Legislative Point Paper
Concurrent Receipt

BACKGROUND

Currently, some 50,000 military retirees with combat-related injuries qualify for retirement pay for their service from the Department of Defense, and for compensation for service-connected disabilities from VA. However, those forced to medically retire under Chapter 61 and those with a 40% or lower VA disability rating will have their military retirement pay reduced by the amount of VA disability compensation received.

Retirement benefits and disability compensation are two separate benefits, provided for two separate reasons, and should never be conflated. The American Legion stands with disabled veterans and urges Congress to lift this denial of retirement benefits. The Major Richard Star Act would repeal this draconian offset for those veterans who are medically retired due to injuries sustained in combat allowing them to receive both their retirement pay and their disability compensation.

KEY POINTS

- Servicemembers who retire after 20 or more years with at least a 50% disability receive both DOD retirement pay and VA disability compensation. Servicemembers who retire after 20 or more years with less than 50% disability, as well as Service members medically retired under Chapter 61 have their military retirement reduced.
- Despite bipartisan support in both the House and Senate, the Major Richard Star Act was not brought to a vote in the 117th Congress.

WHAT CONGRESS CAN DO

- Mandate Pass legislation that will provide offset relief to veterans retired from the military (the Major Richard Star Act).

RELEVANT RESOLUTIONS

- Resolution No. 224 (2016): Support for Concurrent Receipt of Military Retirement Pay and VA Disability Compensation.[1]

[1] The American Legion Resolution No. 118 (2016): *Support for Concurrent Receipt of Military Retirement Pay and VA Disability Compensation*

Legislative Point Paper
Ensure the Coast Guard is Paid

BACKGROUND

Defending our nation comes with the obligation for the U.S. government to adequately fund the Department of Defense (DOD), especially during government shutdowns. While the U.S. Coast Guard is not a part of DOD, its role involving national security on our nation's borders and around the world is equally vital to the work our military performs. The U.S. Coast Guard provides law enforcement, port security, and maritime and coastal safety, while too often operating outdated equipment and vessels.

Organized under the Department of Homeland Security, more than 50,000 members of the U.S. Coast Guard operate a multi-mission, interoperable fleet of 259 Cutters, 200 fixed and rotary-wing aircraft, and over 1,600 boats and vessels. Previous government shutdowns caused members of the Coast Guard to temporarily lose pay and benefits, resulting in unnecessary stress, financial problems, significant degradation in readiness, and an increased threat to the nation. Despite not being paid, they would continue to work because their jobs are a matter of national security. During the 2019 government shutdown, The American Legion stepped up and issued more than $1 million in expedited Temporary Financial Assistance grants to Coast Guard personnel and their families.

The American Legion believes that the Coast Guard's mission is essential to national security, and its personnel should never go without pay. The Coast Guard is also in critical need of significant modernization to keep pace with today's emerging threats to the nation.

KEY POINTS

- The U.S. Coast Guard is the only branch of the Armed Forces that does not fall under DOD. During federal government shutdowns, Coast Guard personnel are more exposed to working without pay.
- The Coast Guard is uniquely responsible for maritime security, search and rescue, port security, law enforcement, and military readiness with jurisdiction in domestic and international waters. American presidents have transferred Coast Guard assets to the Department of the Navy during almost every conflict. The Coast Guard should be treated and funded accordingly.
- The Coast Guard is in the midst of the largest recapitalization effort in its history – an effort critical to rebuilding the service branch. However, until recapitalization is fully

completed, servicemembers must continue to conduct missions with legacy assets, some of which are over 50 years old and require parts that are either no longer made or readily available.

WHAT CONGRESS CAN DO

- Approve and continue to increase the Coast Guard's budget annually to meet national security requirements and funding priorities such as restoring readiness and recapitalizing legacy assets and infrastructure.
- Pass legislation that would ensure pay and allowances for members of the Coast Guard during a funding gap.

RELEVANT RESOLUTIONS

- Resolution No. 23 (2016): Support for the Department of Homeland Security and Coast Guard.[1]

[1] The American Legion Resolution No. 23 (2016): *Support for the Department of Homeland Security and Coast Guard*

AMERICAN LEGION

Legislative Point Paper
The Future of VA Healthcare

BACKGROUND

The future of Department of Veterans Affairs (VA) healthcare is as a hybrid system consisting of inpatient and outpatient care, telehealth, and community care. Ensuring VA is equipped to meet the unique needs of an increasingly diverse veteran population requires VA fully leverage all healthcare modalities and a seamless transition between them. Modernizing electronic health records, veteran-centric access standards, and a transparent online scheduling system for VA-provided care and community care alike are key to ensuring veterans receive the benefits they deserve. The means by which VA delivers care may change, but one thing cannot – VA must deliver the best care anywhere to our nation's veterans.

A critical component of modernizing VA healthcare is investing in its infrastructure. The average age of a VA medical facility is approaching 60 years old, while the median age of a private sector medical facility is approximately 11 years old. The changing nature of healthcare over the last 60 years, combined with shifting veteran demographics, has outpaced VA's ability to realign its infrastructure according to patient demand. While the authorization of 31 major medical leases in Section 702 of *the PACT Act* was a critical first step in addressing VA's infrastructure demands, more must be done.

Another cornerstone of VA healthcare modernization is the Electronic Health Record Modernization (EHRM) Program. It is expected to take ten years to implement across all VA facilities, with projected completion in Fiscal Year 2028. The acquisition of the Cerner system has been riddled with challenges. For example, VA staff reported difficulties adjusting to the new systems due to a lack of proper training. In addition, it was discovered the new system created an "unknown queue," a problematic feature causing referral orders to effectively go missing at VA.

Moreover, according to the Office of Inspector General's (OIG) audit team, VA lacked a reliable integrated master schedule consistent with scheduling standards, which increases the risk of missing milestones and delaying the delivery of a system to support timely quality care to veterans. Scheduling delays extending the program are also likely to result in $1.95 billion in annual cost overruns and may undermine VA's other modernization efforts on supply chain and financial management systems. More must be done to rectify these issues.

KEY POINTS

- Modernizing VA's healthcare system infrastructure and technological capabilities is an investment in veterans and the future of VA.
- Over the next ten years, VA will move to a new EHR system that links VA, DOD, and community healthcare providers to patient records while unifying all VA facilities under one system.
- According to VA OIG, serious issues have plagued the EHRM program, which have resulted in patient safety harm and diminished VA's ability to meet the standards of providing high-quality and reliable healthcare.

WHAT CONGRESS CAN DO

- Oversee the implementation of *the VA Electronic Health Record Transparency Act of 2021* to ensure VA is reporting quarterly on the costs of EHRM, performance metrics, and outcomes of the program.
- Hold VA accountable to deadlines, contracts, and acquisition milestones for various IT system upgrades and installations.
- Require VA to maintain a publicly available website on patient wait times, facility performance, and staff vacancy information for each VAMC.
- Fully fund VA infrastructure accounts to ensure they can optimize their infrastructure to meet the demands of today's veteran population.

RELEVANT RESOLUTIONS

- Resolution No. 83 (2016): Virtual Lifetime Electronic Record.[1]
- Resolution No. 19 (2021): Improving Telehealth Access.[2]
- Resolution No. 10 (2022): Care for the LGBTQ+ Veteran Community.[3]
- Resolution No. 13 (2022): Standards and Training for Community Care Providers.[4]

[1] The American Legion Resolution No. 83 (2016): *Virtual Lifetime Electronic Record*
[2] The American Legion Resolution No. 19 (2021): *Improving Telehealth Access*
[3] The American Legion Resolution No. 10 (2022): *Care for the LGBTQ+ Veteran Community*
[4] The American Legion Resolution No. 13 (2022): *Standards and Training for Community Care Providers*

Legislative Point Paper
GI Bill for Honorable Service

BACKGROUND

Eligibility for most V.A. benefits, including compensation, pension, home loan, and insurance, requires that a veteran's character of discharge or service be under other than dishonorable conditions (e.g., honorable, under honorable conditions, general). However, the Post-9/11 GI Bill has an additional requirement that a servicemember receive an "honorable discharge." Even if the character of service is "general under honorable conditions," the Post-9/11 GI Bill remains the only benefit out of reach for veterans.

There is no historical precedence for this status quo. The matter over GI Bill for general discharges was debated vociferously on the Senate floor prior to the passage of the 1944 Servicemembers Readjustment Act, resulting in a unanimous committee vote to uphold GI Bill for all discharges other than dishonorable. It was only when the Montgomery GI Bill was passed that education benefits were cut back to only honorable discharges.

The American Legion does not believe there is a compelling reason to have deviated from the initial intent of the GI Bill being for all discharges other than dishonorable. The administrative conditions that result in a general discharge do not negate the honorable service that these servicemembers have provided to our country. It is time to finally correct this historical inequity by granting these servicemembers the same education benefits we provided for our World War II veterans and those who served before the Montgomery GI Bill was enacted.

KEY POINTS

- A 1946 Senate Report on the 1944 GI Bill declared, *"It is the opinion of the Committee that such [discharge less than Honorable] should not bar entitlement to benefits otherwise bestowed unless such offense was... as to constitute Dishonorable conditions."*
- From 2019 to 2021, over 36,000 veterans who separated from the military with a general discharge under honorable conditions did not receive education benefits
- The rate of General discharges has increased from 0.2% (World War II) to 3.9% (Vietnam) to 8.4% (Post-9/11).

WHAT CONGRESS CAN DO

- Correct this statutory incongruity by amending GI Bill eligibility in the U.S. Code to allow those servicemembers who receive a "general under honorable conditions" discharge access to V.A. educational benefits.

RELEVANT RESOLUTIONS

- Resolution No. 20: Amend Title 38, United States Code, to Provide GI Bill Education Benefits for Veterans Receiving a General Discharge Under Honorable Conditions.[1]

[1] The American Legion Resolution No. 20 (2022): *Amend Title 38, United States Code, to Provide GI Bill Education Benefits for Veterans Receiving a General Discharge Under Honorable Conditions*

Legislative Point Paper
Guard & Reserve GI Bill Parity

BACKGROUND

From protecting borders and capitals to delivering pandemic aid and supporting local law enforcement, National Guard and Reserve servicemembers have been increasingly called upon to confront unique challenges. Often, they leave their families and civilian employers for sizable amounts of time, sometimes taking significant pay cuts. Yet despite all we ask of them, too often they are denied a cornerstone benefit of service: the GI Bill.

According to the law as it is currently written, National Guard and Reserve servicemembers only accrue GI Bill entitlements when called to active duty under federal orders. When National Guard and Reserve servicemembers are activated under state orders, they do not accrue eligibility for GI Bill benefits.

This discrepancy was especially apparent during the rush to activations amid the COVID-19 pandemic before a national emergency was declared. The result of these emergency declarations has no bearing on the actual duties the servicemember performs. Those activated for coronavirus relief under the aegis of the national emergency declaration received credit toward GI Bill eligibility. However, those activated under a governor's state of emergency did not. We must discard this arbitrary classification of citizen service. The American Legion believes that every day in uniform counts. National Guard and Reserve servicemembers who get stretched to the limit serving alongside their active-duty counterparts deserve the same GI Bill eligibility. It is past time for Congress to provide it to them.

Many servicemembers may not be aware of which activation they may be mobilizing under and how it affects their benefits:

BENEFITS ELIGIBILITY FOR 32 USC 502(F) MISSIONS				
Benefit	**502(f)(1) (A) Involuntary**	**502(f)(1)(B) Voluntary**	**Involuntary 502(f) in support of (ISO) Presidential Declaration of National Emergency (DNE)**	**Voluntary 502(f) ISO DNE**
Post-9/11 GI Bill 38 USC 3301	No	No	Yes	Yes
Post-9/11 Duration Protection (if study interrupted) 38 USC 3312	No	No	Yes	Yes

Benefit	502(f)(1) (A) Involuntary	502(f)(1)(B) Voluntary	Involuntary 502(f) in support of (ISO) Presidential Declaration of National Emergency (DNE)	Voluntary 502(f) ISO DNE
Education Assistance Protections 10 USC 16131	No	No	No	No
USERRA (service does not count toward 5- year limit) 38 USC 4312(c)(4)(F)	No	No	Yes	Yes
SCRA Protections 50 USC App. §§501-597b (50 USC 3911)	No	No	Yes	Yes
Reserve Income Replacement 37 USC 910	Yes	No	Yes	No
Training & Rehabilitation benefit protections 38 USC 3103(f)	No	No	No	No
Pre-Mobilization Healthcare 10 USC 1074	No	No	No	No

KEY POINTS

- Over the course of the COVID-19 pandemic, all 50 states & U.S. Territories activated servicemembers under 502(f) status to directly support the ongoing national public health crisis.
- When Army Reserve servicemembers are ordered to professional development academies, they are activated under GI Bill-eligible 12301(d) orders. When National Guard servicemembers are ordered to the same professional development academies, they are activated under GI Bill-ineligible 502(f) orders.

WHAT CONGRESS CAN DO

- Pass legislation which would expand access to the Post-9/11 GI Bill by counting every day that a servicemember is activated under Title 32 orders toward benefits eligibility.
- Hold Department of Defense and the National Guard Bureau accountable for providing transparency to National Guard and Reserve servicemembers on their GI Bill eligibility.

RELEVANT RESOLUTIONS

- Resolution No. 24: GI Bill Fairness for Activated National Guard and Reserve Servicemembers[1]

[1] The American Legion Resolution No. 24 (2022): *GI Bill Fairness for Activated National Guard and Reserve Servicemembers*

Legislative Point Paper

Mental Health & Suicide Prevention

BACKGROUND

Throughout their service, veterans defended our country in high-risk, high-conflict, high-stress jobs. As a result of this service, many return home with untreated trauma which manifests into mental health issues. Unfortunately, after departing service and transitioning into civilian life, veterans are also isolated from their military support system. This inadequate transition assistance, the stigma associated with seeking treatment, and inaccessible healthcare resources have consistently led to high rates of veteran suicide.

Compared to civilians, veterans are twice as likely to commit suicide, with approximately 6,000 veterans dying by suicide annually. This has been a concerning issue over the past few years as veterans struggle to deal with the ramifications caused by global conflicts and nationwide crises. As a result, veterans feel progressively hopeless, tired, isolated, and not understood, as indicated by reports of increased substance use and diagnoses of depression and anxiety further aggravating pre-existing health concerns. The American Legion takes this issue very seriously, as evidenced by its new Be the One initiative to reduce the rate of veteran suicide. Along those lines, it is imperative we destigmatize asking for mental health assistance, improve transition assistance and increase access to a variety of traditional mainstream services.

However, many veterans are not willing to subject themselves to the strain of psychotherapies. Complementary and alternative medicine (CAM) therapies are an alternative treatment that may be more comfortable for at-risk individuals. Providing diverse treatment options is critical to ensure veterans have control in recovery. Another factor to consider when addressing mental health issues and suicide prevention is Vet Centers. Vet Centers are critical resources for veterans and their families when in need of counseling and readjustment assistance.

Servicemembers in rural areas face challenges accessing Department of Veterans Affairs (VA) medical centers (VAMC's). Vet Centers, offering mobile units, make it possible for veterans to receive services near home. Other vehicles for suicide prevention include the Suicide Prevention Hotline, known as the Veterans Crisis Line (VCL), VA's mental health mobile applications, lethal means safety training for VA staff and community providers, and increased access to Suicide Prevention Coordinators at VAMC's.

While VA has made efforts in this space, there are limitations in its reach, with less than half of all veterans enrolled in VA. Most alarming, 45 percent of the general population who commit suicide had contact with a primary care provider in the month leading up to death. This suggests current clinical approaches reach a minor portion of at-risk individuals. More must be done to address this issue.

KEY POINTS

- Because of military service, many veterans struggle with mental health challenges which can lead to anxiety, depression, substance use, and suicidal ideation.
- Providing veterans access to alternative therapies like hyper-baric oxygen therapy, stellate ganglion block, and acupuncture allows for a comprehensive approach to mental health and pain management treatment.
- Currently, VA and community care providers provide a plethora of traditional healthcare resources for veterans such as Vet Centers, the Suicide Prevention Hotline, and Suicide Prevention Coordinators at VAMC's.
- Less than half of all veterans are enrolled in VA and 45 percent of the general population who committed suicide had contact with a primary care provider in the month before the death, indicating current approaches reach a small population.

WHAT CONGRESS CAN DO

- Provide oversight on the implementation of *the Solid Start Act*, *the Strong Veterans Act,* and *the Consolidated Appropriations Act of 2023*.
- Expand VA's peer support programs in rural areas and to historically underserved and minority veterans while ensuring services are culturally competent.
- Expand veteran mental health and suicide prevention services through the Veteran Crisis Line, Vet Centers, CAM therapy, and whole health programs.
- Increase VCL resources, mitigate deficiencies in VCL personnel response to veteran callers at-risk of suicide, and ensure staff are held accountable when errors occur.
- Require VA to include cases of self-injury deaths (i.e., overdose, asphyxiation, accidental gunshot, drowning, etc.) in addition to the suicide data report to ensure a veterans cause of death is properly recorded for tracking.

RELEVANT RESOLUTIONS

- Resolution No. 11 (2021): Lethal Means and Suicide Prevention.[1]
- Resolution No. 17 (2022): Continuum of Care and Mental Health Supports.[2]
- Resolution No. 18 (2022): Mental Health Programs for Justice-Involved Veterans.[3]

[1] The American Legion Resolution No. 11 (2021): *Lethal Means and Suicide Prevention*
[2] The American Legion Resolution No. 17 (2022): *Continuum of Care and Mental Health Supports*
[3] The American Legion Resolution No. 18 (2022): *Mental Health Programs for Justice-Involved Veterans*

Legislative Point Paper
Military Quality of Life

BACKGROUND

The U.S. military's greatest resources are individual servicemembers and their families. Without highly qualified and committed men and women, even the most sophisticated weaponry will not provide the deterrent force necessary to defend our nation. Factors that contribute to quality-of-life include proper compensation, equal opportunities for career development, appropriate housing, quality healthcare, reasonably priced commissaries, and access to affordable day care. Service in the military comes with frequent risks and dangers. However, an individual servicemember's or family's welfare should never be compromised by the loss or degradation of services owed to them.

The future closures and downsizing of Department of Defense (DOD) military treatment facilities and clinics and the reduction of access to more than 155,000 military families, retirees, and DOD civilian employees raises concerns that these changes put individuals, their coworkers, and their families at risk. The move seeks to transition care from on-base clinics to off-base community care while hospitals aim to prioritize treatment for active-duty personnel. While there is concern that these changes could negatively impact TRICARE recipients, details regarding the logistics of the healthcare transition at overseas installations remain much more unclear. For example, last year Yokosuka Naval Base, homeport of the U.S. 7th Fleet, became the first installation to limit civilian employees to space-available appointments for most healthcare needs, while being encouraged to seek Japanese healthcare providers for routine health maintenance. The American Legion is concerned about these effects on readiness, recruitment, and retention of the civilian workforce which supports the U.S. mission.

Privatized military housing continues to be a problem for families as contracted companies struggle to provide quality housing. Military families complain of substandard housing, exposure to potentially toxic substances such as lead paint and mold, insect and rodent infestations, as well as issues involving poor maintenance practices. Furthermore, water contamination issues on military installations and naval vessels have recently surfaced, causing concerns about access to freshwater for military families in communities such as those associated with the Red Hill Bulk Fuel storage facility in Honolulu, Hawaii.

A recently settled suit by the Department of Justice held one private military housing company liable for $65 million dollars in damages in a scheme to defraud the U.S. military after it was discovered the company lied about repairs made to military housing facilities while still collecting performance incentive fees paid the military. Regrettably, a recent Government Accountability Office report found that DOD oversight of military privatized housing remains inadequate to ensure that military families have suitable housing.

Prior to the COVID-19 pandemic, not all military families had adequate or timely access to installation childcare providers, due to a shortage of facilities and lengthy waiting lists. Today, the problem persists even with more facilities. The DOD issues orders and directs military members to move globally, so it must seek new ways to mitigate and reduce the problem with access to childcare.

According to "Feeding America," the nation's largest hunger-relief charity, as many as 24 percent of active-duty servicemembers have issues with food insecurity and providing for their families. This issue primarily impacts junior enlisted servicemembers between the ranks E-1 through E-4, especially those with families residing within high cost-of-living areas. A systematic review and frequent adjustments to quality-of-life benefits can ensure servicemembers are focused on their duties rather than being concerned for their families' health and welfare.

The American Legion believes that Congress and the DOD must appropriately prioritize quality- of-life standards for servicemembers and their families. Inflationary pressures resulting from the pandemic and the war in Ukraine has led to significant increases in the cost of living. Funding for military pay, benefits, and military quality-of-life programs must be adjusted accordingly. Moreover, barriers to quality-of-life services offered to servicemembers and their families negatively impact the retention and recruitment numbers of our armed forces.

KEY POINTS

- DOD considers childcare services a quality-of-life benefit, and DOD officials have indicated that the primary reason for providing childcare services is to enhance force readiness.
- According to DOD, 10 percent of families live on-base, in substandard government-owned military housing that is often dilapidated, too small, and lacking in modern facilities. In light of the recent lawsuit regarding mismanagement by privately owned military housing, concerns about companies' abilities to provide quality, safe housing continue.
- Food insecurity increasingly threatens individual readiness and the ability for military commands to deploy at a moment's notice.

WHAT CONGRESS CAN DO

- Pass legislation that would expand financial assistance to servicemembers for childcare, increase access through new agreements with private and public.

Legislative Point Paper

PACT Act: Implementation & Oversight

BACKGROUND

In August 2022, after mounting congressional and grassroots efforts, the Sergeant First Class Heath Robinson Honoring our Promise to Address Comprehensive Toxics (PACT) Act of 2022 was signed into law. The American Legion applauds Congress for passing this legislation which represents the largest expansion of services and benefits to toxic-exposed veterans in more than 30 years. Now, approximately five million newly eligible toxic-exposed veterans will have access to Department of Veterans Affairs (VA) care and benefits they need, deserve, and have earned. Shortly after the bill's signing, VA accelerated the timeline for veterans to receive their toxic-exposure benefits by implementing presumptive conditions that became effective August 10, 2022, instead of phasing it in. Additionally, VA noted they would be expediting benefits processing for veterans who are terminally ill, have cancer, are over the age of 85, are experiencing homelessness, and those who are Medal of Honor and Purple Heart recipients. The American Legion applauds VA's initial proactive response to implementation.

While the signing of the PACT Act is an extraordinary achievement, there is a long road ahead as this legislation is implemented - and Congressional oversight must remain transparent to the public and beneficial to the veteran. Particularly, as it pertains to Title II procedures to determine presumptions of service-connection based on toxic exposure; annual notices and opportunities for public comment and a formal evaluation of recommendations; oversight of Title IX mandates to improve VA workforce and address the forthcoming claims increase; and the establishment of a national rural recruitment and hiring plan for the Veterans Health Administration (VHA) that ensures the unique needs of rural veterans are taken into consideration.

VA estimates there will be approximately six to seven million new disability claims filed as a result of eligibility expansion under the PACT Act and anticipates the claims backlog will increase to about 450,000 by October 2023. While this may seem like a daunting task, VA has managed to reduce significant claims backlogs previously. In March 2013, the number of backlogged claims exceeded 630,000, and VA gradually reduced the number to about 68,000 by January 2020. The efforts put forth by the Veterans Benefits Administration (VBA) workforce to reduce previous claims backlogs in the past are admirable, but a substantial backlog of hundreds of thousands of claims due to PACT Act implementation is not acceptable. It is imperative VA fully leverage the resources made available in the

PACT Act and continue the modernization of VBA information technology systems, as well as the hiring of additional employees to ensure veterans claims are adjudicated in a timely manner.

KEY POINTS

- In August 2022, the *Sergeant First Class Heath Robinson Honoring our Promise to Address Comprehensive Toxics (PACT) Act of 2022* was signed into law.
- Approximately five million newly eligible toxic-exposed veterans will have access to VA care.
- VA accelerated the timeline for veterans to receive their toxic-exposure benefits by implementing presumptive conditions that became effective August 10, 2022, instead of phasing it in.
- VA is expediting benefits processing for veterans who are terminally ill, have cancer, are over the age of 85, are experiencing homelessness, and those who are Medal of Honor and Purple Heart recipients.
- VA estimates approximately six to seven million new disability claims filed as a result of eligibility expansion under the PACT Act and anticipates the claims backlog will increase to about 450,000 by October 2023.

WHAT CONGRESS CAN DO

- Comprehensively oversee the implementation of the PACT Act.
- Require VA to report to Congress on the internal statistics they have collected on PACT Act-related claims pertaining to approved and denied claims, benefits exam quality, length of claims application from start to finish, and quality of care.
- Fully support VBA by providing the funding necessary to counter the looming claims backlog.

RELEVANT RESOLUTIONS

- Resolution No. 35 (2016): Agent Orange.[1]
- Resolution No. 118 (2016): Environmental Exposures.[2]
- Resolution No. 11 (2018): Agent Orange and Kidney Disease.[3]
- Resolution No. 19 (2018): Burn Pits and Environmental Exposures.[4]
- Resolution No. 21 (2022): Amend the Radiation Exposure Compensation Act.[5]

[1] The American Legion Resolution No. 35 (2016): *Agent Orange*
[2] The American Legion Resolution No. 118 (2016): *Environmental Exposures*
[3] The American Legion Resolution No. 11 (2018): *Agent Orange and Kidney Disease*
[4] The American Legion Resolution No. 19 (2018): *Burn Pits and Environmental Exposures*
[5] The American Legion Resolution No. 21 (2022): *Amend the Radiation Exposure Compensation Act*

Legislative Point Paper

Protecting Veterans from Predatory Actors

BACKGROUND

America's veterans are being targeted by predatory claims companies that charge exorbitant fees for services provided free of charge by veteran service organizations. These companies use aggressive marketing tactics, misleading statements, and complicated contracts to profit from veterans receiving Department of Veterans Affairs (VA) benefit payments. They do not adhere to VA regulations and cannot legally represent veterans.

These companies charge veterans at a rate of 500 or 600 percent of whatever future increase in monthly benefits they receive – a violation of the U.S. Code, which prohibits the payment of fees based on future benefits compensation (See 38 USC 5301(a)(3)(A)). In return for such large payments, these companies offer so-called "consulting services" and make it clear to the clients that they, themselves, are still responsible for filing the actual claim with VA. These profiteers are not accredited by VA; thus, their activities cannot be monitored by VA's Office of General Counsel.

Other predatory actors have also recently emerged responding to the passage of the Camp Lejeune Justice Act (CLJA), which allows veterans and their families who were exposed to contaminated drinking water at Camp Lejeune to pursue legal action against the federal government for damages. While those exposed to these toxins need access to quality legal representation, predatory law firms charging exorbitant fees have inundated veterans and their families with aggressive marketing campaigns, attempting to get a portion of what the Congressional Budget Office assesses will be $6 billion worth of payments over the next ten years. These firms have also failed to inform prospective clients of the exclusive remedy clause, which requires the award to be offset by the dollar amount of benefits received through programs at VA, Medicare, and Medicaid. In some scenarios, veterans and their families may be left with almost nothing after expansive offsets and exorbitant legal fees are applied.

KEY POINTS

- Unaccredited predatory claims companies are not bound by VA regulations and cannot be penalized by the Office of General Counsel.
- Veterans are charged exorbitant fees by these "claim sharks" for services that are provided free of charge by the American Legion and other veterans service organizations.

- Through aggressive ad campaigns, some unethical law firms are convincing Camp Lejeune veterans to file lawsuits against the federal government, yet failing to explain how the offset clause in the CLJA could deprive them of settlement money.

WHAT CONGRESS CAN DO

- Oppose legislation that elevates the standing of unaccredited claims companies or legitimizes predatory practices targeting veterans.
- Pass legislation that will restore criminal penalties in the prosecution of unaccredited predatory claims companies that target veterans and their dependents.
- Pass the Governing Unaccredited Representatives Defrauding (GUARD) VA Benefits Act.
- Impose a cap on legal services provided in association with the Camp Lejeune Justice Act.
- Eliminate vague, impractical, and unrelated offsets awarded in association with the Camp Lejeune Justice Act

RELEVANT RESOLUTIONS

- Resolution No. 11 (2018): Support Veteran and Reserve Servicemember Financial Protections.[1]
- Resolution No. 13 (2019): Support Robust Enforcement of the Military Lending Act.[2]
- Resolution No. 16 (2021): Veteran and Servicemember Financial Protection.[3]
- Resolution No. 38 (2021): Predatory Claims Companies.[4]
- Resolution No. 15 (2022): Oversight of Camp Lejeune Justice Act.[5]

[1] The American Legion Resolution No. 11 (2018): *Support Veteran and Reserve Servicemember Financial Protections*
[2] The American Legion Resolution No. 13 (2019): *Support Robust Enforcement of the Military Lending Act*
[3] The American Legion Resolution No. 16 (2021): *Veteran and Servicemember Financial Protection*
[4] The American Legion Resolution No. 38 (2021): *Predatory Claims Companies*
[5] The American Legion Resolution No. 15 (2022): *Oversight of Camp Lejeune Justice Act*

Legislative Point Paper
Protect the U.S. Flag

BACKGROUND

Appropriate care, display, and respect for the United States flag has been a mission of The American Legion for nearly its entire history. In June of 1923, the Americanism Commission called the first National Flag Conference in Washington D.C. There, representatives from The American Legion, Daughters of the American Revolution, Boy Scouts, Knights of Columbus, the American Library Association, and more than 60 other patriotic, fraternal, civic and military organizations gathered to draw together one standard set of guidelines relating to the flag from the many traditions and variations rampant in the country at that time. President Warren G. Harding even addressed the attendees. A second National Flag Conference was held in June 1924. After both conferences, The American Legion printed and distributed the results nationwide.

Congress made the U.S. Flag Code public law in 1942. Amended several times in the decades since its adoption, the U.S. Flag Code is a codification establishing advisory rules for the care, display, and respect of the American flag. However, the law does not provide any criminal or civil penalties for violating any of its provisions. Minor changes have been made, but Congress has never made comprehensive changes to the code.

The American Legion believes our flag, which predates our Constitution, says "America" more than any other symbol does. America is a tapestry of diverse people, and the flag represents the values, traditions, and aspirations that bind us together as a nation. It stands above the fray of day-to-day politics and differences of opinion. It unites us in times of national crisis.

Therefore, The American Legion urges Congress to approve changes to the U.S. Flag Code to codify multiple accepted patriotic customs and practices pertaining to the display and use of the flag of the United States of America. These changes include additional times and occasions where the flag should be displayed at half-staff, how other flags should be flown when accompanying the U.S. Flag and allowing for a flag patch to be worn on the uniforms of military personnel, first responders, and members of patriotic organizations.

KEY POINTS

- The United States Flag Code, Title 4, United States Code, Chapter 1, Subsections 1-10, is a codification of existing rules and customs pertaining to the display and use of the flag of the United States of America.
- Practices and customs have been modified in the past few years regarding certain display procedures.
- The Flag Code needs to reflect current, accepted patriotic practices.

WHAT CONGRESS CAN DO

- The American Legion urges Congress to approve changes to the U.S. Flag Code to codify multiple customs and practices pertaining to the display and use of the flag of the United States of America.
- Reintroduce H.R. 4212 - Flag Code Modernization Act of 2021, which would amend the U.S. Flag Code to codify multiple common patriotic customs and practices as described in The American Legion Resolution No. 19.

RELEVANT RESOLUTIONS

- American Legion Resolution No. 19 (2016): Flag Code Amendment[1]

[1] American Legion Resolution No. 19 (2016): *Flag Code Amendment.*

Legislative Point Paper
Support our Afghan Allies

BACKGROUND

In August 2021, the United States ended 20 years of war in Afghanistan, the longest war in American history. It ended as it started: with the Taliban in power. The chaotic withdrawal and rush to evacuate Americans and Afghans alike brought tens of thousands of Afghans to the U.S. but left as many as 160,000 Afghan allies who worked alongside the U.S. without a guaranteed exit from the country, rendering them vulnerable to Taliban retaliation. These Afghan nationals include those who supported the U.S. mission in Afghanistan, human rights defenders, women in government, and others at risk under the new government.

The war effort relied on the life-saving assistance of thousands of Afghans who put themselves in danger to serve alongside U.S. troops, diplomats, and contractors. These individuals provided indispensable linguistic, cultural, and geographic knowledge to the U.S. at great personal risk to themselves and their loved ones. The Afghan Special Immigrant Visa (SIV) program was established in 2009 to support those Afghans who aided the U.S. mission and provide them with a new start in the U.S. after their service ended.

Currently, Afghans who were brought to safety during the military evacuation and admitted to the U.S. under temporary humanitarian parole have protection for two years is set to expire in August and September of this year. These wartime evacuees can only pursue a means to stay here long-term with lawful permanent residence through the asylum system or for a discrete population of allies, the Afghan SIV program. Both options face severe backlogs, long processing times, and logistical obstacles for Afghans who were brought to the U.S. under emergency circumstances. Congress has passed SIV and adjustment legislation to address issues like this in the wake of other wartime evacuations and humanitarian crises, including the Vietnam and Iraq Wars.

Though the war is over, the U.S. government must continue its support for our wartime partners. To do this, both Congress and the Executive Branch must work together and fulfill their responsibilities to the SIV program and uphold our commitment to the Afghans who need it. We must also create a pathway to permanent residency in the U.S. for those refugees not currently eligible for the SIV program but were brought to this country with the promise of a safe future.

KEY POINTS

- We have a code in the U.S. military, "no one left behind." For two decades, we fought shoulder-to-shoulder with brave Afghan allies who served with and protected American forces, fighting for the freedom of Afghanistan, and its people. We must honor the promises we made as a nation by providing genuine and lasting protection to the Afghans who have made it safely to the U.S and to those who have been left behind.
- The Afghan Special Immigrant Visa (SIV) program's eligibility is limited and helps only some of those who supported the U.S. military mission in Afghanistan. For instance, none of the Afghan military pilots, Female Tactical Platoons, Afghan Special Forces, or other Afghan military partners who were employed by the Afghan rather than the U.S. government are eligible for protection under the U.S. SIV program – despite assisting the U.S. in joint missions in Afghanistan for over 20 years.
- Litigation of the 20-Year War in Afghanistan, overseen by two Democratic and two Republican presidents – or the chaotic nature of the U.S. withdrawal from the country – cannot happen on the backs of the Afghans, servicemembers, and veterans who were asked to sacrifice for its mission. We defer all such reviews to the appropriate venue: the Afghanistan War Commission, the nonpartisan, independent commission formally authorized as part of the 2022 National Defense Authorization Act (NDAA) to examine every aspect of the war in Afghanistan, including the political and strategic decisions that transformed a focused military mission into a vast, nation-building campaign that became the longest war in U.S. history.

WHAT CONGRESS CAN DO

- Pass legislation updating the Afghan Allies Protection Act to fix the Special Immigrant Visa program and ensure it endures as a permanent tool of American foreign policy.
- Reintroduce and pass the Afghan Adjustment Act, a bipartisan piece of legislation from the 117th Congress that would grant permanent legal status to Afghan refugees and improve the Special Immigrant Visa process for Afghans who served alongside U.S. servicemembers.

RELEVANT RESOLUTIONS

- Resolution No. 15 (2018): Recognition for Afghan and Iraqi Combat Translators.[1]

[1] The American Legion Resolution No. 15 (2018): *Recognition for Afghan and Iraqi Combat Translators*