those receiving NSC pension are among this nation's poorest veterans and The American Legion favors any measure which will raise the standard of living for this population. Further, The American Legion believes that the purpose of monetary benefits paid by States and localities to deserving veterans should not be defeated by counting against Non Service Connected pension.

That purpose is to reward veterans' honorable service in the Armed Forces of the United States as citizens of the State, county, parish or municipality providing the benefit.

HR 4042

Veterans Home Loan Prepayment Protection Act of 2002

The Home Loan Guaranty Program was a critical component of the "Servicemen's Readjustment Act of 1944", the original GI Bill written by The American Legion. Over the years, 16.5 million veterans have benefited from this visionary program, and both the home building industry and the financial community prospered as well. Clearly, the success of this program is well documented and must be continued for future veterans and their families.

At the outset, The American Legion is pleased with the operation of the Home Loan Guaranty Program. The American Legion believes VA has done its best to keep this program accessible and user friendly, while at the same time keeping the interests of veterans as the primary focus of its decision-making process.

H.R. 4042, entitled the "Veterans Home Loan Prepayment Protection Act of 2002" proposes to amend title 38, United States Code, to prohibit additional daily interest charges following prepayment in full of housing loans guaranteed by the Department of Veterans Affairs. Currently, according to Section 4-108 of the Uniform Commercial Code (UCC), states allow banks to institute a cutoff hour for processing payments. These cutoff hours range from noon to 2:00 P.M. Payments received later incur interest charges and are credited to the next banking day, thereby allowing the banking institution to reconcile their books at the conclusion of their normal business day.

While this bill provides an obvious benefit for veterans, The American Legion is concerned that it could have an unintentional, detrimental effect. The additional expense incurred by the lender could be passed on to the veteran in the form of higher interest rates or possibly discourage lenders from participating in the VA Home Loan Guarantee Program.

DRAFT LEGISLATION

Arlington National Cemetery Burial Eligibility Act

Mr. Chairman, The American Legion has supported mandating the eligibility for burial in Arlington National Cemetery for a number of years. Arlington National Cemetery was established to recognize those individuals who have distinguished themselves through honorable military service. Arlington National Cemetery is our Nation's most sacred shrine representing an embodiment of the sacrifices that were made to secure and preserve the nation's ideals and freedoms. More than 250,000 veterans and their dependents are buried on these 612 acres of hallowed ground. Arlington National Cemetery is one of more than 100 National Cemeteries designated for America's

servicemembers, but, unlike the others, the Department of the Army administers Arlington Cemetery.

In spite of restrictive regulations (Title 32, CFR), there have been numerous requests for waivers, falsification of military records, a presidential waiver and reservation request used to gain interment. The American Legion supports a clearly defined eligibility criterion for burials at Arlington National Cemetery in order to assure compliance and fairness and to assure that the remaining space is judiciously used.

As mentioned in the bill, such burial should be restricted to servicemembers who die on Active duty; highly decorated veterans to include recipients of the Purple Heart; former members of the armed forces separated from the military with a physical disability of 30 percent or more before October 1, 1949; qualified retired veterans and their spouses and eligible children; former Prisoners of War; and for the President or former Presidents as Commanders in Chief of the Armed Forces. The American Legion believes there should be no waivers for unqualified persons except under unique and compelling circumstances that comport with codified non-partisan waiver procedures as established by the Congress. Finally, eligibility for interment of cremated remains of honorably discharged veterans in the Columbarium at Arlington National Cemetery should also be codified.

To provide for payment of Dependency and Indemnity Compensation to the surviving spouse of a veteran who for at least one year preceding death had a service-connected disability rated totally disabling that was due to a service-connected cold-weather injury.

In July 1998, the VA published a final rule in the Federal Register (63 FR 37779) that revised the rating criteria for residuals of cold injuries. Prior to this change, such injuries were referred to simply as "frozen feet". The new rating criteria now reflect the current state of medical knowledge in assessing and treating the effects of exposure to extreme cold. It is well known that the effects of cold injuries can be debilitating, especially in severe cases where anatomical loss or loss of use of extremities are involved and where cancers develop at the injury sites. This bill will grant Dependency and Indemnity Compensation (DIC) to surviving spouses of veterans who die from a non-service-connected cause while totally disabled as a result of service-connected residuals of cold injury.

The American Legion supports this legislation and applauds its intent to provide for the spouses of veterans who served in World War II and Korea under the most extreme conditions.

Mr. Chairman, this concludes our testimony.