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***STATEMENT OF
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SUBCOMMITTEE ON DISABILITY ASSISTANCE AND MEMORIAL AFFAIRS
UNITED STATES HOUSE OF REPRESENTATIVES
APRIL 13, 2016***

Mr. Chairman and Members of the Subcommittee:

Thank you for inviting DAV (Disabled American Veterans) to testify at this legislative hearing, and to present our views on the bills under consideration. As you know, DAV is a non-profit veterans service organization comprised of 1.3 million wartime service-disabled veterans that is dedicated to a single purpose: empowering veterans to lead high-quality lives with respect and dignity.

H.R. 3715, the Final Farewell Act of 2015

The bill would amend title 38 United States Code, sections 2404 and 2408 as they pertain to national cemeteries and memorials. The bill would authorize the Secretary to conduct interments or funerals, memorial services, or ceremonies of deceased veterans at national cemeteries during weekends, other than on federal holiday weekends. The request for these services would be made by next of kin, and requested for religious or cultural reasons.

Furthermore, any grant made to states in establishing veteran cemeteries would require that as a condition of such grants, these cemeteries would permit interments or funerals, memorial services, or ceremonies of deceased veterans at the cemetery during weekends, other than federal holiday weekends.

DAV does not have a resolution relative to this issue, but would not oppose passage of this legislation.

H.R. 3936, the Veteran Engagement Teams Act (VET Act)

This bill would require the Secretary Affairs to carry out a three-year pilot program facilitating "VET" events in order to complete onsite processing of claims for disability compensation and pension. Each month during the first year, these VET events would be held within the jurisdiction of 10 Department of Veterans Affairs (VA) regional offices (VARO). During the second and third years, the VET events would be expanded to 15 VAROs each month. These events would also be scheduled during normal business hours and take place at

least 50 miles away from designated VAROs, thus providing that veterans who live in rural areas, who might not otherwise be able to access the VARO, can be served.

The bill would require that a sufficient number of physicians (to be available for medical opinions only), veteran service representatives, rating veteran service representatives, and other personnel be made available at these events to initiate, update, and finalize the completion and adjudication of claims. Veterans service organizations would also have access to the events for purposes of providing assistance to veterans. Under this bill, veterans unable to complete the adjudication of a claim at an event would be informed of the additional information or actions needed to finalize the claim.

The bill also encourages collaboration between state, local governments, nonprofit organizations and private sector entities to use facilities as host sites for these events at no, or nominal cost. Services by non-Department physicians in rendering medical opinions relating to claims for compensation and pension would also be encouraged on a non-compensation basis. Reports to Congress would be required and customer satisfaction surveys would be taken to determine the effectiveness of this VET pilot program.

DAV supports H.R. 3936, the Veteran Engagement Teams Act (VET Act), in accordance with our National Resolution 001, calling for enhanced outreach to ensure that all disabled veterans receive all benefits they have earned.

We look forward to working with Congress toward enactment of this legislation.

H. R. 4087, the Fair Treatment for Families of Veterans Act

This bill would change the effective date of reductions and discontinuances and permit the payment of a full month of VA benefits for the month in which a change in beneficiary status occurs.

If enacted, the effective date of a reduction or discontinuance of compensation, dependency and indemnity compensation, or pension would commence on the last day of the month during which marriage, remarriage, or death occurs, as opposed to the last day of the month before such change in beneficiary status.

The bill would essentially provide for an additional month of benefits, covering the entire period of a month for payment purposes when there is a change in beneficiary status due to marriage, remarriage or death.

DAV does not have a specific resolution relative to this issue, but we look forward to enactment of this reasonable expansion benefiting disabled veterans and their survivors.

H. R. 4757

The bill would expand eligibility for the issuance of headstones, markers and medallions, furnished by the Secretary for deceased individuals to signify their awards of the Congressional Medal of Honor (MOH), to include those awarded the MOH posthumously.

In particular, this eligibility would apply to MOH recipients whose remains are buried in private cemeteries and whose service commenced on or after April 6, 1917.

DAV does not have a specific resolution relative to this issue, but would not oppose passage of this legislation.

H. R. 4758

The bill would authorize the award of Presidential Memorial Certificates to certain deceased members of the reserve components of the armed forces and Reserve Officers' Training Corps. The bill would also expand eligibility for internment in national cemeteries for this group of individuals, dependent upon their military status at the time of death.

The bill would establish eligibility for members of the Reserve component of the armed forces, and any member of the Army National Guard or the Air National Guard, whose death occurred under honorable conditions while the member was hospitalized or undergoing treatment, at the expense of the United States, for injury or disease contracted or incurred under honorable conditions while the member was performing active duty for training, inactive duty training, or undergoing hospitalization or treatment at the expense of the United States.

The bill would also establish eligibility for members of the Reserve Officers' Training Corps of the Army, Navy or Air Force when death occurs under honorable conditions while the member was attending an authorized training camp or on an authorized practice cruise; performing authorized travel to or from that camp or cruise; hospitalized or undergoing treatment, at the expense of the United States, for injury or disease contracted or incurred under honorable conditions while the member was attending that camp or on that cruise; during associated travel; or undergoing hospitalization or treatment at the expense of the United States.

DAV has no resolution relative to this issue, but would not oppose passage of this legislation.

H. R. 4759

The bill would permit the Secretary to cover the costs associated with the transportation of deceased veterans, not only to national cemeteries, but also to other recognized veterans' cemeteries.

The bill would define "covered veterans' cemeteries" as those owned by a state, or a tribal organization in which the deceased veteran is eligible to be buried, consistent with the definition currently codified in section 3765 (4), of title 38, United States Code.

DAV does not have a resolution relative to this issue, but would not oppose passage of this legislation.

H.R. 4782, the Veterans' Compensation Cost-of-Living Adjustment Act of 2016

This bill would increase the rates of disability compensation, clothing allowance, and Dependency and Indemnity Compensation (DIC), effective on December 1, 2016.

Consistent with DAV Resolution No. 013, which calls on Congress to support legislation to provide a realistic increase in disability compensation, we support this bill. This bill would authorize an increase in the rates of compensation for wounded, ill and injured veterans, their survivors and dependents, commensurate with increases provided to Social Security recipients.

While it has become customary for Congress to determine a cost-of-living adjustment (COLA) in parity with Social Security recipients, it is important to note there have been several years in which Social Security recipients did not receive a COLA as was the case for 2016. Likewise, beneficiaries in receipt of VA compensation and survivor benefits did not receive a COLA.

Furthermore, DAV believes Congress should consider a more accurate formula to compensate service-connected veterans, their survivors and dependents for wounds, injuries and illnesses sustained during military service. DAV members passed Resolution No. 059, which calls on Congress to support the enactment of legislation to provide a realistic increase in VA compensation rates to bring the standard of living of disabled veterans in line with that which they would have enjoyed had they not suffered their service-connected disabilities.

Also, while DAV has always supported legislation that provides veterans with a COLA, DAV is adamantly opposed to the practice of rounding down COLAs to the nearest whole dollar amount, and we oppose the round-down feature in this bill based on DAV Resolution 017.

Draft Bill - The Medal of Honor Legacy Act

If enacted into law, the Secretary of the Army would be required to reserve 1,000 burial plots at Arlington National Cemetery (ANC) to inter individuals who have been awarded the Medal of Honor (MOH). The law would also require the Secretary of the Army to submit a report to Congress describing the location of the in-ground burial plots that have been reserved.

The MOH is the United States of America's highest military honor, awarded for personal acts of valor above and beyond the call of duty. Reserving adequate final resting places within ANC is a fitting and commendable act that Congress has chosen to undertake. Our country must do all that it can to enshrine, commemorate and preserve the legacy of service and sacrifice endured by our MOH recipients.

DAV does not have a specific resolution from our members pertaining to this issue, but would not oppose passage of this legislation.

Discussion Draft - Special Monthly Compensation (u)

If enacted, the legislation would pay Special Monthly Compensation (SMC)(u), to veterans entitled to receive SMC(k) due the loss of, or loss of use of creative organs.

It would direct the Secretary to pay to a veteran entitled to SMC(k), two lump-sum special compensation payments, each in the amount of \$10,000. The second such payment would not occur less than one year after the date of the first such payment.

This special compensation paid would be in addition to disability compensation paid to a covered veteran pursuant to subsection (k), except that in any month in which the veteran receives a payment of SMC(u), the veteran may not also receive disability compensation pursuant to subsection (k).

A covered veteran would be required to submit to the Secretary a separate, specific application for each payment of this special compensation.

Covered veterans would encompass those who are paid SMC(k) for the anatomical loss of one or more creative organs, or the permanent or static loss of use of one or more creative organs.

This new payment of SMC(u) would apply with respect to veterans who receive disability compensation on, or after, the date of enactment of this act.

The bill contemplates one possible option to provide some assistance, in the form of compensation, to overcome reproductive challenges associated with service-connected disabilities. This proposal is not viewed as a comprehensive measure to solve this problem. These veterans may require additional services, beyond what the two \$10,000 payments would cover. More must be done to ensure that veterans stricken with wounds, illness and injuries that impede upon their natural ability to procreate, receive, to the maximum extent possible, the full complement of services and benefits required to achieve a desired outcome.

DAV has no resolution from its members pertaining to lump sum payments for the loss, or loss of use of creative organs, but would not oppose passage of this legislation. However, if legislation were to be enacted to provide for these lump payments, it should not be used to supplement, or offset, other forms of payments, or services, that would aid wounded, injured and ill veterans in their procreative, or adoptive pursuits.

Discussion Draft - Evidence Development

This bill would affect consideration of evidence before the Agency of Original Jurisdiction (AOJ) and the Board of Veterans' Appeals (Board).

The amendment to subsection (e), of section 7105 of title 38, United States Code, would make several fundamental changes to evidence submitted or disclosed to VA, upon receipt of a substantive appeal and after an appeal has been deemed certified as ready for review by the Board.

DAV opposes this legislation because it would create artificial suspense dates; limit an appellant's opportunity to request AOJ review of evidence; unnecessarily route uninvestigated appeals directly to the Board, thus increasing the potential of otherwise avoidable Board remands; attach finality due to a Board's decision on evidence reviewed in the first instance, and it fails to address how appellants would be made aware of their evidence review options.

First, the legislation would create artificial suspense dates when a claimant, or claimant's representative, requests AOJ review of evidence. There is no data to suggest that VA would be able to meet the 180 day requirement to complete the review of new evidence and also be able to certify these appeals to the Board within 180 days after the review has been completed. Creating such an arbitrary timeframe to perform a review of evidence and certify an appeal back to the Board, holds the potential for hasty and substandard processing of these appeals by the AOJ to simply meet the standard set forth within this proposal.

Second, the legislation would further limit the opportunity for review of evidence that could be considered by the AOJ once an appeal was certified to the Board. Appellants, or their representatives, could only request AOJ review of evidence during the time when a substantive appeal is received and before an appeal is certified to the Board.

This proposal has the potential to increase otherwise avoidable Board remands when issues could have been resolved at the AOJ level. Under current law, the appellant, or the appellant's representative, may request AOJ review of evidence at any time, as long as the request is done in writing. These AOJ reviews would be requested in instances in which it is believed the evidence would result in a favorable outcome locally, rather than relying on the Board's assessment and ultimate determination, thus avoiding the need to continue the appeal.

Third, the legislation would force more uninvestigated appeals with new evidence to the Board for its review in the first instance. Often, evidence reviewed by the Board in the first instance is insufficient for rating purposes and consequently, requires remand for further development, prior to disposition of the appellate issue(s). Providing a useful mechanism to seek AOJ review could save appellants considerable processing time and unnecessary complications.

Fourth, the legislation attaches finality due to the Board's review of evidence in the first instance. If the Board were to rule on an issue based on new evidence, never before seen by the AOJ, assuming the Board determined that a denial was in order, the decision on that issue would become final, thus jeopardizing precious benefits that may otherwise have been allowed at the AOJ level.

Fifth, the legislation fails to address how appellants would be notified of their options and limitations for AOJ review, including whether some form of notice would be required.

Simply closing the record, or limiting AOJ review of evidence with the intention of getting the information before the Board in the first instance has several inherent consequences as described. For these reasons, DAV would be opposed to this legislation if it were to be introduced, because of its potential detrimental effects on the due process rights of veterans.

Draft Bill – the Love Lives On Act of 2016

This bill would modify the definition of a surviving spouse and authorize entitlement to certain benefits, now precluded due to remarriage. Under this proposal, remarriage would not impose an outright bar to certain benefits, including service-disabled veterans insurance; issuance of headstones, markers and burial receptacles; interment in national cemeteries; and, receipt of survivor benefits.

DAV does not have a resolution specific to this issue; we would not oppose passage of this legislation.

Mr. Chairman, this concludes DAV's testimony. Thank you for inviting DAV to testify at today's hearing. I would be pleased to address any questions related to the bills being discussed in this testimony.