

**STATEMENT OF
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BEFORE THE
COMMITTEE ON VETERANS' AFFAIRS
UNITED STATES SENATE
JUNE 12, 2013**

Chairman Sanders, Ranking Member Burr and Members of the Committee:

Thank you for inviting the DAV (Disabled American Veterans) to testify at this legislative hearing of the Senate Veterans' Affairs Committee. As you know, DAV is a non-profit veterans service organization comprised of 1.2 million wartime service-disabled veterans dedicated to a single purpose: empowering veterans to lead high-quality lives with respect and dignity. DAV is pleased to be here today to present our views on the bills under consideration by the Committee.

S. 6

S. 6, the Putting Our Veterans Back to Work Act of 2013, would reauthorize the VOW to Hire Heroes Act of 2011, to provide assistance to small businesses owned by veterans, to improve enforcement of employment and reemployment rights of members of uniformed services. This legislation would expand the VOW to Hire Heroes Act of 2011 by reauthorizing the Veterans Retraining Assistance Program (VRAP) allowing an additional 100,000 participants through April 2016.

Other matters highlighted in S. 6 include extending through December 2016, the allowance for VA vocational rehabilitation & employment services to members of the Armed Forces with severe injuries or illnesses, and would also extend through March 2016, additional rehabilitation programs for those who have exhausted rights to unemployment benefits under state law, as well as the creation of a unified web-based employment portal identifying federal employment, unemployment and training. S. 6 would also afford grants to the Department of Homeland Security and the Attorney General for the purpose of hiring firefighters and law enforcement officers.

Finally, this legislation would require employment of veterans as an evaluation factor in solicitations for contracts by certain prospective contractors, while also improving employment and reemployment rights of members of the uniformed services with respect to states and private employers and suspension, termination, or debarment of contractors for repeated violations of such rights.

In accordance with several DAV resolutions, we support enactment of this comprehensive legislation as it would improve the employment, training, and rights of service-disabled veterans and improve their transition from military service into civilian employment.

S. 200

S. 200 would amend title 38, United States Code, to authorize the interment in national cemeteries under the control of the National Cemetery Administration of individuals who served in combat support of the armed forces in the Kingdom of Laos between February 28, 1961, and May 15, 1975.

DAV has no resolution or position on this matter.

S. 257

S. 257, the GI Bill Tuition Fairness Act of 2013, would require courses of education provided by public institutions of higher education that are approved for purposes of the educational assistance programs administered by the Secretary of Veterans Affairs to charge veterans tuition and fees at the in-state tuition rate.

DAV has no resolution or position on this matter.

S. 262

S. 262, the Veterans Education Equity Act of 2013, would provide equity for tuition and fees for individuals entitled to educational assistance under the Post-9/11 Educational Assistance Program of the Department of Veterans Affairs (VA) who are pursuing programs of education at the institutions of higher learning.

DAV has no resolution or position on this matter.

S. 294

S. 294, the Ruth Moore Act of 2013, would improve the disability compensation evaluation procedure of the Secretary of Veterans Affairs for veterans with mental health conditions related to military sexual trauma. In accordance with DAV Resolution Nos. 030 and 204, we support enactment of this legislation.

This bill would change the standard of proof required to establish service connection for veterans suffering from certain mental health conditions, including post-traumatic stress disorder (PTSD), resulting from military sexual trauma that occurred in service.

In November 2010, VA modified its prior standard of proof for PTSD related to combat veterans by relaxing the evidentiary standards for establishing in-service stressors if related to a veteran's "fear of hostile military or terroristic activity." Under this change, VA is now able to award entitlement to service connection for PTSD even when there is no official record of such incurrence or aggravation in service, provided there is a confirmed diagnosis of PTSD coupled with the veteran's written testimony that the PTSD is the result of an incident that occurred during military service, and a medical opinion supporting a nexus between the two.

S. 294 would build upon that same concept and allow VA to award entitlement to service connection for certain mental health conditions, including PTSD, anxiety and depression, or other mental health diagnosis described in the current version of the Diagnostic and Statistical Manual for Mental Disorders (DSM), which a veteran claims was incurred or aggravated by military sexual trauma experienced in service, even in the absence of any official record of the claimed trauma. Similar to the evidentiary standard above for PTSD, the veteran must have a diagnosis of the covered mental health condition together with satisfactory lay or other evidence of such trauma and an opinion by the mental health professional that such covered mental health condition is related to such military sexual trauma, if consistent with the circumstances, conditions, or hardships of such service even in the absence of official record of such incurrence or aggravation in such service and if so all reasonable doubt will be resolved in favor of the claimant.

DAV Resolution No. 204 states that, “[e]stablishing a causal relationship between injury and later disability can be daunting due to lack of records or certain human factors that obscure or prevent documentation of even basic investigation of such incidents after they occur...” and that, “[a]n absence of documentation of military sexual trauma in the personnel or military unit records of injured individuals prevents or obstructs adjudication of claims for disabilities for this deserving group of veterans injured during their service, and may prevent their care by VA once they become veterans...” Further, DAV Resolution No. 030 states that, “[p]roof of a causal relationship may often be difficult or impossible...” and that, “...current law equitably alleviates the onerous burden of establishing performance of duty or other causal connection as a prerequisite for service connection...”

Correspondingly, in accordance with DAV Resolution Nos. 030 and 204, we support enactment of S. 294 as it would provide a more equitable standard of proof for service-disabled veterans who suffer from serious mental and physical traumas in environments that make it difficult to establish exact causal connections.

We would also note that the House Veterans’ Affairs Committee recently adopted an amendment to a companion bill that replaced the language of this legislation with a “Sense of Congress” resolution, thereby significantly weakening the intent of this legislation. We would urge this Committee to retain the statutory language in S. 294 as it moves through the legislative process.

S. 373

S. 373, the Charlie Morgan Military Spouses Equal Treatment Act of 2013, would amend titles 10, 32, 37, and 38 of the United States Code, to add a definition of spouse for purposes of military personnel policies and military and veteran benefits that recognizes new state definitions of spouse.

DAV has no resolution or position on this matter.

S. 430

S. 430, the Veterans Small Business Opportunity and Protection Act of 2013, would amend title 38, United States Code, to enhance treatment of certain small business concerns for purposes of VA contracting goals and preferences. Specifically, this bill would improve the treatment of a service-disabled veteran-owned small business (SDVOSB) after the death of the disabled veteran. Current law

allows 10 years to transfer a SDVOSB from a surviving spouse if the disabled veteran was rated 100 percent at time of death or who died as a result of a service-connected condition. This measure would allow for a transition period of three years for veterans rated less than 100 percent at time of death or whose death is not a result of a service-connected condition.

In accordance with DAV Resolution No. 168, we support enactment of this legislation.

S. 492

S. 492 would amend title 38, United States Code, to require states to recognize the military experience of veterans when issuing licenses and credentials to veterans. Essentially this measure would improve employment for veterans by removing particular restrictions or unnecessary requirements for certain veterans. Specifically, as a condition of a grant or contract under which funds are made available to a state, the state must establish a program for a state-administered examination for each veteran seeking a license or credential issued by such state.

Additionally, the state will issue a license or credential to such veteran without requiring training or apprenticeship, provided the veteran receives a satisfactory examination score and has 10 years or more of experience in a military occupational specialty that, as determined by a state, is similar to a civilian occupation for which such license or credential is required by the state.

In accordance with DAV Resolution No. 194, we support enactment of S. 492 as it would improve transition from military service and the employment of service-disabled veterans.

S. 495

S. 495, the Careers for Veterans Act of 2013, would amend title 38, United States Code, to require federal agencies to hire veterans and require states to recognize the military experience of veterans when issuing licenses and credentials to veterans.

This legislation is supported by a number of DAV resolutions; accordingly, DAV supports enactment of this measure.

S. 514

S. 514 would amend title 38, United States Code, to provide additional educational assistance under Post-9/11 Educational Assistance to veterans pursuing a degree in science, technology, engineering, math, or an area that leads to employment in a high-demand occupation.

DAV has no resolution or position on this matter.

S. 515

S. 515 would amend title 38, United States Code, to extend the Yellow Ribbon G.I. Education Enhancement Program to cover recipients of Marine Gunnery Sergeant John David Fry scholarship.

DAV has no resolution or position on this matter.

S. 572

S. 572, the Veterans Second Amendment Protection Act, would clarify the conditions under which certain persons may be treated as adjudicated mentally incompetent for certain purposes.

DAV has no resolution or position on this matter.

S. 629

S. 629, the Honor America's Guard-Reserve Retirees Act of 2013, would amend title 38, United States Code, to recognize the service in the reserve components of the armed forces of certain persons by honoring them with the status only as veterans under law.

DAV has no resolution or position on this matter.

S. 674

S. 674, the Accountability for Veterans Act of 2013, would require prompt responses from the heads of covered federal agencies when the Secretary of Veterans Affairs requests information necessary to adjudicate claims for benefits under laws administered by the Secretary. Specifically, this legislation would require the Department of Defense (DoD), Social Security Administration (SSA), and National Archives and Records Administration (NARA), to respond to VA's request for information not later than 30 days from such request by providing the requested information or an explanation why the requested information could not be provided within the 30-day time period, and an estimate as to when the requested information will be furnished. If the VA's request for information has not been satisfied, additional requests shall be made in the same manner as the initial request and the claimant will be notified.

When a claim is submitted to VA, the largest delay in the overall process resides within the development stage and usually involves VA not receiving requested information from private and federal sources, which is necessary for VA to properly adjudicate a claim for benefits. While unanswered requests from private sources, such as treating physicians, are unacceptably burdensome, it is even more troublesome when requests for information go unanswered by the federal government. When this occurs, the claim spends months, even years, in a vortex of delay in processing and providing earned benefits to veterans and their families. When a covered agency is the custodial source of the information requested by VA then that agency is responsible to promptly furnish the information or a

reasonable explanation as to why the information cannot be furnished. It is simply unconscionable that veterans and their families wait as long as they do for an answer to their claim, but to have this compounded by complacency or blatant disregard by a covered agency to furnish the requested information in a timely manner is beyond reproach.

While this legislation may not solve this problem in every case, DAV agrees with the purpose of S. 674, which is to hold DoD, SSA and NARA accountable in furnishing the information requested by VA so a claim for benefits can be properly adjudicated in a timely manner.

For the foregoing reasons and in accordance with DAV Resolution No. 205, we support the enactment of S. 674 as it would improve the VA claims process for service-disabled veterans.

S. 690

S. 690, the Filipino Veterans Fairness Act of 2013, would amend title 38, United States Code, to deem certain service in the organized military forces of the Government of the Commonwealth of the Philippines and the Philippine Scouts to have been active service for the purpose of obtaining benefits under programs administered by the Secretary of Veterans Affairs.

DAV has no resolution or position on this matter.

S. 695

S. 695, the Veterans Paralympic Act of 2013, would amend title 38, United States Code, to extend the authorization of appropriations for the Secretary of Veterans Affairs to pay a monthly assistance allowance to disabled veterans who are training or competing for the Paralympic Team and authorization of appropriations for the Secretary of Veterans Affairs to provide assistance to United States Paralympics, Inc.

While DAV does not have a resolution specific to this issue, we do support the intent of the legislation as it empowers disabled veterans to live high quality lives with respect and dignity.

S. 705

S. 705, the War Memorial Protection Act of 2013, would amend title 36, United States Code to ensure that memorials commemorating the service of the United States Armed Forces may contain religious symbols.

DAV has no resolution or position on this matter.

S. 735

S. 735, the Survivor Benefits Improvement Act of 2013, would amend title 38, United States Code, to improve benefits and assistance provided to surviving spouses of veterans under laws administered by the Secretary of Veterans Affairs. DAV supports Section 2 of the bill, which would extend from two years to five years, for the initial period for increased DIC for surviving spouses with children. DAV also supports Section 3 of the bill as it would expand the eligibility to DIC, health care, and housing loans for surviving spouses by lowering the age from 57 to 55 for those spouses who remarry.

Section 4 of the bill would allow benefits for children of certain Thailand service veterans born with spina bifida in the same manner as children of Vietnam service veterans who were exposed to an herbicide agent. DAV has no resolution or position regarding this matter.

Finally, Section 5 of S. 735 would initiate a pilot program to provide grief counseling in retreat settings for surviving spouses of veterans who die while serving on active duty in the United States Armed Forces. DAV supports the principle of Section 5 of the bill as it would provide support and counseling to grieving spouses and children who are coping with the death and loss of the veteran.

S. 748

S. 748, the Veterans Pension Protection Act, would amend title 38, United States Code, to require the Secretary of Veterans Affairs to consider the resources of individuals applying for nonservice-related pension that were recently disposed of by the individuals for less than fair market value when determining the eligibility of such individuals for such nonservice-related pension.

DAV has no resolution or position on this matter.

S. 778

S. 778 would authorize the Secretary of Veterans Affairs to issue cards to veterans that identify them as veterans, including name and photo, whether or not the veteran is enrolled the VA health care system or in receipt of benefits such as education, compensation or non-service related pension.

While DAV has no resolution or position on this matter we recommend this be a collaborative effort between the two principle agencies; DoD issuing this type of identification card to those eligible at time of discharge, and VA issuing this type of identification card to those already separated from military service.

S. 819

S. 819, the Veterans Mental Health Treatment First Act of 2013, creates a new program for provision of mental health care and rehabilitation for veterans suffering from service-related post

traumatic stress disorder (PTSD), depression, anxiety disorder, or a related substance abuse disorder. DAV supports the provisions of this bill that promote early intervention in mental health treatment, prevention of chronic disability, and promotion of recovery. However, we cannot support the bill in its current form because it restricts the rights of disabled veterans to apply for service-connected disability compensation for those disabilities under VA care. We believe that early treatment provisions and wellness stipend payments must be decoupled from any proposal to deny veterans the ability to apply for disability compensation during the treatment phase.

S. 819 would establish a new approach to dealing with veterans who are diagnosed with PTSD, depression, anxiety disorder or substance abuse disorder that, in the judgment of a VA physician, is related to military service. Financial support, known as a “wellness stipend,” would be provided to veterans who are willing to commit to a VA treatment plan with substantial adherence to that plan for a specified period of care. In order to be eligible for the wellness stipend, the veteran would be required to agree not to file a VA disability compensation claim for the covered conditions for one year or the duration of the treatment program, whichever time period would be shorter. Duration of treatment would be individualized and determined by the attending VA clinician. Under the program, there would be two proposed levels of wellness stipends. Receipt of the full wellness stipend would depend on the veteran having no service-related rating for PTSD, depression, anxiety disorder, or related substance abuse, and having no claim pending for one of the conditions mentioned.

Veterans with no service-connected rating or claim pending for the conditions mentioned who agreed not to file a new or an increased disability claim for one of the conditions and in addition agreed to “substantial compliance” with a prescribed treatment plan for those conditions for the duration of the prescribed program (or 12 months, whichever is sooner), would receive \$2,000 immediately payable upon diagnosis; \$1,500 payable every 90 days while in the treatment program upon clinician certification of substantial compliance with the treatment regimen; and \$3,000 payable at the conclusion of the time-limited treatment program. Under this proposal, the gross stipend for these veterans would be \$11,000.

This bill also would propose that any veteran, with a new or increased disability claim pending for PTSD, depression, anxiety disorder or related substance abuse, would receive only a partial wellness payment at identical intervals but totaling only up to 33% of the rates discussed above. Any participating veteran who failed to comply with the conditions of the program would be removed from the program, resulting in cessation of the stipends. The program would limit a veteran’s participation to a single enrollment unless VA determined that extended participation would provide the veteran additional assistance in recovery.

As we have stated, we support efforts to increase early intervention in order to increase the chances for recovery. Multiple independent reports and scientific studies provide ample evidence for pursuing early intervention for PTSD and other service-related mental health problems, for promoting recovery, and for providing adequate financial support so that veterans have the resources to engage fully in necessary treatment. Participation in treatment and counseling is often an intensive and time consuming process and so financial stipends, such as those proposed by this bill, would give veterans at least a modicum of support to concentrate on participating as full partners in their therapy.

However, DAV strongly opposes any provision that attempts to link wellness stipend payments to a veteran's right to file a disability claim. While progression in science has enhanced our ability to recognize and treat the mental health consequences of service in combat including PTSD, the treatments are not universally effective. PTSD and major depression tend to remit and recur. There is no justification for the view that participation in evidence-based therapy will eradicate the illness or eliminate the need for a claim for disability.

In addition to the above concerns, we recognize the challenges that VA faces in establishing the administrative systems and management of mental health treatment programs. In order to increase the chances for success, DAV recommends that VA incorporate the following components into any new early intervention mental health treatment program design:

- VHA has struggled to provide timely access to mental health services to all veterans seeking care. In order to carry out any new programs, such as those outlined in this bill, while continuing to meet current demand for mental health services, VA will need to recruit and retain additional highly skilled, dedicated mental health providers.
- Every veteran enrolled in such programs should be assigned to a care manager to coordinate care and jointly track personal treatment and recovery plans.
- VA mental health providers should receive ongoing continuing medical education, intensive training and clinical supervision to ensure that they have the skills and capability to deliver the latest evidence-based treatments.
- VA should offer certifications to professionals for PTSD treatment, competency in veterans' occupational health, and cultural competency in veterans and military life.

Most of the military members who serve in combat will return home without injuries and readjust in a manner that promotes good health. However, it is the responsibility of our nation to treat veterans who return with war wounds, both visible and invisible, and to fully support their mental health recoveries. Moreover, we believe that while wellness stipend payments could facilitate their recovery, they are not an adequate or acceptable substitute for fair and equitable disability compensation for service-related conditions.

In summary, DAV supports the provisions of this bill that promote early intervention in mental health treatment, prevention of chronic disability, and promotion of recovery. However, we cannot support the bill in its current form because it restricts the rights of disabled veterans to apply for service-connected disability compensation. We suggest that the health care provisions and wellness stipend payments be decoupled from the proposal to deny veterans the ability to apply for disability compensation during the treatment phase.

While DAV cannot offer our full support to S. 819, we would be happy to work with the Committee to see if there are additional ways to create incentives for veterans to seek early treatment for mental health conditions without forcing them to surrender their earned right to seek other VA benefits.

S. 863

S. 863, the Veterans Back to School Act of 2013, would amend title 38, United States Code, to repeal time limitations on the eligibility for use of educational assistance under All-Volunteer Force Educational Assistance Program and to improve veterans' education outreach.

DAV has no resolution or position on this matter.

S. 868

S. 868 would require the Secretary of Defense to establish a process to determine whether individuals claiming certain service in the Philippines during World War II are eligible for certain benefits despite not being on the Missouri List.

DAV has no resolution or position on this matter.

S. 889

S. 889 would amend title 10, United States Code, to improve the Transition Assistance Program (TAP) of the DoD. Specifically, this legislation would expand the current TAP for those who plan to use educational assistance by codifying the instruction and overview of such educational assistance, testing to determine academic readiness, instruction on how to finance post-secondary education, and instruction in the benefits and other programs administered by the Secretary of Veterans Affairs.

In light of the difficulty faced by many transitioning service members, especially those with service-related disabilities, S. 889 will provide certain expansion and improvement to the current TAP program within each respective branch of the military. Allowing these individuals the maximum assistance in obtaining their benefits, education, and employment as they exit military service is absolutely imperative.

In accordance with DAV Resolution No. 199, we support the enactment of S. 889.

S. 893

S. 893, the Veterans' Compensation Cost-of-Living Adjustment Act of 2013, would provide for an increase, effective December 1, 2013, in 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.

Although a cost-of-living adjustment (COLA) was passed last year at the modest increase of 1.7%, each of the prior two years, there was no increase in the rates for compensation and DIC because the Social Security index used to measure the COLA did not increase. Many disabled veterans and their families rely heavily or solely on VA disability compensation or DIC as their only means of financial support and 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 food, medicines and gasoline. As inflation becomes a greater factor, it is imperative that veterans and their dependents receive a COLA and DAV supports enactment of this legislation.

Mr. Chairman, DAV applauds you and Ranking Member Burr for not mandating that the COLA be rounded down to the next lowest whole dollar amount. DAV has a longstanding resolution to discontinue this unfair practice. The “round down” practice was initially enacted to be a temporary cost savings measure, but has now been in effect for nearly 20 years. This temporary cost saving measure has resulted in the loss of millions of dollars to veterans and their families since its inception and long overdue to be discontinued. As such DAV thanks you for your forward thinking to remove the “round down” provision.

DAV also applauds your leadership and efforts with respect to opposing the “chained” consumer price index (CPI). DAV joins your opposition to this or any similar attempt at progressively eroding annual COLAs by replacing the current CPI formula used for calculating the annual Social Security COLA with the Bureau of Labor Statistics’ new formula, commonly termed the “chained CPI.” The conversion to using the “chained CPI” is intended to significantly reduce the rates paid to Social Security recipients in the future, thereby lowering the overall federal deficit, which would come at great cost to disabled veterans; a group, as you know, that has already demonstrated great sacrifice to this nation. Balancing the budget on the backs of disabled veterans is simply unacceptable and we thank you for your stalwart opposition the “chained CPI”.

S. 894

S. 894 would amend title 38, United States Code, to extend expiring authority for work-study allowances for individuals who are pursuing programs of rehabilitation, education, or training under laws administered by the Secretary of Veterans Affairs, and to expand such authority to certain outreach services provided through congressional offices.

DAV has no specific resolution on this matter; however, the purpose of this legislation is to provide economic assistance to veterans and disabled veterans in VA programs. DAV supports the principle intent of the bill, because it would help empower disabled veterans.

S. 922

S. 922, the Veterans Equipped for Success During Transition Act of 2013, would provide in-state tuition to transitioning veterans. Essentially this legislation would create a pilot program to provide subsidies to employers of certain veterans and members of the armed forces, as well as a pilot program to provide career transition services to veterans.

Employment for service-disabled veterans is a priority for DAV and we support the principle of the legislation, which is to improve transition from military service by encouraging employers to hire veterans. We are, however, unclear why Section 2 of the bill excludes veterans between the ages of 35 and 54, and why Section 3 of the bill excludes veterans over the age of 30. Finding employment can be

extremely difficult for veterans following military service, and even more challenging for veterans with service-related disabilities. Limiting these pilot programs to veterans of a particular age would increase the already difficult employment process for service-disabled veterans. While DAV supports the principle of this legislation, we believe S. 922 should be expanded to include all veterans, regardless of age, and should include more incentives for hiring disabled veterans.

S. 927

S. 927, the Veterans' Outreach Act of 2013, would authorize a demonstration project to assess the feasibility and advisability of improving VA's outreach efforts by awarding grants to state and local government agencies, as well as private nonprofit organizations. The purpose of these demonstration grants would be to measure whether such partnerships are successful and should be continued and expanded in order to increase veterans awareness of the benefits and services that VA offers to them, their families and survivors.

Mr. Chairman, like you, DAV is strongly committed to educating veterans about all of the services, benefits and programs provided by the federal government as a result of their service. Working through a core of more than 300 National Service Officers and Transition Service Officers, DAV reaches out to hundreds of thousands of veterans every year in order to educate and assist them in availing themselves of their earned benefits. Dozens of other veterans services organizations are also engaged in continual outreach to veterans across the country.

In addition, DAV strongly supports chapter 63 of title 38, United States Code, which currently requires VA to engage in outreach activities and to report on them to Congress on a regular basis. We are also aware of the efforts that states and local government agencies have undertaken, particularly in recent years, to ensure that veterans are aware of the full range of benefits and services available to them and their families.

However, although S. 927 would authorize new grants from VA to states, local governments and nonprofits, the legislation does not specifically authorize any additional funding for these purposes, nor does it require that additional appropriations be provided to fund such grants. As such, funding for such outreach activities might have to be taken from existing health care or benefit programs, both of which are already hard pressed to meet current demand. Too often new programs are funded by taking resources away from existing health care programs serving veterans, especially disabled veterans, and we would not be supportive of expanding outreach programs at the expense of existing programs for disabled veterans.

Further, in conducting any such demonstration projects or any similar studies about expanded outreach, VA must carefully examine the additional costs that would accrue as a result of such outreach. A critical part of any such studies must be the cost of providing additional services and benefits to those veterans, family members and survivors who are brought into VA as a result of expanded outreach activities. DAV would not be supportive of an outreach program if it resulted in existing services and benefits being reduced for current recipients in order to provide benefits and services to new veterans, particularly if resources were cut for disabled veterans. Congress must ensure that any new outreach activities of the VA have sufficient funding, not just for the outreach activities themselves, but also for

the resultant increased cost of veterans benefits and services by the those veterans who would be brought into the VA system.

Mr. Chairman, DAV believes the federal government has a moral obligation to provide veterans, their families and survivors with all of the benefits and services they have earned through their sacrifice to this nation, and that includes an obligation to make them aware of these benefits and services. But without a guarantee of sufficient funding, expanded outreach would end up being a hollow promise and could result in a decrease of benefits and services to those veterans who currently rely on VA.

S. 928

S. 928, the Claims Processing Improvement Act of 2013, contains numerous provisions intended to improve the processing of claims for disability compensation under laws administered by the Secretary of Veterans Affairs. As this Committee is well aware, VA is currently in the process of comprehensively transforming its claims processing system in order to address the unacceptably large backlog of pending claims. DAV has and will continue to urge that the focus of all claims process reform efforts must be first and foremost on quality and accuracy in order to ensure that every veteran's claim is done right the first time.

Section 101 of the bill would establish a working group to study and make recommendations to improve the employee work credit and work management systems of the Veterans Benefits Administration (VBA). DAV has long supported calls for scientifically studying how VBA determines its resource needs, which must be based on an accurate measure of how much work can be done accurately by its employees. While we support the general intent of the working group proposed by this Section, we would make several recommendations to better focus the efforts in the context of the current transformation.

First, we believe that the focus of the working group should be on developing a scientific, data-driven model for determining the resources needed to accurately process the volume of work now and in the future, as well as how to allocate those resources amongst VBA's regional offices. The core of this resource needs model must be an accurate determination of how much work VBA employees can accurately produce at each position and experience level. Importantly, this model must be sufficiently dynamic to quickly adjust to changes in the laws and regulations governing disability compensation.

Second, we would recommend that the working group not study VBA's work management system at this time. As this Committee is aware, VBA has just completed implementing a brand new organization model for processing claims, and has not yet completed rolling out its new Veterans Benefits Management System (VBMS) to all regional offices, both of which make comprehensive changes to VBA's work management systems. As such, it would be premature to study whether or not these new systems are or will be successful, much less recommend comprehensive changes to them, for the next couple of years.

Finally, the language of Section 101 mandates that the Secretary "shall" implement the recommendations of this working group. As such it is imperative that the membership and operating

rules of the working group are clearly delineated, including the total number of voting members, how decisions are made and votes taken, and how recommendations will be presented.

Section 102 of the bill would establish a task force on the retention and training of VBA claims processors and adjudicators. DAV has been a longtime advocate for improvements to be made in the training of VBA employees in order to improve quality and accuracy. As such, DAV supports enactment of this section of the bill.

Section 103 would streamline the requests for federal records other than VA records. DAV agrees that the VA is burdened greatly in the development stage of a claim by not being able to retrieve records, or receive them in a timely manner, especially from a federal agency. An even greater burden is shouldered by the veteran claimant who must endure unacceptable delay in processing the claim or a denial simply because the records weren't provided to VA at its request.

As part of VA's duty to assist a claimant in obtaining evidence necessary to substantiate a claim, title 38, United States Code, section 5103A states the Secretary will make reasonable efforts to do so, including private records. While it is not defined in the law how many attempts to obtain records must be made, we do not believe the claim should languish or the VA left in an endless cycle of requests simply because a private entity does not or will not respond to such requests.

However, when the records identified by the claimant are in custody of a federal agency, we do not believe VA should be allowed to limit its requests. Section 103 of this legislation states the Secretary shall not make fewer than two attempts to obtain federal records, which essentially means VA will make no more than two requests. DAV believes the claimant would be gravely penalized by limiting the requests made by VA simply because of the lack of cooperation between federal agencies.

Additionally, we believe this section should require the federal agency the records are requested from to provide the records to the VA, or a response as to why the records cannot be provided, within 30 days of VA's request.

Although we appreciate the intent of this legislation to provide quicker decisions for veterans whose claims are pending because federal agencies do not respond to VA requests for records, we are concerned that this legislation removes rather than increases pressure on those federal agencies. Instead, we believe that the provisions in S. 674 requiring greater accountability for federal agencies through stricter reporting is a better approach and more likely to lead to more accurate decisions for veterans.

DAV is not opposed to Sections 104, 105 and 106 of this bill.

Section 201 would modify the filing period of a Notice of Disagreement (NOD) to decisions from the VA by reducing the currently allowed one year period to 180 days from the date of the decision. Currently the vast majority of claimants who file an NOD already do so within 180 days. As such, one can reasonably ascertain claimants who don't file within 180 days need the additional time to obtain and submit additional evidence in support of their claim. As such, DAV is opposed to Section 201 of the bill, as we do not see any positive effect resulting from this change at this time.

Section 202 would allow the Board of Veterans' Appeals (Board) to automatically select videoconference hearings to be scheduled for claimants desiring a hearing before the Board, unless the claimant specifically requests to appear in person before the Board. With the large number of claimants DAV represents, especially before the Board, we understand the benefits of the videoconference hearing process, specifically a claimant being able to be heard by the Board in a much faster and cost efficient manner. In fact, DAV encourages claimants desiring to have a hearing before the Board to do so by way of videoconference. As such, DAV supports this section of the bill as it would improve the timeliness of the appeal process; however, a veteran must always retain the right to have an in-person hearing if so desired. Further, we recommend the notice of appeal rights sent to a claimant include the automatic scheduling for a videoconference hearing before the Board along with the right to appear in person before the Board.

DAV is not opposed to sections 203, 301, 302, 303 and 304 of the bill.

Section 305 of the bill would provide an extension of temporary authority for disability medical examinations to be performed by contract physicians. If enacted, this section of the bill would extend this authority through December 31, 2014. The results from contracted examinations have been positive in the way of faster scheduling, more thorough, and better interaction with the physician providing the examination. As such, DAV supports this section of the bill, although we would like to see the authority extended further due to the positive feedback we have received from claimants and our National Service Officers, as well as employees in the VBA who review these examinations. With respect to the reporting requirement in this section of the bill, DAV is not clear of its actual purpose or what is hoped to be gained. While we have no reservation about requiring VA to provide a report about this process, we do question the requirement that VA do so at a time when the backlog of claims continues to grow.

S. 930

S. 930 would require the Secretary of Veterans Affairs, when there is an overpayment of benefits under Post-9/11 Educational Assistance, to deduct amounts for repayment from the last months of educational assistance entitlement.

DAV has no resolution or position in this matter.

S. 932

S. 932, the Putting Veterans Funding First Act of 2013, would authorize advance appropriations for all discretionary accounts within the VA, effective in the first and subsequent budgets submitted by the President following the date of enactment. While DAV does not have a resolution supporting the precise idea of advance appropriations for these purposes, DAV Resolution No. 216 seeks to ensure full implementation of legislation to guarantee sufficient, timely and predictable funding for VA health care. As this Committee is aware, DAV and the entire veterans' service organization community strongly supported reformed appropriations legislation for VA health care, finally enacted as Public Law 111-81, the Veterans Health Care Budget Reform and Transparency Act of 2009. In the same vein as Public Law 111-81 and the positive impact it has had on VA health care, S. 932 seeks to provide the same support to veterans, their families and dependents, through all VA discretionary accounts.

As this Committee also knows well, federal programs, including the VA, have often been stymied in their responsibilities because they are forced to operate on flat or reduced spending plans constrained by continuing resolutions. If every VA program were funded in advance of need, VA decision makers and staff would gain confidence that funds were available long before the beginning of each budget year. This certainty would enable them to plan in more rational ways to ensure that veterans, their survivors and dependents, receive the benefits and services they have earned without delay or disruption, and would ensure VA's myriad programs would be able to operate more efficiently; from a business perspective, and without the distraction of being managed in an irrational, continuing resolution environment.

For each operative year of advance appropriations for VA health care, the Committees on the Budget have provided budget waivers to protect against points of order that would have prevented legislation containing advance appropriations due to restrictions under the governing Congressional Budget and Impoundment Act of 1974. Mr. Chairman, we believe advance appropriations for all VA accounts should be permanently insulated from points of order, not by uncertain and individual waivers to be given; the necessity for waivers to block points of order should be eliminated as this bill is considered by Congress. DAV requests these actions be taken, either in amending S. 932 itself, or in conjunction with the jurisdiction of the Committee on the Budget.

Additionally, Mr. Chairman, Public Law 111-81 contained language requiring the Comptroller General to evaluate and report on the accuracy and sufficiency of VA's formulation of its health care budgets covering fiscal years 2011, 2012 and 2013. We believe this monitoring and reporting function has provided a meaningful and effective source of oversight of VA's internal budgeting processes, and leads to more accurate and sufficient budgeting over time. This authorizing language requiring GAO reviews was not included as a permanent part of the Code, so it has reached its sunset effective at the end of this fiscal year. We ask that consideration be given to making this mandate a permanent part of title 38, United States Code, and extending a new multi-year mandate to the GAO as an amendment to this bill.

Based upon DAV's practical observation, Public Law 111-81 has positively changed behavior in VA health care. This legislation would bring more stability, predictability and timely appropriations to all of VA. As such, in accordance with DAV Resolution No. 216, we support enactment of S. 932 and urge Congress to move this legislation forward as a high priority.

S. 935

S. 935, the Quicker Veterans Benefits Delivery Act of 2013, would improve the VA disability claims process by prohibiting the Secretary of Veterans Affairs from requesting unnecessary medical examinations for veterans who have submitted sufficient medical evidence from non-VA medical professionals, which is competent, credible, probative and otherwise adequate for rating purposes.

Additionally, S. 935 would expand the pre-stabilization rating criteria under section 4.28 of title 38, Code of Federal Regulations, by adding a 30 percent level to the already established 50 percent and 100 percent level of disability for separating service members suffering from wounds, injuries or illnesses that are not completely healed. Similarly, this bill would allow for a temporary minimum

rating to be assigned to a veteran with one or more disabilities and sufficient evidence to support a minimum rating.

While we are certainly supportive of providing a temporary minimum rating, which may dramatically improve the timeliness of the disability claims process for many veterans and VA alike, we believe the language of section 3 of the bill is too broad. First, expanding the pre-stabilization rating process to include a 30 percent level of disability would only serve to allow VA to use this percentage as the automatic base level for incompletely or unhealed conditions versus the already capable percentage of 50 percent, which would undoubtedly become obsolete. We believe the 30 percent rating level would be more appropriate under the temporary minimum rating portion of section 3, which would allow a VA rater to, upon initial review of the evidence, establish that service connection is warranted for at least one disability, provide a temporary rating of at least 30 percent while the overall claim is being processed. This would allow veterans and their families to begin receiving compensation and provide eligibility for a plethora of other federal and state benefits while the full claim is being processed.

Lastly, S. 935 would provide for benefit payments to be made at the first of a month for the coming month instead of the current practice of benefit payments being made at the end of the month for the immediately passing month.

As such, in accordance with DAV Resolution No. 205, we support enactment of S. 935.

S. 938

S. 938, the Franchise Education for Veterans Act of 2013, would amend title 38, United States Code, to allow certain veterans to use educational assistance provided by the VA for franchise training. Specifically, this legislation would expand education and training opportunities under the All-Volunteer Force Educational Assistance Program by allowing veterans to utilize a portion of their educational benefit toward franchise training. DAV recognizes not every veteran or service-disabled veteran learns in the same manner or has the same goal of achieving an educational degree; however, we believe there are many veterans and service-disabled veterans who, unfortunately, allow their education benefit entitlement to expire unused as they do not want to pursue an education degree type program.

In accordance with DAV Resolution No. 001, we support enactment of S. 938, as it would expand the use of the VA provided education benefit and empower service-disabled veterans to use their education benefit in a manner conducive to their own employment interests and goals.

S. 939

S. 939 would amend title 38, United States Code, to treat certain misfiled documents as motions for reconsideration of decisions by the Board of Veterans' Appeals (Board). Under current law, when a veteran claimant receives an adverse decision from the Board, he or she has 120 days to file a Notice of Appeal with the United States Court of Appeals for Veterans Claims (Court). Many veteran claimants, especially those without representation, do not distinguish the Court tribunal as being separate from the VA, specifically the Board or the agency of original jurisdiction (AOJ), primarily the VA Regional Office where the claim originated.

When a veteran claimant receives a final, adverse decision from the Board he or she may inadvertently file their Notice of Appeal directly with the Board or the AOJ within the 120-day period rather than the Court. If the Board or AOJ does not forward the Notice of Appeal to the Court on behalf of the veteran claimant within the 120-day appeal period, the veteran claimant may forfeit their appeal rights and the Board's decision would become final and binding.

S. 939 would afford certain protection to a veteran claimant who submits to the Board or AOJ a document expressing disagreement with the Board's decision within 120 days of such decision. This legislation would require VA to treat such documents as a motion for reconsideration to the Board's decision; unless the document clearly expresses the intent of a veteran claimant to appeal the Board's decision to the Court.

As such, in accordance with DAV Resolution No. 205, we support enactment of S. 939.

S. 944

S. 944, the Veterans' Educational Transition Act of 2013, would require courses of education provided by public institutions of higher education that are approved for purposes of the All-Volunteer Force Educational Assistance Program and Post-9/11 Educational Assistance to charge veterans tuition and fees at the in-State tuition rate.

DAV has no resolution or position on this matter.

S. 1039

S. 1039, the Spouses of Heroes Education Act, would expand the Marine Gunnery Sergeant John David Fry scholarship to include spouses of members of the Armed Forces who die in the line of duty.

DAV has no resolution or position on this matter.

S. 1042

S. 1042, the Veterans Legal Support Act of 2013, would authorize the Secretary of Veterans Affairs to provide support to university law school programs that are designed to provide legal assistance to veterans. Specifically, this bill would authorize financial support of \$1,000,000 total derived from VA Medical Services account to fund this program, which is intended to provide financial support to university law school programs that provide legal assistance to veterans; assistance including filing and appealing VA claims in addition to other civil, criminal and family legal matters.

S. 1042 does not provide details about the purpose of the funding nor the activities of the individuals involved in providing legal assistance. It is not clear whether these individuals would be accredited representatives; what if any training in this process will be required; what type of accessibility to VA systems and records will be afforded; what level of representation will be provided, etc. We believe there are many questions contained within this bill that are unanswered in its broad language and more specific information is necessary to fully understand the goal of this bill.

While DAV does not have a resolution on this matter, we are concerned about the funding for this bill being taken from the VA Medical Services account, or any other VA account. Too often, new programs are funded by taking resources away from existing health care programs serving veterans, especially disabled veterans. DAV opposes funding any program at the expense of existing programs for disabled veterans, especially to fund a program to afford representation, which may or may not have a cost to the veteran, when organizations like DAV and other veteran service organizations have a rich history and provide professional advocacy services and representation with no government funding and no cost to the veteran.

S. 1058

S. 1058, the Creating a Reliable Environment for Veterans' Dependents Act, would expand section 2012 of title 38, United States Code, to authorize per diem payments for the purpose of furnishing care to dependents of homeless veterans to grant recipient entities who provide comprehensive service programs for homeless veterans as covered under section 2011 of the same title.

DAV has no resolution or position on this matter.

Mr. Chairman, this concludes my testimony and I would be happy to answer any questions from you or members of the Committee.