The American Legion
For God and Country
bulletin
National Veterans Affairs and Rehabilitation Commission
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**STATEMENT OF**
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**THE AMERICAN LEGION**
**BEFORE THE**
**SUBCOMMITTEE ON DISABILITY ASSISTANCE AND MEMORIAL AFFAIRS**
**COMMITTEE ON VETERANS' AFFAIRS**
**UNITED STATES HOUSE OF REPRESENTATIVES**
**ON**
**NUMEROUS VETERANS' LEGISLATION**

**JUNE 12, 2008**

Mr. Chairman and Members of the Subcommittee:

Thank you for this opportunity to present The American Legion's views on the bills being considered by the Subcommittee today. The American Legion commends the Subcommittee for holding this hearing.

**H.R. 1197, Prisoner of War Benefits Act of 2007**

The purpose of this bill is to amend title 38, United States Code, (U.S.C.) to provide improved benefits for veterans who are former prisoners of war.

Specifically, this bill would repeal the current requirement in title 38 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 The Department of Veterans Affairs' (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 government of the United States 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, from which former POWs are known to suffer. 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 who, 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.

**H.R. 3008, Rural Veterans Services Outreach and Training Act**

The purpose of this bill is to amend title 38, U.S.C., to improve services for veterans residing in rural areas. Specifically, this bill would establish a competitive grant program to provide financial assistance to state entities for veterans' affairs for the training of rural county veteran service officers in order to improve outreach and assistance to veterans, their spouses, children and parents, who may be eligible to receive benefits under the laws administered by the Secretary of Veterans Affairs, and to ensure that such individuals are fully informed about, and assisted in applying for, any benefits and programs under such laws.

Providing proper outreach and assistance to the nation's veterans, has been, and will continue to be, a top priority of The American Legion. Although we do not have an official position, in the form of a resolution adopted by our membership, specifically addressing a grant program for such purposes, as proposed in this legislation, we would not oppose the Committee's favorable consideration of this bill.

**H.R. 3070, Disabled Veterans' Caregiver Compensation Act**

The purpose of this bill is to amend title 38, U.S.C., to authorize additional compensation to be paid to certain veterans in receipt of compensation for a service-connected disability rated totally disabling for whom a family member dependent on the veteran for support provides care.

As written, this bill would provide additional compensation in the amount of $234 per month to totally disabled service-connected veterans in need of regular aid and attendance only where the veteran is being taken care of by an adult family member who is dependent upon the veteran for support. It should be noted that veterans who are permanently disabled and in need of aid and attendance already receive an additional $618 per month (SMC L pays $3,145) over the 100 percent rate ($2,527). Therefore, this bill will raise the monthly benefit amount for this subset of veterans from $3,145 to $3,379.

The additional money paid to veterans, who need aid and attendance, is intended, in part, to help veterans who require aid and attendance to hire people who could provide care. Obviously, this bill contemplates that the veteran could use the additional $234 to compensate the adult family member who is taking care of the veteran. It is unclear why this additional amount would be provided as separate from the regular aid and attendance benefit because the purpose of the aid and attendance benefit is to pay for such care as addressed in this bill. It is also unclear as to how VA will determine who qualifies as a family member dependent on the veteran for support. This being the case, The American Legion would support an increase in the overall aid and attendance benefit rather than a separate payment as set forth in this bill.

**H.R. 3795, You Were There, You Get Care Act of 2007**

The purpose of this bill is to amend title 38, U.S.C., to provide that veterans of service in the 1991 Persian Gulf War and subsequent conflicts shall be considered to be radiation-exposed veterans for the purposes of the service connection of certain diseases and disabilities, and for other purposes.

Depleted Uranium (DU) munitions were widely used in the Southwest Asia theater of operations during the 1991 Gulf War and have been used extensively in military operations since then, including the current conflicts in Iraq and Afghanistan. As a result, there have been thousands of military personnel exposed to DU fallout from these munitions, including some with retained shell fragments due to "friendly fire" incidents. The American Legion supports the intent of this bill. The American Legion recognizes the potentially harmful effect of DU exposure. This legislation would provide for the presumption of service connection for diseases associated with such exposure for those suffering from such a disease who served in the 1991 Gulf War and any subsequent conflict where DU munitions were used. This legislation would also include service in the theater of operations of that war or conflict or involved the clean-up or servicing of vehicles or equipment that had been used in such a theater of operations.

**H.R. 4274, Gold Star Parents Annuity Act of 2007**

The purpose of this bill is to amend title, 38, U.S.C., to provide for the payment of a monthly stipend to the surviving parents (known as Gold Star parents) of member of the Armed Forces who die during a period of war.

The American Legion does not have a position on this legislation.

**H.R. 5155, Combat Veterans Debt Elimination Act of 2008**

The purpose of this bill is to amend title 38, U.S.C., to prohibit the Secretary of Veterans Affairs from collecting certain debts to the United States in the case of veterans who die as a result of a service-connected disability incurred or aggravated on active duty in a combat zone, and for other purposes.

Although we agree with the intent of this bill, the legislation contains limitations and restrictions we do not support. The American Legion supports prohibiting the collection of debts in the case of any veteran who dies as a result of a service-connected disability, not just those who die of a service-connected disability incurred or aggravated while serving in a theater of combat operations or in combat against a hostile force during a period of hostilities.

A veteran's death due to a service-connected disability not related to combat is no less tragic for the veteran's family than a death due to a combat-related service-connected condition and we see no justification in making such a distinction. This bill also leaves it up to the discretion of the VA Secretary to determine if termination of collection of the debt is in the best interest of the United States and does not set forth any standards or criteria that must be met in determining whether or not termination of collection is in the best interest of the United States.

Unfortunately, such vagueness will likely result in a restrictive interpretation which will, in turn, limit the beneficial impact that was obviously intended. The American Legion also has concerns over the exclusion of debts involving housing and small business benefit programs from the prohibition of collection.

**H.R. 5448, Full Faith in Veterans Act of 2008**

The purpose of this bill is to amend title 38, U.S.C., to improve the disability compensation evaluation procedure of the Secretary of Veterans Affairs for veterans with post-traumatic stress disorder, to improve the diagnosis and treatment of post-traumatic stress disorder by the VA Secretary, and for other purposes.

The American Legion supports the intent of this bill to correct current deficiencies in the service connection and evaluation of post-traumatic stress disorder.

**H.R. 5454**

The purpose of this bill is to amend title 38, U.S.C., to establish a presumption of service connection for amyotrophic lateral sclerosis (ALS) for the purpose of the laws administered by the VA Secretary.

ALS is an insidious disease involving degeneration of the nerve cells in the brain, the brain stem, or spinal cord. ALS is characterized by atrophy and almost always fibrillation of the muscular system of the body. Although the disease was first identified in 1869, we still do not know what causes it or how it can be prevented, effectively treated or cured. ALS in its primary stage is difficult, if not impossible, to diagnose since in this stage the condition may appear to be dormant with little or no progression of symptoms for many years, thus leading the individual and his or her doctor to believe the condition has become arrested and nothing more is done to establish its diagnostic entity.

Specifically, this bill, if enacted, would eliminate the one-year delimiting period currently in place for the presumptive service connection of ALS, allowing for the presumptive service connection of ALS for veterans diagnosed with the disease anytime after military service. The American Legion fully supports this legislation. In fact, we have formally voiced our concerns over the inadequacy of the current one year presumptive period for many years.

The timeliness and appropriateness of this bill is further supported by research in the last several years that has indicated that those who have served in the military are at greater risk of developing ALS than those who never served in the military. Moreover, the Institute of Medicine, in a November 2006 report entitled *Amyotrophic Lateral Sclerosis in Veterans: Review of the Scientific Literature*, concluded that current scientific evidence supports the increased risk of ALS in military veterans.

**H.R. 5709, Veterans Disability Fairness Act**

The purpose of this bill is to amend title 38, U.S.C., to require the VA Secretary to carry out quality assurance activities with respect to the administration of disability compensation, and for other purposes.

The American Legion supports this bill.

**H.R. 5954**

The purpose of this bill is to amend title 38, U.S.C., to provide veterans for the presumptions of service connection for purposes of benefits under the laws administered by the VA Secretary for diseases associated with service in the Armed Forces and exposure to biological, chemical, or other toxic agents as part of Project 112, and for other purposes.

The American Legion fully supports this bill as it would put in place the process for establishing presumption of service connection for diseases that have been scientifically associated with exposure to the various agents and chemicals used in Project 112.

**H.R. 5985, Compensation for Combat Veterans Act**

The purpose of this bill is to amend title 38, U.S.C., to clarify the service treatable as service engaged in combat with the enemy for utilization of non-official evidence for proof of service connection in a combat-related disease or injury.

A bill with a similar intent (H.R. 5892) was recently passed by this Committee. Both Title I of H.R. 5892 and this bill seek to define "engaged in combat with the enemy," under title 38 U.S.C. section 1154(b), in a manner that it is consistent with the realities of combat in today's world.

The American Legion supports the intent of these bills. Unless a veteran was wounded or received a specific combat decoration or badge (such as the Combat Infantryman Badge or Combat Action Ribbon) or award for valor, it is often very difficult to establish that a veteran engaged in combat with the enemy in order to trigger the combat presumptions under title 38, U.S.C., section 1154(b). We must recognize, however, that the very meaning of the term "engaged in combat with the enemy" has taken on a whole new meaning as the nature of warfare in today's world has changed. This is especially true of service in the combat theaters of Iraq and Afghanistan.

Due to the fluidity of the battlefield and the nature of the enemy's tactics, there is no defined front line or rear (safe) area. Military personnel in non-combat occupations and support roles are subjected to enemy attacks such as mortar fire, sniper fire, and improvised explosive devices (IEDs) just as their counterparts in combat arms-related occupational fields. Unfortunately, such incidents are rarely documented making them extremely difficult to verify.

Service members who received a combat-related badge or award for valor automatically trigger the combat-related presumptions of title 38, U.S.C., section 1154(b), but a clerk riding in a Humvee, who witnessed the carnage of an IED attack on that convoy, doesn't automatically trigger such a presumption and proving that the incident happened or that he or she was involved in the incident, in order to benefit from the presumption afforded under title 38, U.S.C., section 1154(b), can be extremely time consuming and difficult.

Given the evolving nature of modern warfare, as reflected in the enemy's unconventional tactics in Iraq and Afghanistan, The American Legion is of the opinion that it not only makes sense to clarify the definition of "engaged in combat with the enemy" under title 38, U.S.C. section 1154(b) in order to adapt to the new realities of modern warfare. It is essential that we do so, not just for those serving now, but for those who have served in the past and those who will serve in the future.

**H.R. 6032**

The purpose of this bill is to amend title 38, U.S.C., to direct the VA Secretary to provide wartime disability compensation for certain veterans with Parkinson's disease.

Specifically, this bill, if enacted, would establish Parkinson's Disease as a presumptive disability associated with Agent Orange/herbicide exposure in Vietnam. The American Legion strongly supports the addition to the presumptive list all conditions that have been scientifically shown to be associated with Agent Orange/herbicide exposure in accordance with provisions set forth in statute.

If Parkinson's Disease does not satisfy such criteria at this time, The American Legion recommends further research to explore the relationship between Parkinson's Disease and exposure to herbicides.

## Conclusion

Thank you again, Mr. Chairman, for allowing The American Legion to present comments on these important bills. 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.