Chairman Runyan, Ranking Member McNerney, and members of the Committee, thank you for this opportunity for The American Legion to present its views on the following pieces of pending legislation.

**H.R. 923: Veterans Pensions Protection Act of 2011**

This bill would exclude from annual income, for purposes of eligibility for pensions for veterans and their surviving spouses and children, reimbursements resulting from: (1) any accident; (2) any theft or loss; (3) any casualty loss; (4) medical expenses resulting from any such accident, theft, or loss; and (5) pain and suffering (including insurance settlement payments and general damages awarded by a court) related to such accident, theft, or loss.

Currently, any money received from an insurance claim, court judgment, or injury settlement counts toward a veteran’s income when the VA determines pension eligibility. This means low-income veterans who are compensated even for small settlements risk losing their pensions. The bill seeks to change the rules surrounding the income eligibility rules. Veterans should not have to worry about losing their pensions because they became victims by some other person's actions.

The American Legion supports this bill.

**H.R. 1025: To amend title 38, United States Code, to recognize the service in the reserve components of certain persons by honoring them with status as veterans under law**

The purpose of this legislation is to “honor as a veteran” those service members who complete 20 years of service in the Guard or Reserve components, yet “not for any purpose of benefits.” This represents an unusual distinction which requires further clarification. “Veteran” as a legal status confers certain benefits. Title 38 is quite clear in providing specific definitions. There are legal considerations for “claiming veteran status improperly” here and elsewhere that carry serious consequences.
If someone serves in the reserve components and chooses to call themselves a veteran yet not hold out that distinction for any legal benefit, it should not take an act of Congress to allow them to. If instead a group of service members are seeking recognition for their service and will derive benefit from that recognition, then this should be acknowledged. This bill seems squarely in a no-man’s land between these two possible scenarios.

Certainly, the role of the Reserve Component service-member has changed since the Gulf War that began in 1990. Prior to that war the reserve component was regarded as a strategic force to be called upon when greater mobilization of the armed forces was required for our national security. However, much of the combat power that comprises our warfighting efforts now resides in the reserve component. For this reason, the reserve component has changed from a strategic force to an operational force. Thus, in a wartime era where we as a nation are more reliant on the Guard and Reserve, it is imperative that earned benefits fairly reflect level of sacrifice. The American Legion will continue to review the issue of fair entitlements for Reserve and Guard members to develop a fair and complete organizational resolution that supports fair equity in benefits for all who have served.

However, in the case of this piece of legislation, there still remain too many unanswered questions, and as The American Legion is a grassroots organization deriving its operational mandate from the will of the 2.4 million members, we cannot support or oppose this legislation without a more clear position in the form of a resolution provided by membership.

The American Legion neither supports nor opposes this legislation.

H.R. 1826: To amend title 38, United States Code, to reinstate criminal penalties for persons charging veterans unauthorized fees

This bill does exactly what is stated in the title, reinstating criminal penalties for those who seek to exploit veterans with unauthorized fees. The American Legion supports this needed legislation, and recognizes its importance in the changing landscape of veterans benefits.

As a greater proportion of veterans are reaching retirement age and older, the group is growing increasingly vulnerable to predatory influences already preying on the segment of the population requiring elder-care. As this trend continues, the potential for fraud increases more and more. Already The American Legion has recognized anecdotal evidence of veterans being taken advantage of for profit. This practice is particularly despicable when it is considered the majority of veterans falling prey to predatory schemes are those in need of non-service connected pension, and therefore the most financially needy of veterans. This practice cannot continue.

The American Legion does not and will not charge veterans for assistance with their claims for deserved benefits. While we recognize some parties may justly charge veterans for services, particularly at the higher court levels, this is indeed an area where the veterans most deserving of benefits are seeing their earned benefits leached away. Real consequences are needed to help curtail this practice.

The American Legion supports this legislation.
**H.R. 1898: Veterans 2nd Amendment Protection Act**

The American Legion firmly supports the right of all Americans to keep and bear arms as protected in the Bill of Rights. We support this legislation because it recognizes certain provisions of the veterans disability process are separate and distinct from those in other portions of the law, and there should not be an automatic transferability of findings.

Put simply, a veteran found incompetent to manage their own funds, as may be the case in fiduciary findings, is not necessarily incompetent to make other choices about their life, such as the responsible use of firearms. Often findings in a veterans disability case may reflect competency issues with finances which in no way reflect their rest of their capacity to make responsible and adult choices about behavior inherent to participation in polite society.

In some ways, an automatic structure to the law reinforces already negative stereotypes about "crazy PTSD veterans" and "Rambo like sprees" when the facts clearly bear out the reality is far to the contrary. The vast and overwhelming majority of veterans suffering from mental disorder suffer only partially, and while they may have diminished emotional performance necessitating compensation, they are hardly unfit to make adult decisions and live their lives responsibly. When stigmas are reinforced, they unnecessarily contribute to the problem of veterans refusing to seek treatment because of associated stigma, and they therefore compound their disability by letting it remain untreated.

The law still allows for veterans to be found a by judge, magistrate, or other judicial authority of competent jurisdiction that such person is a danger to himself or herself or others, so this is not a wholesale removal of a bar to truly dangerous individuals. This merely removes the unjust situation wherein veterans are judged solely by a class to which they belong, and not due to the individual merits of their situation.

The American Legion supports this legislation.

**H.R. 2349: Veterans' Benefits Training Improvement Act of 2011**

This bill is intriguing in principle and addresses in some way a key concern of The American Legion regarding the operation of the claims benefits system, namely the lack of consequences to VA employees for failing to understand the system they are implementing. As it presently stands, veterans and veterans alone bear the lion's share of consequences from faulty decision making. This is fundamentally unfair in a system ostensibly designed to compensate them for service derived disabilities.

While this proposal is intriguing, there are some concerns which, if properly addressed could make the overall proposal a helpful tool in moving the benefits system in the direction of providing the aid to veteran as intended.

The bill proposes an annual assessment of skills of appropriate employees and managers, with a required remedial development plan demanded when employees and managers prove deficient in areas identified by testing. While the concept behind this is laudable, there is already certain
required testing, and perhaps the real question is a lack of enforcement or consequences for testing already in place. Certainly, there have been anecdotal complaints from employees of being managed by personnel with no knowledge of the required tasks. This is problematic in some senses, because in order to develop an effective management plan one should certainly have knowledge of the operations being performed.

Any remedial program should be conducted with the ultimate aim of improving the overall operations. As The American Legion has previously stated on numerous occasions, there is a fundamental flaw in VBA’s error reporting system in that it does not have a mechanism to direct training. If there is to be testing of skills, this also should naturally flow into directing a training mechanism. If a child fails all of the problems on a math test relating to binomial equations, a teacher or parent knows to work with that child on binomial equations. Similarly, if the entire class or a lion’s share of the class fails the same problems, the teacher can realize there may be systemic inadequacy in how the portion of the class relating to binomial equations is being taught. This is what The American Legion believes must drive VBA’s training regimen.

Whether though testing or examination of errors through STAR and evaluation of common errors at the Board of Veterans Appeals and the Appeals Management Center, VBA must find a way to identify their weak points and strengthen them.

In principle, The American Legion believes this legislation could, with some refinement to ensure it meshes more properly with existing testing structures, be helpful in changing the problem with training as outlined above. Follow through to ensure compliance will be essential, and as we have been previously critical of VBA’s policy of granting bonuses while failing to meet mission goals, perhaps some mechanism could be devised to also tie knowledge of material to bonus criteria, in addition to meeting mission goals. We cannot afford a repeat situation, such as in 2010, where VBA saw a decrease in accuracy rate, and an increase in number of claims pending over 125 days, and yet the average Senior Executive Service bonus in VBA exceeded the annual income of a veteran living on pension.

**The American Legion supports this bill with reservations, related to implementation.**

As always, The American Legion thanks this Committee for the opportunity to provide commentary and to explain the position of the over 2.4 million veteran members of this organization.