**STATEMENT OF**
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**THE AMERICAN LEGION**
**BEFORE THE**
**SUBCOMMITTEE ON DISABIITY ASSISTANCE AND MEMORIAL AFFAIRS**
**COMMITTEE ON VETERANS' AFFAIRS**
**UNITED STATES HOUSE OF REPRESENTATIVES**
**ON**
**H.R. 3047, H.R. 3249, H.R. 3286, H.R. 3415, and H.R. 1137**

**NOVEMBER 3, 2007**

Mr. Chairman and Members of the Subcommittee:

Thank you for this opportunity to present The American Legion's views on these various bills. The American Legion commends the Subcommittee for holding a hearing to discuss these important and timely issues.

**H. R. 3047**
**To amend title 38, United States Code, to improve the processing of claims for benefits administered by the Secretary of Veterans Affairs, and for other purposes.**

The American Legion is pleased to support the overall intent of this legislation. Specifically, we fully support allowing a deceased veteran's survivor to continue the claim upon the veteran's death rather than the Department of Veterans Affairs (VA) terminating the claim and requiring the survivor to file a separate claim for accrued benefits, as is the current practice. Not only does the current practice cause duplication of effort and add to the existing claims backlog by requiring a "new" claim to be filed, it imposes an arbitrary 1-year deadline for the filing of such a claim. This deadline is often missed by grief stricken family members who were either unaware of the deadline or were not emotionally ready to go forward with the claims process within a year of their loved one's death. This legislation provides a common sense approach that allows VA to avoid "reinventing the wheel" by not having to start over from scratch with a new claim and, at the same time, provides the deceased veteran's survivors with a more user-friendly and less complicated claims process.

The American Legion also agrees with the portion of this bill that would require VA to contract with a private entity to evaluate VA's quality assurance program. Receiving input on VA's training and performance assessment programs from an independent entity would undoubtedly provide new insight on how to enhance the current processes.

Regarding proposed Section. 4, "Electronic Processing of Claims For Benefits Administered by Secretary of Veterans Affairs," The American Legion welcomes innovative ideas regarding the processing of benefits claims and does not oppose the concept of electronic claims processing.

We were, however, initially concerned that this portion of the proposed legislation appeared to be calling for the centralized or consolidated processing of such claims, a concept The American Legion has generally opposed. It is now our understanding that the intent of this portion of the legislation is to establish a pilot program and is not intended to create a centralized VA claims processing system. It is also our understanding that this point will be clarified with the appropriate amendment language during the markup process. This being the case, The American Legion is not opposed to the creation of a pilot program for electronic claims processing.

Lastly, The American Legion has been a vocal critic of the "End Product" work measurement system, which emphasizes and awards quantity of work produced rather than quality, currently used by VA. Unfortunately, this work measurement system essentially pits the interests of the claimant against the needs of VA managers. The conflict is created because the regional office managers seeking promotion and bonuses have a vested interest in adjudicating as many claims as possible in the shortest amount of time. This creates a built-in incentive to take shortcuts so that the End Product can be taken. The system, in effect, rewards regional offices for the gross amount of work they report, not whether the work is done accurately or correctly. Often, the emphasis on production results in many claims being prematurely adjudicated. Premature adjudication of claims has been a common problem identified during American Legion quality review visits at VA regional offices. These problems are caused (in part) by not taking the time to adequately develop the claim, not taking the time to identify all relevant issues and claims, and not taking the time to order a new VA examination when the previous VA examination is obviously inadequate. Such errors are often overshadowed by the desire of VA managers to claim quick End Product credit. The Board of Veterans' Appeals (BVA) combined remand and reversal rate (56 percent) for Fiscal Year 2007 is arguably a direct reflection of the greater emphasis placed on production over training and quality assurance by the VA regional offices.

Veterans Benefits Administration (VBA) management has been reluctant to establish a rigorous quality assurance program to avoid exposing the longstanding history of the manipulation of workload data and policies that contribute to poor quality decision-making and the high volume of appeals. VBA's quality-related problems and the fact that little or no action is being taken to prevent or discourage the taking of premature End Products have been longstanding issues for The American Legion. The current work measurement system, and corresponding performance standards, are used to promote bureaucratic interests of regional office management and VBA rather than protecting and advancing the rights of veterans. The End Product work measurement system, as managed by VA, does not encourage regional office managers to ensure that adjudicators "do the right thing" for veterans the first time. For example, denying a claim three or four times in the course of a year before granting the benefit sought allows for a total of five end product work credits to be counted for this one case, rather than promptly granting the benefit and taking only one work credit.

In the view of The American Legion, the need for a substantial change in VBA's work measurement system is long overdue. A more accurate work measurement system would help to ensure better service to veterans. Ultimately, this would require the establishment of a work measurement system that does not allow work credit to be taken until the decision in the claim becomes final, meaning that no further action is permitted by statute whether because the claimant has failed to initiate a timely appeal or because the BVA rendered a final decision. We

are pleased that this legislation would mandate such overdue changes to VA's work credit system and we fully support this provision. We are confident that removing the incentive for producing poor quality decisions by rewarding quality of work rather than quantity will result in an increase in accurate decisions, as well as claimant satisfaction, and will ultimately reduce the overall number of appeals.

**H. R. 3249**

**To amend title 38, United States Code, to increase burial benefits for veterans, and for other purposes.**

In general, this bill seeks to:

1. Increase burial benefits for funeral expenses for eligible veterans from $300 to $1,270.
2. Increase burial benefits for funeral expenses for veterans who die as a result of a service-connected disability from $2,000 to $4,100.
3. Increase the plot allowance from $300 to $745.

The American Legion fully supports this legislation. The American Legion would also like to see that the Department of Veterans Affairs be required to annually adjust burial allowances and the burial plot allowance for inflation by tying the increased allowances to the Consumer Price Index.

**H. R. 3286**

**To amend title 38, United States Code, to reduce the period of time for which a veteran must be totally disabled before the veteran's survivors are eligible for the benefits provided by the Secretary of Veterans Affairs for survivors of certain veterans rated totally disabled at time of death.**

The American Legion fully supports this legislation as it would eliminate current differences between various categories of veterans, for the purpose of survivors establishing entitlement to dependency and indemnity compensation (DIC) based on the length of time the veteran was rated totally disabled for service-connected disability immediately preceding death. The current differences between certain categories of veterans are arbitrary and this legislation, if enacted, would correct the inequities resulting from current statute by establishing a fair and consistent one-year period for all totally disabled veterans (due to service-connected disabilities) for the purpose of eligible survivors establishing entitlement to DIC.

**H. R. 3415**

**To amend title 38, United States Code, to authorize the placement in a national cemetery of memorial markers for the purpose of commemorating servicemembers or other persons whose remains are interred in an American Battle Monuments Commission cemetery.**

The American Legion has no position on this bill. The American Legion does support the establishment of additional national and state veterans' cemeteries and columbaria wherever a need for them is apparent. Congress should provide required operations and construction

funding to ensure VA burial in a national or state veterans' cemetery is a realistic option for veterans and their eligible dependents.

**H. R. 1137**

**To amend title 38, United States Code, to increase to $2,000 the amount of the Medal of Honor special pension under that title and to provide for payment of that pension to the surviving spouse of a deceased Medal of Honor recipient.**

Since the enactment of the Medal of Honor special pension, Congress has seen fit to make increases to it in an effort to reflect the increased cost-of-living over time. Historically, The American Legion has supported such increases in the past. The American Legion therefore supports the intent of the bill to increase the amount of the Medal of Honor special pension to $2,000.

The only concern that The American Legion has, as with all veteran's benefits, is that the special pension not be funded at the expense of other veterans' benefits.

**CONCLUSION**

Thank you again, Mr. Chairman, for allowing The American Legion to present comments on these important bills. The American Legion welcomes the opportunity to work closely with you and your colleagues on these and any other issues that concern veterans in the future.

This concludes my testimony.