

**NINETY-EIGHTH NATIONAL CONVENTION
OF
THE AMERICAN LEGION
Cincinnati, Ohio
August 30, 31, September 1, 2016**

Resolution No. 228: Timely Processing of Overpayments for Reserve Components and/or Active Duty Pay

Origin: Arizona

Submitted by: Convention Committee on Veterans Affairs & Rehabilitation

WHEREAS, U.S. Code Title 10 Armed Forces, Subtitle E, Chapter 1209 Active Duty, Section 12316 states in part: (a) Except as provided by subsection (b), a Reserve of the Army, Navy, Air Force, Marine Corps, or Coast Guard who because of his earlier military service is entitled to a pension, retired or retainer pay, or disability compensation, and who performs duty for which he is entitled to compensation, may elect to receive for that duty either-

- (1) the payments to which he is entitled because of his earlier military service; or
- (2) if he specifically waives those payments, the pay and allowances authorized by law for the duty that he is performing; and

WHEREAS, U.S. Code Title 38 Veterans Benefits, Part IV General Administrative Provisions, Chapter 53 Special Provisions Relating to Benefits, Section 5304 states in part: (c) Pension, compensation, or retirement pay on account of any person's own service shall not be paid to such person for any period for which such person receives active service pay; and

WHEREAS, The Department of Veterans Affairs (VA) has the authority under U.S. Code Title 38, Chapter 53 to withhold any such overpayment incurred from duplicate payment of disability compensation and active service pay from future compensation payments to the veteran; and

WHEREAS, With other debts incurred by veterans for overpayments or educational debts the veteran is afforded the opportunity to make payment arrangements with the collection arm of the VA, namely Debt Management, and pay this debt back in monthly installments; and

WHEREAS, The VA is grossly delinquent in processing the overpayments for military drill pay each year, sometimes resulting in processing of two or three years at the same time, several years in arrears; and

WHEREAS, The VA does not afford the veteran the opportunity to make payment arrangements, but instead withholds the entire monthly compensation, which can result in the veteran not receiving any compensation for two, four, or six months; and

WHEREAS, The veteran has come to rely on the monthly disability or pension payments and having the entire amount withheld, sometimes years after the veteran has ceased to be in a drilling status with a Reserve Component, results in serious financial difficulty for the veteran; now, therefore, be it

RESOLVED, By The American Legion in National Convention assembled in Cincinnati, Ohio, August 30, 31, September 1, 2016, That The American Legion supports a strong recommendation to the Department of Veterans Affairs that they:

- a. Place greater emphasis on processing of these overpayments for the performance of Reserved Component and/or Active Duty pay so as not to have multiple years processed at the same time; and**
- b. Allow the debt to be placed with Debt Management for collection to allow the veteran to pay the debt in installments so as not to cause a financial hardship.**