

**STATEMENT OF
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OF THE
DISABLED AMERICAN VETERANS
BEFORE THE
SUBCOMMITTEE ON DISABILITY ASSISTANCE AND MEMORIAL AFFAIRS
COMMITTEE ON VETERANS' AFFAIRS
UNITED STATES HOUSE OF REPRESENTATIVES
MAY 3, 2011**

Mr. Chairman and Members of the Subcommittee:

Thank you for inviting the Disabled American Veterans (DAV) to testify at this legislative hearing of the Subcommittee on Disability Assistance and Memorial Affairs. As you know, DAV is a non-profit organization comprised of 1.2 million service-disabled veterans focused on building better lives for America's disabled veterans and their families.

Mr. Chairman, at the Subcommittee's request, DAV is pleased to be here today to present our views on seven (7) bills under consideration by the Subcommittee.

H.R. 811, the "Providing Military Honors for our Nation's Heroes Act" would authorize the Secretary of Veterans Affairs (VA) to reimburse a member of a veterans' service organization or other organization approved by the Secretary for transportation and other appropriate expenses incurred in connection with the voluntary provision of a funeral honors detail at the funeral of a veteran, including for times when the honors are requested by a funeral home.

This bill would allow volunteers from veterans' service organizations (VSOs) and other organizations to be reimbursed for transportation costs and other expenses, such as cleaning uniforms, incurred while providing military funeral honors. Currently, members of VSOs and other volunteers can assist the military by providing a color guard, pallbearers, a bugler or firing party, and be reimbursed for their expenses, but the law does not address ceremonies in which VSOs render honors without military representation. Approval of this bill would allow volunteers to be reimbursed even when no military person is part of the honor guard, thereby increasing the number of military funeral honor details that would be available to families. While DAV does not have an adopted resolution from our membership pertaining to this particular matter, we do not oppose passage of this legislation.

H.R. 1407, the “Veterans’ Compensation Cost-of-Living Adjustment Act of 2011” would increase, effective December 1, 2011, the rates of compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation (DIC) for the survivors of certain disabled veterans. For each of the past two years, there has been no increase in the rates for compensation and DIC because the Social Security index used to measure the cost-of-living adjustment (COLA) did not increase. However, many disabled veterans and their families who rely heavily or solely on VA disability compensation or DIC as their only means of income have struggled during these difficult times. While the economy has faltered, their personal economic circumstances have been negatively affected by rising costs of many essential items, including medicines and gasoline. As inflation becomes a greater factor, it is imperative that they receive a COLA and DAV supports this legislation.

In addition, DAV also calls on Congress to enact legislation that would make a realistic COLA automatic each year. Furthermore, we call on Congress to end the practice of “rounding down” COLA increases, which incrementally reduces the support to disabled veterans and their families. The practice of permanently “rounding down” a veteran’s COLA to the next lower whole dollar amount can cause undue hardship for veterans and their survivors whose only support comes from these programs and it is time to end this practice.

Mr. Chairman, consistent with the position of *The Independent Budget* (IB), DAV would also ask that Congress consider finally implementing the recommendation made by the Institute of Medicine (IOM), the Veterans’ Disability Benefits Commission (VDBC), and the Dole-Shalala Commission (President’s Commission on Care for America’s Returning Wounded Warriors) to enhance disability compensation by including compensation for non-work disability, or noneconomic loss, and the loss of quality of life suffered by disabled veterans. Non-work disability specifically refers to limitations on the veteran’s ability to engage in usual life activities other than work, while loss of quality of life refers to the loss of physical, psychological, social, and economic well-being in one’s life. Such compensation is provided by other countries who have similar comprehensive systems for compensating veterans for disabilities, including Canada and Australia, and it is time for Congress to finally address this matter of equity for the men and women who have suffered to defend this great nation.

H.R. 1441 would codify the prohibition against reserving gravesites at Arlington National Cemetery prior to the death of an eligible veteran. Additionally, this bill would prohibit the assignment of more than one gravesite to a veteran or member of the Armed Forces eligible for interment at a national cemetery and their eligible family members. While DAV does not have an adopted resolution from our membership pertaining to this particular matter, we do not oppose passage of this legislation.

H.R. 1484, the “Veterans Appeals Improvement Act of 2011” seeks to improve the appeal process in two ways. Section 2 of the bill would allow a claimant to submit new or supplemental evidence in support of a case for which a substantive appeal has been filed, directly to the Board of Veterans’ Appeals (Board) and not to the VA Regional Office of jurisdiction. This provision does, however, preserve the claimant’s right to request VA Regional Office consideration of the new or supplemental evidence should they prefer that option.

Currently, when the Board receives new or supplemental evidence not previously considered by the VA Regional Office, the case must be returned to the VA Regional Office of jurisdiction for appropriate rating or authorization activity, unless the claimant submits a waiver of VA Regional Office consideration. This current practice requires the case to be remanded or transferred back to the VA Regional Office which unnecessarily delays what is already a lengthy appellate process.

DAV strongly supports approval of this provision which would be beneficial to all parties involved. It would allow a claimant to submit new or supplemental evidence directly to the Board where the case is pending without requiring a waiver of VA Regional Office consideration, and thereby avoiding a time consuming remand process that delays final decisions to veterans and also wastes VA resources in the process.

Section 3 of H.R. 1484 would create a “Veterans Judicial Review Commission” to study the administrative and judicial elements of claims adjudication in order to make recommendations about improving the “...accuracy, fairness transparency, predictability, timeliness and finality...” of claims decisions. In addition, the Commission would be specifically required to make a recommendation as to whether the Court of Appeals for Veterans Claims should be given the authority to hear relevant veterans’ class action lawsuits. Although DAV testified in support of a similar commission during a hearing on October 8, 2009, this new proposal is different in two respects.

First, the inclusion of a specific requirement to consider giving the Court class action authority raises concerns that DAV has expressed previously, including during the October 2009 hearing. As we said at that time, the call for the grant of authority for class action is one that we do not have a resolution on but wish to express concern as to the benefit this would provide veterans. It is our view that appeals decided on an individual basis rather than by class offer the appellant the best result for their specific case. Class actions may well benefit those who comprise that class but once decided they in fact preclude further appeal action on the issue decided. Moreover, as a recent front-page story in the *Washington Post* from April 23, 2011 indicated, the Court is currently understaffed and unable to meet its pending caseload. The addition of class action filings would certainly further burden the Court at a time when its

workload can reasonably be predicted to continue rising in the coming years given the increasing number of new claims filed each year.

Second, over the past 18 months VBA has been engaged in comprehensive and historic efforts to reform the entire claims processing system in order to reduce the backlog of pending claims and dramatically increase the accuracy and consistency of decisions. Central to this transformation effort will be the new Veterans Benefits Management System (VBMS), VBA's new paperless, rules-based IT system. When fully operational, the VBMS should lead to significant changes in how VBA, including the Board, and the Court receive and process claims and appeals work. DAV questions whether the creation of yet another study commission is warranted or if it would be an appropriate use of VBA's resources. As such, DAV does not support Section 3 at this time.

H.R. 1627 seeks to clarify the statute regarding the requirements for placement of markers or monuments in Arlington National Cemetery. The bill would codify specific requirements related to the type, purpose and designated areas for emplacement of monuments, as well as the authorization or approval process and sponsoring individuals or organizations required. While DAV does not have an adopted resolution from our membership pertaining to this particular matter, we do not oppose passage of this legislation.

H.R. 1647, the "Veterans' Choice in Filing Act of 2011" would authorize a 24-month pilot program to allow veterans served by certain poor performing VA regional offices the option to submit a claim for benefits at any regional office of their choice. Under the proposal, five regional offices would participate in the pilot based upon criteria to be established by the VA Secretary. Upon completion of the pilot program, the Secretary would be required to send a final report to Congress containing recommendations about the future allocation of resources amongst VA regional offices. Although this legislation contains few specifics about its purpose or implementation, it appears the bill is intended to serve as a catalyst to improve and/or reorganize poor performing VA regional offices through a sense of competition.

While DAV agrees with the goal of reducing disparities between and improving the overall performance of regional offices, for the reasons outlined below, we do not support this pilot program at this time. Over the past two years, VBA has been engaged in a comprehensive effort to reform its claims processing system that already includes dozens of innovative pilot programs as well as a complete redesign of the IT systems used to initiate and process benefit claims. DAV and other VSOs have been working closely with VBA in these efforts to ensure that the current claims processing system is redesigned and rebuilt in a manner that assures each claim for benefits will be processed right the first time. With VBA halfway through this transformation cycle, we do not believe the insertion of a new pilot program that could potentially interfere with VBA's ability to manage their workload would be helpful or contribute

to achieving the fundamental reform needed in this system. As such, DAV does not support this legislation.

Instead, DAV would like to work with this Subcommittee to develop better approaches to addressing performance differences between regional offices, primarily focused on better and more consistent training and quality control programs. With thousands of new employees entering the VBA workforce in the past couple of years, as well as the large number of new coaches and managers appointed to oversee them, it is imperative that VBA have continuing training programs to ensure consistency and accuracy of their work. It is equally important that as VBA continues developing and subsequently deploying the VBMS, that sufficient time and attention be paid to the inclusion of real-time quality control programs which can help to identify issues and areas that need new or better training programs. Mr. Chairman, DAV stands ready to work with you to achieve these shared goals.

Finally, H.Con.Res. 12, would express the intent of Congress to honor the memory of the Jewish chaplains who have died while on active duty in the Armed Forces of the United States with the emplacement of a memorial marker on Chaplains Hill in Arlington National Cemetery. While DAV does not have an adopted resolution from our membership pertaining to this particular matter, we do not oppose passage of this legislation.

Mr. Chairman and members of the Subcommittee, this concludes my statement and I would be happy to answer any questions you may have.