STATEMENT FOR THE RECORD
OF
THE AMERICAN LEGION

TO THE

COMMITTEE ON VETERANS' AFFAIRS
UNITED STATES SENATE

ON

PENDING BENEFITS LEGISLATION

May 13, 2015

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Chairman Isakson, Ranking Member Blumenthal and distinguished Members of the committee, on behalf of National Commander Michael D. Helm and the 2.3 million members of The American Legion, we thank you and your colleagues for the work you do in support of service members, veterans and their families.

S.270: *Charlie Morgan Military Spouses Equal Treatment Act of 2015*

To amend title 38, United States Code, to revise the definition of spouse for purposes of veterans benefits in recognition of new State definitions of spouse, and for other purposes

The American Legion has no position on this legislation.

S.602: *GI Bill Fairness Act of 2015*

To amend title 38, United States Code, to consider certain time spent by members of reserve components of the Armed Forces while receiving medical care from the Secretary of Defense as active duty for purposes of eligibility for Post-9/11 educational Assistance, and for other purposes.

Members of the Guard or Reserve who are wounded in combat are often given orders under 10 USC 12301(h) for their recovery, treatment and rehabilitation. Unfortunately, federal law does not recognize such orders as eligible for Post-9/11 GI Bill education assistance, meaning that unlike other members of the military, these members of the Guard and Reserve actually lose benefits for being injured in the line of duty.

The GI Bill Fairness Act would end that unequal treatment and ensure these service members are eligible for the same GI Bill benefits as active duty members of the military. It is truly unjust to deny wounded and injured service members the ability to accrue educational benefits for the time they spend receiving medical care. No veteran should lose their benefits simply because they were in the National Guard or Reserves.[1]

The American Legion supports S.602

[1] Resolution No. 14: Review of Federal Mobilization Personnel Statuses and Benefits

S.627

A bill to require the Secretary of Veterans Affairs to revoke bonuses paid to employees involved in electronic wait list manipulations, and for other purposes

The American Legion has no position

S.681: *Blue Water Navy Vietnam Veterans Act of 2015*

To amend title 38, United States Code, to clarify presumptions relating to the exposure of certain veterans who served in the vicinity of the Republic of Vietnam, and for other purposes

Veterans who served on open sea ships off the shore of Vietnam during the Vietnam War are called "Blue Water Veterans." Currently, Blue Water Veterans must have actually stepped foot on the land of Vietnam or served on its inland waterways anytime between January 9, 1962 and May 7, 1975 to be presumed to have been exposed to herbicides when claiming service-connection for diseases related to Agent Orange exposure.

Blue Water Veterans who did not set foot in Vietnam or serve aboard ships that operated on the inland waterways of Vietnam must show on a factual basis that they were exposed to herbicides during military service in order to receive disability compensation for diseases related to Agent Orange exposure. These claims are decided on a case-by-case basis.

We are cognizant that VA previously asked the National Academy of Sciences' Institute of Medicine (IOM) to review the medical and scientific evidence regarding Blue Water Veterans' possible exposure to Agent Orange and other herbicides. IOM's report Blue Water Navy Vietnam Veterans and Agent Orange Exposure was released in May 2011. The report concluded that "there was not enough information for the IOM to determine whether Blue Water Navy personnel were or were not exposed to Agent Orange."

However, Vietnam veterans who served on land and sea now have health problems commonly associated with herbicide exposure. Just as those who served on land were afforded the presumption because it would have placed an impossible burden on them to prove exposure, Congress should understand the injustice of placing the same burden on those who served offshore. Clearly, all the toxic wind-blown and waterborne Agent Orange-dioxin just didn't somehow stop at the coast line.[2]

The American Legion strongly supports this legislation to expand the presumption of exposure to herbicides for veterans who served within the territorial seas of Vietnam, to ensure that proper benefits are awarded to those with conditions associated with exposure.

The American Legion supports S.681

[2] Resolution No. 250: Blue Water Navy Vietnam Veterans

Draft Legislation: *21st Century Veterans Benefits Delivery Act*

To amend title 38, United States Code, to improve the processing by the Department of Veterans Affairs of claims for benefits under laws administered by the Secretary of Veterans Affairs, and for other purposes.

The American Legion was honored to work with Senators Heller and Casey in attempting to improve accountability within the Department of Veterans Affairs (VA); more importantly, through this accountability, it is The American Legion's pure objective to ensure that our nation's veterans are receiving their entitled benefits due to their honorable service to this nation. The American Legion especially applauds the efforts from the Backlog Working Group to reach out directly to the Veterans Service Organizations (VSOs) in an effort to understand the problems inherent the VA disability claims system. The American Legion alone accredits over 3,000 service officers nationally to assist veterans with their claims for benefits. This first hand, front line experience is critical to understand how the system actually operates "in the trenches." The willingness and eagerness of Senators Heller and Casey to go directly to the veterans who wage these battles for benefits daily has informed the policies they have proposed and underlined the absolutely critical need to include all stakeholders in the process of reforming any VA system.

The bill is extensive in scope, so analysis of critical sections is provided:

Sec. 101 – Improvement to Transition Assistance Program

The American Legion supports making TAP classroom material available online and has long advocated for the inclusion of veterans service organizations (VSOs) to servicemembers as they transition from service. The American Legion believes The Department of Veterans Affairs (VA), the Department of Defense (DoD) and Department of Labor (DOL) need to work together to establish a nationwide policy to permit American Legion accredited representatives (service officers) as well as other major veterans service organizations (VSOs), that choose to participate in the Transition Goals, Plans and Success Program.[3]

Section 103 – Determination of Manner of Appearance for Hearings before Board of Veterans' Appeals

For veterans opting to appeal their claims to the Board of Veterans' Appeals (BVA), it can often be an arduous process. In January 2015, The American Legion testified before the House Committee on Veterans' Affairs Subcommittee Disability Assistance and Memorial Affairs regarding the amount of time that veterans wait prior to having their claims adjudicated. During that testimony, we indicated that a veteran's standard four year enlistment is shorter than the period of time that a veteran must wait before a claim is adjudicated; sadly, approximately half of those claims reviewed by BVA must be remanded for further development to comply with VA's duty to assist veterans seeking disability benefits.

[3] Resolution No. 210: Service Officers Participation in the Transition Goals, Plans and Success Program

Veterans have various avenues to have their claims adjudicated. They may choose to have the following:

- An informal hearing presentation
- A hearing at BVA in Washington, D.C
- A travel BVA hearing
- A video conference hearing

The American Legion believes that veterans own their claims. As such, the manner they choose to prosecute their claims should remain theirs; however, if VA can provide the manner that would be the most expeditious while not reducing the veteran's due process rights to ensure they receive the benefits in a timely manner, it would be ultimately beneficial to the veteran community. Section 103 of this bill will allow veterans to have their claims to be adjudicated in a timelier manner and allow the veteran to "opt-out" of VA's suggested manner to have a hearing conducted. This is consistent with The American Legion's policy of encouraging VA to address all claims in an expeditious and accurate manner, provided VA creates no program that diminishes a veteran's due process rights.[4]

Section 201 – Required Comptroller General Audit of Regional Offices of Veterans Benefits Administration

It is an unfortunate reality that veterans' claims are not adjudicated in a similar manner. A claim adjudicated in one office may be granted while denied in another; additionally, a claim in one office may be granted a higher disability rating than in a separate office. We recognize that adjudicating claims is inherently open to interpretation; however, during The American Legion's Regional Office Action Review visits in recent years, we have noted that certain VA regional offices are more adept than others at adjudicating claims.

Over the past year, VA has been moving towards establishing its National Work Queue (NWQ) program designed to have claims adjudicated not by region, as has been VA's historical practice, but by available rater. To ensure that NWQ is successful, the veterans need assurance that a claim adjudicated by one regional office employee would have the same results in a different regional office. If not, VA runs the risk of NWQ ultimately becoming a chaotic world of VA appeals due to an uncertainty in the quality of adjudications. Through passage of Resolution 128 at our National Convention in Charlotte in August 2014, The American Legion called for transparency within VA. We assert through a third-party review of the manner that the claims are adjudicated; a fuller understanding of VA's manner of adjudication at each of its regional offices can finally be accomplished.

Section 203 – Analysis of Communication between Regional Offices of Department of Veterans Affairs and Veterans Service Organizations and Congressional Caseworkers

Section 203 is designed to increase the efficiency in the level of communication between VSOs and Congressional caseworkers. The American Legion has over 3,000 accredited

[4] Resolution No. 28: Department of Veterans Affairs Appeals Process

representatives, to include service officers in each of VA's regional offices. Like the accuracy and nature in adjudicating claims, the level of communication between our accredited representatives and VA regional office employees differs by regional office.

During the wake of last summer's VA health care scandal, The American Legion established Veterans Crisis Command Centers to allow veterans to gain access to their benefits. During an event in St. Louis, an elderly veteran stated for 20 years he had been pursuing his benefits, and in 20 minutes with The American Legion and VA personnel, he was able to ***finally*** gain the access he sought. He stated, "This is a business built on communication, and VA has failed."

Similar to the necessity of communication between VA and veterans, VA needs to provide the necessary communication to VSOs; VSOs often provide the front line of advocacy for veterans. If we are unable to communicate, then a breakdown in the pursuit of benefits can occur. In our recent National Executive Committee meeting, The American Legion adopted Resolution 28 that calls for VA to pursue an efficient manner to adjudicate claims and appeals. While this section may not completely address the whole issue, improving communication between the advocate and VA will only strengthen the program.

The American Legion supports efforts to improve the effectiveness in VA's adjudication of claims and appeals, provided these efforts don't impact or remove any due process rights afforded to veterans.[5]

Section 205 – Annual Report on Capacity of Benefits Administration to Process Benefits Claims

According to the May 2, 2015, VA's Monday Morning Workload Report (MMWR), 439,928 claims are awaiting adjudication; 161,519 have been awaiting adjudication for over 125 days. 299,983 claims are languishing in appeals status. Compare this data with the MMWR released on May 3, 2010, where 523,976 claims were awaiting adjudication; 189,048 claims were waiting a decision greater than 125 days with 189,269 claims in appeal status awaiting a claim. Though VA has made significant strides in improving its adjudication rates, it is evident that while the focus has been on original decisions, the appeals inventory has exploded by 58.5 percent.

In recent years, The American Legion has testified that VA is overwhelmed. Our Regional Office Action Review (ROAR) visitations have witnessed the level of stress within the VA regional offices. Not only are they understaffed, many employees simply do not have the level of experience necessary to adjudicate the claims. In speaking with VA management at the regional offices, they often referred to the level of inexperience and understaffing. Meanwhile, when asked by Congress regarding if they needed additional employees, VA senior leadership repeatedly stated that they have adequate levels of staffing.

As we move closer to the December 2015 deadline to meet former VA Secretary Eric Shinseki's goal of having claims adjudicated within 125 days and 98 percent accuracy, The American Legion fears that the focus upon achieving the arbitrary objective will come at a cost to veterans. Through Section 205, VA will be compelled to reveal the stress within the regional offices and

[5] Ibid

can meet the needs of the veterans throughout the nation. The American believes strongly in an increased level of transparency within the Veterans Benefits Administration[6]; through passage of this bill, VA will be required to release its needs to Congress and increase its transparency.

The American Legion supports the 21st Century Veterans Benefits Act

Draft Legislation: *Veterans Compensation Cost-of-Living Adjustment Act of 2015*

To provide for an increase, effective December 1, 2015, in 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, and for other purposes.

This draft bill would provide a Cost of Living Allowance (COLA) effective December 1, 2015. Disability compensation and pension benefits awarded by the Department of Veterans Affairs (VA) are designed to compensate veterans for medical conditions due to service or who earn below an income threshold. With annual increases to costs of living, it is only appropriate that veterans' benefits increase commensurate with those increases.[7]

The American Legion supports this draft bill

Military Compensation and Retirement Modernization Commission Legislative Proposals Regarding Commission Recommendations 11 and 12

Section 1101: Montgomery GI Bill Sunset

The American Legion supports this provision, but Congress should ensure that any inconsistency between MGIB-AD and the Post 9/11 GI Bill are identified and rectified prior to merging the two education programs. Service members should not lose any portion of these educational programs due to the merger. Where the Post 9/11 GI Bill does not provide the same services as other educational programs, it should be amended to do so. Also, full or partial refund of the $1,200 servicemembers paid to become eligible for MGIB should be made.

Two examples of inconsistency between the MGIB-AD and Post 9/11 are as follows:

(1) Currently Title 38 U.S. Code Chapter 33, subchapter II – Educational Assistance (§§ 3311 – 3319), section § 3315 (c) states the following:

"*The charge against an individual's entitlement under this chapter for payment for a licensing or certification test shall be determined at the rate of one month (rounded to the nearest whole month) for each amount paid that equals*"

The change to chapter 33 should mirror previous Public Law 106-419: Veteran Benefits and Health Care Improvement Act of 2000, section 122 that outlined licensing and certification, and reads as follows:

[6] Resolution No. 128: Increase the Transparency of the Veterans benefits Administration's Claims Processing
[7] Resolution No. 291: Oppose Lowering of Cost-Of-Living-Adjustments

"The number of months of entitlement charged in the case of any individual for such licensing or certification test is equal to the number (including any fraction) determined by dividing the total amount of educational assistance paid such individual for such test 8 *by the full time monthly institutional rate of educational assistance which, except for paragraph (1), such individual would otherwise be paid under subsection (a)(1), (b)(1),(d), or (e)(1) of section 3015 of this title, as the case may be."*

(2) There are schools that do not charge tuition for their student veterans. Some states offer a tuition waiver to their veterans as part of their State Military Benefits. Because a large part of the Post 9/11 GI Bill pays tuition and eligible fees, if you do not have tuition charges, then all you get out of your GI Bill is the housing allowance and book stipend.

If your tuition-free school happens to be in a low cost-of-living area, you may actually make more or at least the same by using the Montgomery GI Bill (MGIB). If you had at least three years of service and go to school full-time taking 12 credits, you would earn $1,426 per month.

Taking that same credit load under the Post 9/11 GI Bill, you would get the book stipend that breaks down to $125.01 per month and your housing allowance. With the housing allowance averaging $1,200 across the United States, there are many places choosing the MGIB would be more beneficial to the veteran. The American Legion wants to ensure student-veterans have access to all of the resources available to them.

Section 1102: Reserve Education Assistance Program Continuing Eligibility and Sunset

The American Legion supports this section, but Congress should ensure that any inconsistencies between Chapter 1607 (REAP) and Chapter 33 (Post 9/11) are identified and rectified prior to the merger of the two programs to prevent any confusion by all stakeholders impacted by this merger, especially, the users of the program.

Section 1103: Tuition Assistance

The American Legion does not support this section. Tuition Assistance (TA) currently may be used by service members to take courses in any area of study. MCRMC recommends restricting TA to professional development courses only, under the rationalization that other areas of study can now be pursued via the Post 9/11 GI Bill. However, The American Legion sees the Post 9/11 GI Bill primarily as a transition tool. DOD should not be encouraging service members to use this valuable transition benefit during service just to cut costs.

Section 1104: Post 9/11 GI Bill Transferability

The American Legion supports extending the time commitment required to obtain the transferability benefit. Again, we see the Post 9/11 GI Bill primarily as a transition tool, but are cognizant of its use as a retention tool. It is well known that the ten year mark is an important decision point in a military career, the halfway mark so to speak. Too many are now dropping out at this point and if transferability would be more advantageous as a retention tool at the ten year mark rather than the six year mark, we see the reason in that.

Section 1105: Sense of Congress Regarding Transferability of Unused Education Benefits to Family Members

We support this section.

Section 1106: Report on Education Attainment

We support this section.

Section 1107: Report on Education Levels of Service Members at Separation

There appears to be an error in this legislative proposal language. Section 1106 already proposes obtaining information on the highest level of education obtained by individuals transferring an education benefit. On our reading, Section 1107 should be proposing obtaining information at separation on the highest level of education attained by a service member prior to separation regardless of whether they transferred the education benefit. In other words, all service members, not just those who transferred. MCRMC Report page 171 says in relevant part:

- *Require report on educational attainment of Service members who transfer their education benefit*: 38 U.S.C. § 3325 should be amended to require reporting of information of the highest level of education obtained by individuals transferring their Post-9/11 GI Bill benefits.
- *Require report on education levels of Service members at separation*: 10 U.S.C. § 1142 should be amended to require that information be obtained at time of separation, on the highest level of education attained by a Service member prior to separating from military service, and that the education levels of separating Service members be reported annually to the Congress.

The second report requirement says nothing about transferability. The American Legion would support a revised Section 1107 which corrected this.

Section 1108: Termination of BAH Payments for Dependents Using Transferred Education Benefits

The American Legion supports terminating BAH payments for child dependents, but has concerns about denying the benefit to spouses, especially those who are caregivers to severely disabled veterans. Serious consideration should be given to whether the different life circumstances of spouses warrants retention of the BAH benefit for them.

Section 1109: Unemployment Insurance

In general, The American Legion supports the idea of prohibiting individuals from receiving Post 9/11 GI Bill benefits simultaneously with unemployment benefits. However, The American Legion does not support having this section applied to all individuals with a board brush. This section should apply only to individuals who are eligible for *full* Post 9/11 GI Bill benefits. Many National Guard (NG) and Reservists however do not have the full benefit and get only a partial

BAH allowance. You may have NG or reservists who were unemployed at activation, their jobs may have been eliminated, or may have been denied reemployment. The recommendation in its current form would penalize those individuals who through no fault of their own need access to UCX while using their Post 9/11 GI Bill benefits. Furthermore, because only their activated deployment time "counts" towards accruing GI Bill benefits under the Post 9/11 GI Bill, many NG and reservists do not merit the full 100% of GI Bill benefits and in addition to their more difficult employment situation also face a greater financial burden when pursuing their GI Bill education. The American Legion recommends an exception for NG and Reservists in this recommendation.

Section 1110: Reporting on Student Progress

This recommendation is already being conducted pursuant to PL 112–249, the Improving Transparency of Education Opportunities for Veterans Act of 2012, and Executive Order 13677, Establishing Principles of Excellence for Education Institutions Serving Service Members, Veterans, Spouses, and Other Family Members. The American Legion believes another reporting requirement to be conducted by the Departments of Defense and VA would only hamper ongoing collection of data, and harm current gains in the collection of the information stated above.

Sections 1201-1204: Recommendation 12

The American Legion believes that these recommendations are good, common sense ideas, and would further the goal of ensuring that servicemembers are able to transition smoothly and successfully into civilian lives and careers, and that veterans are well cared for should they require employment assistance. We would, however, recommend that Congress consider adding the Department of Education (DOE) and the Small Business Administration (SBA) to those who review the TAP curriculum, given that they contribute important content to the curriculum, and they maintain expertise in those areas covered by that content.

Furthermore, while The American Legion wholly agrees with the recommendation that Congress amend the relevant statutes to permit state departments of labor to work directly with state veterans affairs, we would add that those departments should work together to meet or exceed the federally mandated priority of service for eligible veterans. This would entail ensuring that current practices incentivize DVOPs and LVERs to increase the level of service they provide, rather than getting bogged down in processes or manipulating numbers.

Concurrent with MCRMC recommendations, we find that the model employed by Texas – consolidating veterans' employment services within a state veterans' commission – is effective in addressing the needs of veterans. Texas currently enjoys the lowest unemployment rate for veterans of any state in the union. We feel that this is demonstrative of what is possible when there is a single point of entry for veterans' benefits and services administered by a state agency, and we encourage Congress to examine that model and consider touting it as an example to other states that are looking to effectively serve their veteran population.

Recently Wisconsin petitioned DOL-VETS for the permission to follow Texas in consolidation services and taking a holistic approach to providing services for veterans. DOL-VETS denied Wisconsin's request two years after the request was submitted citing a May 2010 DOL OIG report that looked at the Texas Veterans Commission's (TVC) performance in 2008 when veterans employment programs was just undergoing consolidation. However, these six months in 2008 were not indicative of TVC's record overall. Performance of TVCs employment programs and services have been on an upward trajectory since 2008.

A more recent study was completed by DOL's Chief Evaluation Office dated January 30, 2015. The study "Veterans and Non-Veterans Job Seekers: Exploratory analysis of services and outcomes for customers of federally-funded employment services." The data used in the study encompassed nine months from January 2011- March 2013, prior to the JVSG reconstruction.[8]

The report cites Texas's veterans are entering employment at much higher rates than the national average (62%). However, non-veterans entered employment rates are similar to the national average. Texas veterans also retained employment at higher rates than the national average. (81%)

TVC holds them self to a higher standard in ensuring that veterans are triaged by trained professionals (not a receptionist, survey or online tool) for employment services. Further, before the JVSG reconstruction. TVC provided their own resources to ensure that all veterans were assigned a veteran caseworker.

The American Legion believes that a holistic approach to providing services to veterans is worthy of replicating at the state level; States should have the ability to run the JVSG program through an agency the Governor believes will best support the veteran. Further, we believe that a veteran has earned the right to be seen by a veteran, regardless of whether it is an issue involving claims, education, health care or employment. If a veteran walks into an American Jobs Center and wants to speak to a DVOP, then he or she should be allowed to do that.

Discussion draft

To amend title 38, United States Code, to modify the treatment under contracting goals and preferences of the Department of Veterans affairs for small businesses owned by veterans, to carry out a pilot program on the treatment of certain applications for dependency and indemnity compensation as fully developed claims for other purposes.

Section 101: Modification of treatment under contracting goals and preferences of Department of Veterans Affairs for small businesses owned by veterans of small businesses after death of disabled veteran owners

The American Legion supports Section 101

[8] U.S. Department of Labor Training and Employment Guidance Letter (TEGL) 19-13, April 10, 2014.

Section 102: Treatment of businesses after deaths of servicemember-owners for purposes of Department of Veterans Affairs contracting goals and preferences

The American Legion supports Section 102

Section 201: Medical Examination and opinion for disability compensation claims based on military sexual trauma

Section 201 calls for VA to provide a report regarding the number of examinations and opinions provided VA medical providers pertaining to military sexual trauma (MST). Quite simply, MST can cause long-lasting, devastating effects upon victims of sexual assault. Questions pertaining to the frequency of MST exist within Department of Defense; however, The American Legion asserts a frequency of one is one too many.

The American Legion believes there is a need for an examination of "the underreporting of MST and to permanently maintain records of reported MST allegations, thereby expanding victims' access to documented evidence which is necessary for future VA claims."[9]

The American Legion supports section 201

Section 202 – Report on Standard of Proof for Service-Connection of Mental Health Conditions Related to Military Sexual Trauma

For many veterans suffering with medical conditions associated with military sexual trauma (MST), the unfortunate reality is that no documentation exists regarding the incident. Fear and embarrassment are just some of the myriad reasons why servicemembers do not report the incident either to their chain of command or local law enforcement.

Due to this fact, little if any documentation exists within the veteran's service treatment records. Upon discharge the veteran is left with little proof of the incident. VA has relaxed regulations pertaining to MST; however, the implementation and usage of the relaxed regulations is varied based upon VA regional office.

The American Legion supports a full understanding of how MST claims are adjudicated and urges "VA to conduct an analysis of MST claims volume, assess the consistency of how these claims are adjudicated, and determine the need, if any, for additional training and testing on processing of these claims."[10]

The American Legion supports section 202

Section 203: Reports on claims for disabilities incurred or aggravated by military sexual trauma

[9] Resolution No. 67 "Military Sexual Trauma"
[10] Resolution No. 67: Military Sexual Trauma

The long-term effects of MST can be devastating. Beyond any physical conditions that may manifest due to MST, the psychological effects can continue through the veteran's life. VA's PILOTS database provides numerous studies indicating the relationship between posttraumatic stress disorder (PTSD) and physical conditions.

Stating MST may cause PTSD or other mental health conditions is an oversimplification of the issue. Studies have related PTSD to many physical medical conditions, to include cardio-vascular conditions. The American Legion supports identifying conditions associated with MST to ensure veterans receive the benefits they have earned.[11]

The American Legion supports section 203

Section 204: Pilot program on treatment of certain applications for dependency and indemnity compensation as fully developed claims

The American Legion has invested significant time and funding to ensure that VA's Fully Developed Claims (FDC) program is successful. As the nation's largest VSO, we recognized that to ensure veterans receive benefits in a more expeditious manner; we would inherit some of the responsibilities previously held by VA to further assist the veteran. We had a team of subject matter experts travel the nation, speak with VA regional office employees, veterans, and service officers to ensure that FDC was viable. We are proud to report that over 40 percent of our claims are submitted via FDC.

We welcome the idea of having benefits reach veterans in a more expeditious and accurate manner. Additionally, as we assist VA with the implementation of FDC, we offer our services to assist in implementing FDC for DIC claimants. The American Legion calls for VA to create an efficient method to adjudicate claims; having FDC available for DIC claimants would move towards meeting that objective.[12]

The American Legion supports section 204

Section 205: Review of determination of certain service in Philippines during World War II

The American Legion has no position on section 205

Section 206: Reports on Department Disability medical examinations and prevention of unnecessary medical examinations

Many veterans will submit private medical evidence to support their claims for disability benefits. For veterans that require additional medical review or do not provide a statement from a medical professional linking a medical condition to military service, VA provides compensation and pension (C&P) examinations to determine the linkage or severity of medical conditions.

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[11] Ibid

[12] Resolution No. 28: Department of Veterans Affairs Appeals Process

The American Legion has conducted Regional Office Action Review (ROAR) visits for approximately 20 years. Through these visits The American Legion determined and reported to Congress that VA has had instances of scheduling unnecessary and duplicative examinations despite the necessary evidence existing to grant the benefit. This adds further complication to an already complicated process.

The American Legion understands that there are occasions where a veteran would need a second examination after submitting a medical nexus statement. If a private medical provider did not use a VA disability medical questionnaire, then it stands to reason that the provider may not have conducted the necessary tests to accurately rate the veteran.

Unfortunately, these instances did not get noticed solely during ROAR visits. They are noticed far too frequently by American Legion representatives at the Board of Veterans' Appeals. There have been occasions where veterans have been seeking total disability based on individual unemployability (TDIU) benefits. Meanwhile, the veteran had previously been granted Social Security disability benefits for a condition incurred in service and service connected by VA. Despite enduring medical examinations for Social Security purposes and having the benefit granted by the agency, VA would conduct their own examinations to determine the veteran's employability. Some in the veteran community refer to this needless development of disability claims as "developing to deny."

Through the reporting required by this section, VA would be compelled to release data regarding acceptable clinical evidence and increase transparency regarding the manner claims are developed and ultimately adjudicated. Having Congressional and VA focus upon the manner that private medical evidence is treated, The American Legion believes that the treatment of the evidence received from private medical providers would receive higher consideration. Moreover, this could expedite the adjudication process and increase the overall transparency of the claims process.[13]

The American Legion supports section 206

Section 301: Department of Veterans Affairs study on matters relating to burial of unclaimed remains of veterans in national cemeteries

This section aims to help dignify veterans who have passed away but whose remains are still unclaimed. Up until now, the sole means for dignified burial for these forgotten heroes has been private groups, such as the Missing in America Project (MIAP), a non-profit organization launched nationwide in 2007 that has been supported by The American Legion in their efforts to bring honor to all of America's fallen. This provision would enable VA support of this mission, directing VA to: Conduct a study on matters relating to the interring of unclaimed remains of veterans in national cemeteries under the control of the National Cemetery Administration by estimating the number of unclaimed remains; assessing the effectiveness of procedures of the VA for working with persons or entities having custody of unclaimed remains to facilitate interment of unclaimed remains of veterans in national cemeteries; assessing state and local laws that affect the ability of VA to indentify, claim and inter these remains; recommend appropriate

[13] Resolution No. 128: Increase the Transparency of the Veterans benefits Administration's Claims Processing

legislative action. All of America's veterans deserve to be remembered for eternity with dignity and honor.[14]

The American Legion supports section 301

Section 401: Honoring as veterans certain persons who performed service in the reserve components of the Armed Forces

This legislation would provide a purely honorific title of veteran for those individuals who completed appropriate service in the National Guard and Reserve components of the Armed Forces, but for whatever reason do not have active duty service sufficient to bestow a title of veteran subject to the conditions provided for under the normal titles of the United States Code which assign veteran status for the purposes of benefits. This bill would not provide any benefit beyond the title of 'veteran' and is stated to be intended purely as a point of honor.[15]

The American Legion supports section 401

Conclusion

As always, The American Legion thanks this committee for the opportunity to explain the position of the 2.3 million veteran members of this organization. Questions concerning this testimony can be directed to The American Legion Legislative Division (202) 861-2700, or wgoldstein@legion.org

[14] Resolution No. 24: Identify, Honor, and Inter Unclaimed Cremated Remains of Veterans
[15] Resolution No. 10: Support Veteran Status for National Guard and Reserve Servicemembers