

**LEGISLATIVE HEARING ON H.R. 1288, H.R. 1494,
H.R. 1623, H.R. 1809, H.R. 2086, H.R. 2138, H.R.
2189, H.R. 2341, H.R. 2382 AND H.R. 2423**

HEARING
BEFORE THE
SUBCOMMITTEE ON DISABILITY ASSISTANCE AND
MEMORIAL AFFAIRS
OF THE
COMMITTEE ON VETERANS' AFFAIRS
U.S. HOUSE OF REPRESENTATIVES
ONE HUNDRED THIRTEENTH CONGRESS
FIRST SESSION

FRIDAY, JUNE 28, 2013

Serial No. 113-27

Printed for the use of the Committee on Veterans' Affairs



U.S. GOVERNMENT PRINTING OFFICE

82-243

WASHINGTON : 2014

For sale by the Superintendent of Documents, U.S. Government Printing Office
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**LEGISLATIVE HEARING ON H.R. 1288, H.R.
1494, H.R. 1623, H.R. 1809, H.R. 2086, H.R. 2138,
H.R. 2189, H.R. 2341, H.R. 2382 AND H.R. 2423**

Friday, June 28, 2013

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON VETERANS' AFFAIRS,
SUBCOMMITTEE ON DISABILITY ASSISTANCE
AND MEMORIAL AFFAIRS,
Washington, D.C.

The Committee met, pursuant to notice, at 11:34 a.m., in Room 334, Cannon House Office Building, Hon. Jon Runyan [Chairman of the Committee] presiding.

Present: Representatives Runyan, Cook, Titus, O'Rourke, and Negrete McLeod.

Also Present: Representative Miller.

OPENING STATEMENT OF CHAIRMAN RUNYAN

Mr. RUNYAN. Good morning, this legislative hearing on H.R. 1298, H.R. 1494, H.R. 1623, H.R. 1809, H.R. 2086, H.R. 2138, H.R. 2189, H.R. 2341, H.R. 2382 and H.R. 2423 will now come to order.

Today, we have a large number of bills before us and there is a high level of interest in the policy areas that they address, particularly the backlog of disability benefits claims. Therefore, in the interest of time, I will forego a lengthy opening statement and just briefly touch upon on one bill on today's agenda, which I am the author of, H.R. 2423. The Disabled Veterans Access to Medical Examinations Improvement Act has three main objectives.

First, the bill would extend the authority of the Secretary of Veterans Affairs to enter into contracts with private physicians to conduct medical disability evaluations.

With the passage of this bill the successful program allowing physicians outside of the VA to conduct contract examinations would continue for an additional three years through 2016.

This would allow VA more quickly to evaluate the veteran's disability and facilitate the access to the care they need.

Second, this bill would also extend the license portability to contract examination providers, meaning that physicians with an active state license may provide C&P examinations in another state because they are working on behalf of the Federal government.

Although the VA and DoD already provide licensed portability for physicians working directly for them, this authority is not extended to contract examination providers.

This provision is designed to facilitate the C&P exam process by allowing the contract physicians the flexibility to travel and assist

in areas that are experiencing lengthy delays in scheduling examinations.

Finally, this piece of legislation would also expand the number of regional offices allowed to utilize contract examinations from ten to fifteen.

In addition, this would require the secretary to determine which regional offices would benefit most from the use of the contract examinations by performing data analysis of the backlog and disability examination wait times.

C&P examinations are a key component of the disability claims process, therefore expanding the authority and scope of the contract examination process merits consideration.

It is my hope that veterans more quickly receive the necessary medical evidence for their claim. This will cut down the overall development and processing time, resulting in a faster issuance of a final decision.

Again, in the interest of time, I would like to reiterate my request that today's witness abide by the decorum and the rules of this hearing and summarize your statement in five minutes or less during our oral testimony. We have a large number of bills on the agenda today, and I want to make sure everybody is heard in a timely manner.

I would also remind everybody present and without any objection your written testimony will be made part of the hearing record.

I appreciate everyone's attendance and I now call on Ranking Member, Ms. Titus, for her opening statement.

[THE PREPARED STATEMENT OF CHAIRMAN RUNYAN APPEARS IN THE APPENDIX]

OPENING STATEMENT OF HON. DINA TITUS

Ms. TITUS. Thank you, Mr. Chairman. I apologize for being late and I will follow your example. I also want to thank you for your continued leadership on these issues facing our veterans and thank you for this hearing.

We do have a number of bills. I would just highlight a couple that are addressing the backlog, which we have heard so much about from my colleagues who are present today.

On the agenda is H.R. 1623, which is the VA Claims Efficiency Through Information Act of 2013. This is brought to us by Representative McLeod of the DAMA Subcommittee. H.R. 1623 requires the VA to track time that is spent evaluating each type of medical condition in a veterans disability claim and the performance of each regional office in handling those claims.

Information is always key and it gives us strength in making better policy. So understanding which medical conditions consume the most time to process will help us understand the agencies backlog and then shape procedures that can help expedite the progress of a claim.

It would also ensure that the VBA builds in detailed measures which will, ultimately, lead to gains in efficiency, again, for better understanding and addressing the backlog.

Next we have H.R. 1809, known as the Faster Filing Act. This is proposed by Representative O'Rourke, also of the DAMA Subcommittee.

This bill would help encourage and educate veterans about the various methods that may increase the timeliness of their claims, such as utilizing the new fully developed claims program.

The fully developed claims program will not only help reduce the backlog significantly, but it will also allow veterans to do their claims in appropriate time period and then get an extra year of benefits as an incentive.

So, this will encourage veterans to utilize the approach that gets them through faster.

Finally, my own bill, H.R. 2086, the Pay As You Rate bill, would require the VA to pay for medical conditions as they are adjudicated in the electronic system.

Currently, veterans typically receive payment when all the medical conditions within a claim are fully addressed and adjudicated. This legislation would pay as you rate. It would require the VA to pay veterans on individual medical conditions as each one is adjudicated, so you would get paid at a faster rate and at least get a little bit of money before you have to go through the whole process.

We know that veterans returning from Iraq and Afghanistan average 8.5 different conditions in their claims. Some of these are complex and time consuming, but some are simpler and can be addressed in a more timely fashion.

We believe the VA should compensate veterans for these simpler parts of their claim as early as possible while continuing to work on the more difficult ones.

These just seem like common sense approaches and I hope Mr. Chairman, working together, we can move these bills to the floor as quickly as possible.

We all are concerned about the backlog. We want to get rid of all those mountains of paper and have a more efficient effective system and help our RA's address our veterans claims as quickly as possible, because that's what they deserve. Thank you and I yield back.

[THE PREPARED STATEMENT OF HON. DINA TITUS APPEARS IN THE APPENDIX]

Mr. RUNYAN. Thank you, Gentle Lady, and I know just about every Member in the room wants to speak on a bill, so we will get this moving. I yield to Chairman Miller for his statement.

OPENING STATEMENT OF CHAIRMAN JEFF MILLER

Mr. MILLER. Thank you very much, Mr. Chairman. I appreciate it and I, too, will make my statement as brief as possible. H.R. 2189 establishes a commission or a task force basically to handle, hopefully, the issue as it relates to the disability claims backlog and I think everybody in this room is very familiar that VA has, in fact, brain stormed over recent weeks trying to get a handle on the claims that are out there today and I do hope as well as each Member of this Committee that, in fact, their efforts are successful. But I think the pattern that we have seen of starting new initiative

after new initiative after new initiative is just not really the way to handle the situation that is presented before us right now.

I think what we need is an outside independent analysis to clearly identify, first, why the backlog exists and even as important, if not more so, to prevent the backlog from ever occurring again.

If we don't know where we have been, how are we going to get where we are going, so to say? And so, I would say that by assembling this team it would help work towards VA's goal in a fresh and renewed pattern, if possible.

Recommendations would be made. Team members would be appointed by Congress, the President, and would be represented by folks from the Department of Veterans Affairs. I would say that they would pull a perspective from the veterans service organizations community, as well as private-sector leaders in their fields of expertise including claims processing, logistics and product tracking.

Finally, the bill would require an initial report on the group's progress and then a final report being done 180 days within final implementation of this particular law. And I have heard some people say that this is unnecessary and I would just say, it is an opportunity really. It is necessary. It is not going to be a delay tactic by any stretch of the imagination and, in fact, VA has made some progress on the backlog out there.

We have all heard about it, read about it in the news, but the overall processing times still remain well over the department's 2015 goal. Even with the improvement, VA has shown 65 percent of the claims that exist out there today are still in a backlog situation.

So, I think now is not the time to take the foot off the gas. We need to continue moving forward. I would say that this is not different from VA's recent decision to work claims that were pending in excess of two years. This was not originally a part of the VA plan. They did a course correction and I think that it has produced some valuable time saving on those folks.

I would say, again, it would irritate me if I were a veteran that had had a claim for two or three years pending and then all of a sudden, miraculously, within 30 days my claim was adjudicated. We need to find out why it sat there for so long.

So, again, to my colleagues, I would encourage all of you to support H.R. 2189. It's a bill to establish a commission or task force to evaluate the backlog of disability claims at VA. And with that I yield back.

[THE PREPARED STATEMENT OF CHAIRMAN MILLER APPEARS IN THE APPENDIX]

Mr. RUNYAN. I thank the Chairman for that and I will recognize Ms. McLeod for her statement.

OPENING STATEMENT OF HON. GLORIA NEGRETE MCLEOD

Ms. NEGRETE MCLEOD. Thank you, Mr. Chairman Runyan and Ranking Member Titus. With your permission, I would like to make a few remarks on H.R. 1623. Each year as veterans apply for disability benefits through the VA, the number of medical conditions and their compensation claims increase. This is because more

veterans are surviving war injuries and older veterans are having more health challenges as they age.

A condition related to PTSD is very different than one related to hearing loss. Staff at the Veterans Benefit Administration do not always have the expertise with the very different conditions. Therefore, if any single medical condition in a claim is incorrectly evaluated, the entire claim is delayed from receiving a decision.

This prevents the VA from processing claims in a timely manner and contributes to the backlog. The public has no information on how many claims include PSD traumatic amputations from IEDs or heart disease as medical conditions.

The VA and Congress cannot sufficiently insure that offices at the Veterans Benefits Administration have the knowledge base necessary to process disability claims unless this information is publicly available and regularly updated.

The lack of public statistics about the claims backlog does the VA and veterans a disservice in demonstrating the progress being made and setting the VA on a path to reduce the number of outstanding claims.

All that is seen at the VA's Monday morning workload report is a number of pending claims. No data showing the number of completed claims for the previous month or year is available. Nor is the progress shown that is being made at the regional office given during any month or week.

The VBA's recent efforts to reduce the claims backlog through clearing out the oldest cases is admirable, but this is not a long term solution to providing veterans the compensation they earned while serving our country.

H.R. 1623 is one part of the solution. It provides processing of claims by requiring VBA to track the time spent evaluating every medical condition in a disability compensation claim. It improves the efficiency of regional offices by requiring the VBA to report the monthly and weekly performance in processing claims.

I applaud the VA's recent decision to move more information about the accuracy of rating disability claims and the average number of days a claim is pending at each of its regional offices.

Beyond the requirements already enacted by the VA, H.R. 1623 would require the VA to report the number of completed claims by region and by medical condition for the current and preceding month and year. This information will be reported and updated weekly on its Web site.

Each month, veterans suffer economic hardships from delays in their disability benefits. If we knew how many claims were completed from month to month and which offices were struggling to process particular medical conditions, the VA could quickly direct resources to address the problem and Congress would have a better understanding how the VA allocates funding between regional offices. And that would assist them in receiving benefits to those who need it the most.

Some concerns have been raised about how these reporting requirements create more work for the VA. However, all efforts for the veterans who serve our country should be taken.

This bill has the support of the Iraq and Afghanistan Veterans of America and the Association of the United States Navy.

The bill's goal is to work with the VA and its employees, many of whom are veterans. We look forward to H.R. 1623 to be part of ending the claims backlog. Thank you and I yield back.

Mr. RUNYAN. Thank you, Gentle Lady. With that, Mr. Cook.

OPENING STATEMENT OF HON. PAUL COOK

Mr. COOK. Thank you, Mr. Chairman. H.R. 2382, The Prioritizing Urgent Claims for Veterans Act gives priority status to claims submitted by veterans who are most in need of VA services.

This bill requires the Department of Veterans Affairs to give priority status and process claims immediately when filed by veterans who meet any of the following conditions: veterans who have reached the age of 70, veterans who are terminally ill, or veterans with life threatening illnesses.

The intent of this legislation is to give priority to veterans who have urgent needs. And to the veterans in the military that are listening to this, it is almost analogous to combat situations when somebody is wounded and medevaced. And when they are medevaced they go to a casualty clearings station or a ship or what have you, they prioritize the triage system and sometimes somebody who has, you know, maybe shrapnel in the back or something like that, which is serious but it is not a sucking chest wound or somebody that is not missing their right arm or right leg or have head injuries, they have to make that decision.

The system is backed up and people that have served in Vietnam, Korea, even World War II, they are reaching that age where—and I am one of them, where we have the impression that hey, if it is going to take a year and a half, why bother?

And if you are going to take care of us and those that have served in those situations, I think you have to have a priority of that.

Somebody who is terminal, obviously, that is very, very difficult to everybody, the services that would be rendered would be much, much different than, of course, life threatening illnesses.

This is not designed to limit status to these three categories. In fact, we talked to the staff, actually look for amendments that apply to veterans with good cause, but we want to insure priority for these groups.

I am looking forward to working with my colleagues in the DAV to identify other potential groups that would merit priority status before the mark up.

Until the claims backlog is resolved, I think we have got to make it a priority to care for those veterans who are in need of those benefits they earned while serving their Nation.

And I especially want to thank Congresswoman Gloria Negrete McLeod for co-sponsoring this important piece of legislation. Thank you, Mr. Chairman. I yield back the remainder of my time.

Mr. RUNYAN. Thank you, Gentleman. And I will recognize Mr. O'Rourke now.

OPENING STATEMENT OF HON. BETO O'ROURKE

Mr. O'ROURKE. Thank you, Mr. Chairman. I also want to speak on the issue of resolving this problem that we have with disability

claims backlog at the VBA and H.R. 1809 or the Faster Filing Act, seeks to help resolve this problem.

The veterans whom I serve in El Paso are waiting on average 480 days to have their claims resolved and the regional office that is processing those claims is in Waco, Texas.

Last week I got to visit Waco, spent some time with the Director, John Limpose, was joined by the Deputy Under Secretary for VBA, Diana Rubens, and we actually walked through this enormous facility that is processing all these claims for more than half the State of Texas, including El Paso.

And it really struck home some of the problems that we have there. As we were turning a corner to go down another hallway, we were almost run over by a gentleman pushing a hand truck that had a stack of paperwork that was four or five feet high and that was one veteran's claim.

So it is clear that we have to do everything we can to help the VA transition into a digital format. It is going to make it far easier to resolve these claims, to process them and to do so in a very effective, efficient manner and in a way that is far more accurate than we are doing today.

So, the Faster Filing Act requires the VA to track and post the average turnaround time for the different manners in which a veteran can file a claim from the fastest, which is a fully developed claim filed online, to the slowest, which is one that could perhaps be scrawled on the back of a napkin and submitted to the VA, which they would be required to accept and process.

It also requires the VA to remind veterans that if they file a fully developed claim between August 6th of this year and August 6th of 2015, that veteran is entitled to an extra year's worth of benefits.

So, not only will they have their claim resolved more quickly than the traditional method, they can have that claim resolved in under 100 days versus 480 days on average for El Paso, but they will get an extra year's worth of benefits.

And we want to make sure and actually require through this bill that the VA publish that information, make it available to veterans as they are filing, help VSOs make that information available to veterans.

It costs us nothing to do this. It enjoys bipartisan support. It makes a lot of common sense. And I want to thank Mr. Cook and the supporters that we have in the Senate, Senator Heinrich and Senator Heller who joined us on a letter to the VA asking the VA just to implement this bill without having to make it law, because it, again, seems like a common sense solution. Something that should be easy enough for them to do and something that doesn't cost any money.

So, hopefully, we will have the support of this Committee and if the VA does not act on the recommendations, we can make this law in the near future. And with that I yield back. Thank you.

Mr. RUNYAN. Thank the Gentleman, and at this time I would like to welcome my colleagues from the House who are sitting at the witness table, and first we will hear from the Honorable G.K. Butterfield from North Carolina who is sponsoring H.R. 1288 and

then we will hear from the Honorable Chris Gibson from New York who is sponsoring H.R. 1494.

And we are expecting arrival of Honorable Kevin McCarthy from California who is sponsoring 2138 and will be joining us following a prior commitment.

Thank you all for accommodating the vote schedule and I would like to welcome you to this legislative hearing and your complete written statements will be entered into the hearing record and with that, Congressman Butterfield, we will start with you and you are now recognized for your statement.

STATEMENT OF HON. G.K. BUTTERFIELD

Mr. BUTTERFIELD. Thank you very much, Mr. Chairman and to the Ranking Member and other Subcommittee Members. Thank you so very much for allowing me the opportunity to testify today in support of my bill, H.R. 1288, the World War II Merchant Mariner Service Act.

Seeing this bill signed into law is a personal priority and I am hopeful that this hearing signals that I am one step closer to achieving that goal on behalf of World War II Merchant Mariners.

As this Subcommittee certainly knows insuring that individuals who sacrifice so much in service to our country, receive the recognition they deserve is one of the most important jobs that we have as Members of Congress.

For the past three congresses, I have led a strong bipartisan effort to recognize individuals that served our country during World War II in the Merchant Marines.

In this Congress I am, again, joined by a strong bipartisan coalition of, at present, 84 co-sponsors in support of this bill.

Five of the bill's co-sponsors are Members of this Committee including Full Committee Ranking Member, Mr. Michaud. And I thank each of them for their support.

Passing this bill, Mr. Chairman, is the right thing to do and now is the right time to do it. The bill is very simple. It would expand the types of documentation accepted by the Federal Government when a very small group of Mariners that operated tugboats and barges domestically during the war apply for veteran status.

Once they are recognized Mr. Chairman, as a veteran, they would be provided benefits limited only to burial and a U.S. flag.

And let me repeat that, qualifying Merchant Mariners who can prove service through expanded acceptable documentation would receive only burial benefits and the honor of being recognized by their country for their sacrifice and service, period.

My bill does not provide for health coverage or disability payments or payouts of any kind to Merchant Mariners who served during the war and it does not impact direct spending.

Currently, the required documents to satisfactorily prove service no longer exist or can be extremely hard to find. I have included documents in my submitted testimony that demonstrate that many of these necessary documents actually no longer exist or they never existed, largely because of decisions by the Government over several decades and I ask now that they be included in the record.

As a veteran of the U.S. Army, myself, it is important to note that this bill takes nothing away from the men and woman who

have served and continue to serve our country in traditional ways. It does not diminish the importance of their sacrifices and does not reduce the esteem in which we all hold veterans of our traditional armed forces.

These Mariners have gone unrecognized, Mr. Chairman, for more than 70 years. They deserve to be recognized for their service because they too helped to protect our great Nation.

My bipartisan bill has been scored by the CBO to have a insignificant and de minimis effect on direct spending over a ten year period. Estimates show that fewer than 2,000 of these Mariners are still living, less than 2,000. In fact, it is very possible that there are only hundreds left today.

We are quickly running out of time to recognize these few remaining Americans that stood up for freedom and democracy when we needed them the most.

Without weapons or formal training, these individuals risked their lives and tragically too many gave their lives defending our country. For those that are still living, and there are some in my district, we must not let their efforts and contributions go unrecognized while we still have a chance to do it.

Finally, the passing of Senator Lautenberg, from New Jersey, the last remaining World War II veteran in the Senate, is a strong reminder to all of us in Congress that if we are to honor and recognize these Mariners, the time to do so is now.

And so I thank you, Mr. Chairman, and to the Ranking Member and all of my colleagues for yielding time today to allow me to make this statement in support of my bill. Thank you so very much.

[THE PREPARED STATEMENT OF HON. G.K. BUTTERFIELD APPEARS IN THE APPENDIX]

Mr. RUNYAN. Thank you, Congressman Butterfield. And with that, Congressman Gibson, you are now recognized for five minutes.

STATEMENT OF HON. CHRISTOPHER GIBSON

Mr. GIBSON. Well, thank you. I would like to begin by thanking you, Mr. Chairman, the Ranking Member and all the distinguished Members of the Committee and as a veteran myself, I greatly appreciate all these bills that I have heard from this morning. I think they are going to make a difference.

And I appreciate the opportunity to come before the Committee to discuss H.R. 1494, the Blue Water Navy Ship Accountability Act. An important bill designed to help our Blue Water Navy Vietnam veterans.

During the Vietnam War our Government sprayed 20 million gallons of herbicide Agent Orange to remove jungle foliage from the Vietnam terrain. Agent Orange contains dioxin, a toxic chemical residue found in locations where Agent Orange was used or stored.

The U.S. Government has since linked dioxin to harmful or serious medical conditions effecting those who served in or around Vietnam, including non-Hodgkin's lymphoma, prostate and other cancers, Type II Diabetes and Parkinson's Disease.

Recognizing the debt owed to veterans who were exposed to Agent Orange, Congress passed and President George H. W. Bush signed into law the Agent Orange Act of 1991.

The 1991 law empowered the Secretary of Veterans Affairs to declare certain illnesses to be presumed to have been caused by exposure to Agent Orange and enabled Vietnam veterans to receive disability compensation for related conditions.

However, in 2002 the VA limited the scope of these presumptive illnesses covered within the act to only those veterans who could provide proof that they had boots on the ground in Vietnam.

Boots on the ground encompassed land forces and the Riverine or as commonly called, the Brown Water Navy. As a result, veterans who served in the waters off the coast of Vietnam, commonly called Blue Water veterans, were forced to file individual claims with the VA to restore their benefits.

The VA has denied almost 33,000 such claim since 2009. Under current law, Blue Water Navy veterans who do not set foot in Vietnam or serve aboard ships that operated in the inland waterways of Vietnam between January 9, 1962 and May 7, 1975 have the burden of proof to demonstrate exposure of Agent Orange and the connection to their illnesses. These claims are decided on a case by case basis.

The Bureau of Veteran Affairs maintains a list of U.S. Navy and Coastguard ships that operated within the vicinity of Vietnam. Some offshore vessels docked to the shore of Vietnam, operated in Vietnam's close coastal waters and sent smaller vessels ashore or conducted operations in the inland waterways of Vietnam.

Current VA policy for when a veteran files an Agent Orange exposure related claim requires the VA regional offices to forward a request for such to the Department of Defense Army and Joint Services Records Research Center and evidence confirmed through military records must show that the veteran was aboard one of these ships that operated close to or in the shore in order to receive benefits. However, this list is imperfect and it is not comprehensive.

Our Vietnam veterans should not be made to wait any longer than necessary to receive their benefits. My bill would direct the JSRRC to do a comprehensive search to determine which ships are eligible for coverage under current law, reducing the wait time when new claims are filed.

This would help veterans who are currently sick or in some cases have died and claims are being made by their surviving families. Passage of this bill will alleviate some of the current VA claims backlog our veterans are facing by practically determining what we know today rather than waiting until tomorrow when claims are made.

In closing, I would like to also point out that the Congressional Budget Office has indicated that H.R. 1494 will have no significant cost and the bill enjoys support of major veterans organizations, such as the American Legion, the Veterans of Foreign War, the Military Officers Association of America, the Military Coalition, the Vietnam Veterans Association, the Association of the U.S. Navy and the Blue Water Navy Vietnam Veterans Association.

Research has available documents to determine who is eligible under current law to receive presumptive coverage for exposure to Agent Orange.

So, I thank you, Mr. Chairman. I thank the Ranking Member and I look forward to your questions. Thank you.

[THE PREPARED STATEMENT OF HON. CHRISTOPHER GIBSON APPEARS IN THE APPENDIX]

Mr. RUNYAN. Thank you, Congressman Gibson. And I know Congressman McCarthy is probably on his way, so we will continue to move forward.

And also in the interest of time, we will forgo any questions of this panel. If you do have any questions, please submit them for the record.

On behalf of the Subcommittee, I want to thank you for your testimony and you are now excused and I will ask the second panel to come forward.

With this panel, first we will hear from Verna Jones, Director of Veterans Affairs and Rehabilitation Commission at the American Legion. Next, we will hear from Alexander Nicholson who is the Legislative Director for Iraq and Afghanistan Veterans of America and then we will hear from Heather Ansley, Vice President of Veterans Policy with VetsFirst.

Thank you all for being here today. All of your statements will be entered into the record and, Ms. Jones, you are now recognized for five minutes for your testimony.

STATEMENTS OF VERNA JONES, DIRECTOR OF VETERANS AFFAIRS AND REHABILITATION COMMISSION, THE AMERICAN LEGION; ALEXANDER NICHOLSON, LEGISLATIVE DIRECTOR FOR IRAQ AND AFGHANISTAN VETERANS OF AMERICA; AND HEATHER ANSLEY, VICE PRESIDENT OF VETERANS POLICY, VETSFIRST, A PROGRAM OF UNITED SPINAL ASSOCIATION

STATEMENT OF VERNA JONES

Ms. JONES. Thank you. Good afternoon, Chairman, Ranking Member and Members of this Committee. Thank you for inviting the American Legion here this afternoon to express our views on legislation being considered today.

A lot of these bills are created with the intent of helping deal with the backlog and that is important. We have to do something about it and I want to talk about that today.

I started out as a department service officer in North Carolina helping veterans and for our service officers and the over 2,600 accredited representatives of the American Legion across the Nation, we deal with veterans everyday who come into our office asking for help dealing with the disabilities they acquired serving their country.

We see their faces, we know their stories, we feel their pain. And it is easy to put a face with a problem when you have that in your office every day.

I have had the opportunity since then to serve in various capacities helping veterans and now I am the director of the division of the American Legion that serves veterans across the country,

whether it is helping them with their disability claims, to get benefits or their health care.

I keep the faces of those veterans in my heart every day. I remember the very first veteran that I helped as a young service officer. He came into my office and we were going to go before a decision review officer because his claim had been denied. He was an early 30 year old man and what I saw before me was a man who looked twice that age because of his disability from serving his country.

As we went in front of the decision review officer he started to tell his story. He talked about while serving his country he developed an illness and now he couldn't play with his children or dance with his wife or do the things that he thought a man should do for his family. He was unable to work. He had to quit work because his disability was so severe and it became dangerous for him to work.

And as he told his story, I became emotional. I couldn't believe the person had endured such hardship. He stopped talking to the DSO and said to me, "don't cry for me, feel happy for me, feel honored that I was able to serve my country." And knowing what I know now, if I had to do it all over again, I would still serve my country.

The doctor had told him two years prior to that that in five years he would either be severely disabled or dead and he died two years later before his benefits were awarded.

That is what I want you all to keep in mind as you consider every bill that comes before you. Think of the faces and the names of the people you know who served and keep them in mind and ask, are we doing the right thing for them? Some answers and decisions are so easy.

H.R. 1494, the Blue Water Navy Ship Accountability Act, it is long passed time that we had a comprehensive list showing which ships did what in Vietnam.

Let's get this done and make things easier for those Vietnam veterans and for the VA as they work on those claims.

H.R. 2086, the Pay As You Rate Act, just helps the VA raters do what they are already allowed to do, but may not receive credit for it. And get some good news to the veteran and grant some of their issues even if the others are going to take a little while longer.

Let's get some help and some money flowing in the homes of those veterans while they wait for the VA to rate the rest of their claim to get it done right.

Other bills like H.R. 1623, H.R. 1809 are going to provide more information, more information to the interested stakeholder about the VA, how the VA is accomplishing their goal. More information to the veterans about their options for filing a claim. These things are only going to make the system run better, more transparently and more efficiently.

The American Legion has been heavily involved in working through the fully developed claims process. We've traveled the country providing quality review visits and looking at the quality of those FDC claims. And it is helping veterans.

It helps the veterans, it helps the VA get the information that they need up front and a veteran can help cut months off of their claim processing time.

We are already doing this in offices across the country and I will tell you from my time there, it is working. We need to get the word out to the veterans and H.R. 1809 is going to help us do that.

We are all here because we want to help veterans. Whether it is you in those chairs, whether it is the American Legion or other VSOs or people here listening to us, we all want to help the veteran. We are here because we want to get them some help and get the claims done right.

Getting more information, more data out of the VA about how that process is going is only going to help all of the stakeholders in the process and make the right decisions about how to help veterans.

It is going to help the veterans themselves make the right decisions about how to use the process to get their claims done promptly and accurately.

Again, I would like to thank the Committee for considering these bills and for working hard to make sure that they are helping to guide the system and to make it work for veterans. And I will be happy to answer any questions that you may have for me.

[THE PREPARED STATEMENT OF VERNA JONES APPEARS IN THE APPENDIX]

Mr. RUNYAN. Thank you, Ms. Jones. And with that I will now recognize Mr. Nicholson for his testimony.

STATEMENT OF ALEXANDER NICHOLSON

Mr. NICHOLSON. Thank you, Mr. Chairman. Ranking Member Titus, good seeing you, Mr. Chairman, as well. Other distinguished Members of the Committee, thanks for having us here.

On behalf of Iraq and Afghanistan Veterans of America and our 270,000 members and supporters, we are grateful for the opportunity to offer our views and recommendations regarding these pieces of legislation before the Subcommittee today.

As of this week, there are more than 800,000 claims pending before the VA, over half a million of which are still backlogged. But those who find themselves in need of benefits and care from the VA are more than just numbers.

Each number represents a face, a person, a family and a story. And to help bring these stories to light before Congress, the media, and the American public, IAVA this week has launched a new digital tool called The Weight We Carry, which can be accessed and explored at theweightwecarry.org and we would encourage each of you and your staff to take a moment to look at this enlightening data visualization tool and use it to find real stories of real constituents from your States and your communities who are or were stuck in the backlog.

IAVA believes that all veterans must have access to quality benefits, care, and related services. The men and women who volunteer to serve in our Nation's military do so with the explicit understanding that they and their families will be cared for during their

period of service and also after their period of service should they sustain injuries or disability while serving.

IAVA is therefore proud to offer our support for many of the bills pending before this Subcommittee and that are the subject of this hearing today.

I want to mention just a couple of bills in my oral remarks today and focus on those, because as many of you know IAVA's number one issue this year has been the backlog.

But before I do that I just wanted to mention the Chairman's bill, the Disabled Veterans Access to Medical Exams Improvement Act is one that we strongly support, because we believe that the extension of this authority is smart. We believe it is a proven tool that the VA can use to help it get through more claims quicker and more efficiently and we would even encourage the Committee to look at an extension of the ability of regional offices to use this authority beyond the ten or even the fifteen, that this would extend it to, to potentially all regional offices.

I also wanted to mention Representative McCarthy's bill briefly. The Ending VA Claims Disability Backlog and Accountability Act. We have certainly had some concerns about the depth and substance behind the VA's backlog strategic plan and we believe that this bill seems to address some of those short comings that we and other VSOs have identified and have shared our concerns about for quite some time.

But I want to focus mostly now on Chairman Miller's bill to establish a commission or task force to evaluate the underlying causes of the VA disability claims backlog.

The existence and work of this task force would in no way impede the ongoing work of the VA to address problems that have already been identified. And it would simply not just study the matter from afar and issue a report years later. Instead, the Chairman has smartly and carefully crafted this bill to insure that the task force would augment and support the VA's ongoing work, contribute more added value to this effort, report on its findings early and often, and increase transparency throughout the process.

The VA is certainly already working to address some of these issues and the confidence deficit that has resulted through these reforms such as moving to an all electronic filing system, increasing access to information, increasing staffing bandwidth and training, coordinating better with other elements within the VA and communicating more efficiently and effectively with DoD and other executive agencies.

All of these are welcome reforms, but even the VA admits that there are still snags and challenges with which it needs help.

The formation and existence of such a task force would facilitate getting the VA that coordination and outside help and would also be an important facilitator of looking ahead to potential future challenges so that we do not wind up in this unfortunate situation again, Mr. Chairman.

IAVA strongly supports this bill and stresses again that it would in no way impede the good work and progress that the VA is already making on the backlog. Instead, the resulting task force would only help speed up that process and get the VA information, resources, and expertise it needs to meet its goals.

That is, after all, the common goal of IAVA, other military and veterans service organizations, this Committee and the VA itself. Mr. Chairman, I will conclude there and thank you again for this opportunity to offer our views before the Subcommittee.

[THE PREPARED STATEMENT OF ALEXANDER NICHOLSON APPEARS IN THE APPENDIX]

Mr. RUNYAN. Thank you, Mr. Nicholson. And with that I will recognize Ms. Ansley for her testimony.

STATEMENT OF HEATHER ANSLEY

Ms. ANSLEY. Chairman Runyan, Ranking Member Titus and distinguished Members of the Subcommittee, thank you for inviting VetsFirst to share our views today regarding the bills that are the subject of the hearing.

My full testimony has been submitted for the record and I will now limit my comments to just a few of the bills that are before us today.

First, we support H.R. 1623. This legislation would require VA to provide information regarding the processing times of claims by regional office and by medical condition.

Although we support this legislation, we believe that the information collected by condition would be more useful if it included processing times for individual medical conditions by regional office, and also for those medical conditions for which most veterans seek compensation.

Second, we support H.R. 1809. This legislation would require VA to provide veterans with information about processing times and claims for which benefits are awarded.

We believe that providing veterans with the information they need to make informed decisions about their benefits claims is vital.

We do have concerns however about the need to acknowledge receipt of information as part of submitting a claim for benefits.

Third, we support H.R. 2086, this legislation would require VA to make interim payments of disability benefits when an issue is favorably decided for the veteran. We, again, urge swift passage of this legislation.

Fourth, we support the intent of H.R. 2138. This legislation would require VA to fully implement its strategic plan for the elimination of the claims backlog. To ensure that the goal is met, VA would be required to develop a supplemental report that includes additional metrics and timelines for implementing that plan. And also accountability from the outside.

VetsFirst believes that VA must be held accountable for meeting the goal of processing initial claims within 125 days at 98 accuracy. Thus, we believe that requiring continuing evaluations of metrics will show if progress is being made and will be helpful in insuring that VA is pursuing correct policies and procedures and making any course corrections that are needed along the way.

We also believe, however, that the reporting requirements must be carefully monitored to insure that the information that's being collected is actually needed to facilitate and is not diverting critical resources.

Fifth, H.R. 2189 would create a task force or commission to study the claims backlog. We are concerned that a commission or task force might hinder VA's current efforts by diverting resources from the overall push to address the backlog. However, VA must be held accountable for meeting its goal.

We do believe that a commission or task force that is narrowly focused on the VA's current efforts related to the backlog would have benefit for veterans and the claims process.

We also believe, however, that there is a need for a more broad-based commission or task force that would thoroughly evaluate the entire claims process, including the appeals process.

Thus, we believe that a task force or a commission should focus on either the backlog of the initial claims or the broader claims process including the appeals, but not necessarily both.

We would ask either that the legislation that has been proposed be limited in scope or that the timeframes and focus be broadened to include the many areas of concern.

Sixth, we support H.R. 2382. This legislation would require the secretary to provide priority for veterans who are aged 70, terminally ill, or who have life-threatening illnesses.

We strongly believe that statutory protections for our most vulnerable veterans are necessary to insure that benefits are available for those with heightened needs.

We would suggest, however, that this legislation be amended to include those veterans who are homeless or who are suffering severe financial hardship.

Seventh, we support H.R. 2423. This legislation would extend VA's authorization to use contract physicians to perform examinations for compensation exams.

And we support this legislation because it would not only extend VA's authority, but would also allow VA to move resources to where they are most needed.

Again, we thank you for the opportunity to share our views today. This concludes my testimony and we would be happy to answer any questions. Thank you.

[THE PREPARED STATEMENT OF HEATHER ANSLEY APPEARS IN THE APPENDIX]

Mr. RUNYAN. Thank you, Ms. Ansley. And with that I will begin the first round of questions and my first question is for Mr. Nicholson. You touched on it a little bit in your statement dealing with H.R. 2423.

You commented on expanding the ROs up to 15. Is there anything else specifically dealing with contract examinations we could do to help the process that you could think of?

Mr. NICHOLSON. Not off the top of my head, Mr. Chairman. I would just stress the fact that the reason that I believe—you know, we have evaluated the fact that expansion from ten to 15 and even perhaps beyond would be a good idea is because, you know, one of the things we saw when the VA did its special claims processing initiative on two year and older claims, was that one of the factors that helped it get through so many claims that were so old in such a small amount of time that had languished for years, was increas-

ing the capacity—essentially increasing the capacity of the Veterans Health Administration to tackle comp and pen exams.

You know, we heard that they were scheduling on evenings and weekends, that they were really stepping up their coordination with VHA, DBA that is, with VHA to get those comp and pen exams done. So, that is why we think that anything that would further increase the capacity of VHA to get to and complete these comp and pen exams would drastically help with the backlog issue. And I think that, you know, is one of the things that sort of goes to show that and has proven that outside of the effectiveness of the pilot study with the ten regional offices already.

Mr. RUNYAN. Thank you. And now on H.R. 2189, we know that IAVA led the charge in calling for the independent commission or task force to evaluate the current situation surrounding the backlog of claims.

Can you elaborate on how you arrived at the conclusion that this was necessary, and why you continue to believe it is the best path forward?

Mr. NICHOLSON. Yes, Mr. Chairman. I think the fundamental point behind why we decided to push so hard on the commission or task force to tackle the backlog issue is because, you know, we have been dealing with promises on the backlog and on many other issues from the VA for decades.

We have seen an exponential explosion in the number of claims, for example, that are over the one year old, 2000 percent in a four or five year period.

We think it just rises to the level of a crisis and, you know, while we certainly have faith in, to an extent, and trust and are optimistic that the VA's leaders are moving in the right direction, there certainly has been some positive progress lately. We certainly encourage and applaud and acknowledge and recognize that.

But there has been progress in the past that has slipped back to where we are today.

Another fundamental reason, Mr. Chairman, is because this problem is not just within the VA. It's currently being handled, you know, just within the VA. This problem, though, I think the VA will tell you itself, is largely dependent upon cooperation from other agencies, especially the Department of Defense, to get records not only for active duty but especially regarding reserve members.

It's dependent the Social Security Administration and there are lessons to be learned from outside of the Government itself. I think the roundtable that Chairman Miller held a couple of weeks ago with industry experts from the insurance field as well as some tech industry experts, was enormously helpful for the VA. I think the folks from the VBA who were here participating in that, found that to be enormously helpful and that's what this would do.

A commission or task force would bring together not only members from—representatives from other Government agencies but from outside of the Government, expertise from the tech industry, from the insurance industry, et cetera, to assist the VA, but not only solve the current backlog crisis, but make sure it doesn't happen again.

And that is one of the reasons we have been pushing for this so hard. We think the VA needs the help.

Mr. RUNYAN. Okay. I actually have a couple more questions for the second round. I recognize Ms. Titus for her questions.

Ms. TITUS. Thank you, Mr. Chairman. First, I would like to say that I appreciate Ms. Ansley's comments about H.R. 2189 and the need to look at the appeals process.

At a recent hearing I asked the question, aren't we going to be facing a backlog with appeals as well as a backlog with claims, especially as these claims are resolved that it is likely to get worse, and the response was yes. But when I asked what we were doing about it, they didn't have very many specifics. So I think you're right that the Commission needs to address both of those things.

My other question and it really is just kind of an elaboration on a point that was made is to Ms. Jones. You said in reference to the bill H.R. 2086 that I introduced, Pay As You Rate, that this would put into legislation something that they are already doing but aren't getting rewarded for.

Now, they have the authority to make interim payments, but I would ask you just how often that really occurs? And if employees aren't getting credit for that because it is not a case being resolved, there is really no incentive for them to do it, how can we change that process so they can get credit or that we do make sure that it is happening?

Ms. JONES. Thank you. As I mentioned earlier, we conduct quality review visits and along with fully developed claim visits. As part of that process, we talk to employees and we ask them questions about the work credit system and some claims that they would rather rate and how they just go about day to day business.

And from so many of those employees we hear that if they can have, for instance, a four issue claim and they can't rate all four of those issues, it is not likely that they are going to rate one issue and defer three.

So, I think that one of the ways that we could help make sure that doesn't happen is through a revamp of the work credit system.

Almost every employee that we ask across the Nation, all the ROs, we ask them if they think the work credit system is fair, most people don't think that it's productive. They think that it's counter-productive to what they are doing.

So, I think to re-look at the work credit system and make it more conducive to being able to rate those claims and to do what the Pay As You Rate Act supports, to rate a claim, get some money going to those veterans and defer the other ones until they can come back and properly rate those claims.

Ms. TITUS. So, will you work with us to help us look at revamping that work credit system?

Ms. JONES. Yes, ma'am. Absolutely.

Ms. TITUS. Okay. Thank you very much. Mr. Chairman, I yield back.

Mr. RUNYAN. I thank the Gentle Lady. And now we have been joined by Congressman McCarthy and we would like to recognize him for five minutes to speak on his bill, H.R. 2138.

STATEMENT OF HON. KEVIN MCCARTHY

Mr. MCCARTHY. Well, thank you, Mr. Chairman. I appreciate you holding this hearing today and providing me the opportunity to tes-

tify in support of H.R. 2138, the Ending VA Claims Disability BackLog and Accountability Act.

Every day the brave men and women of our Armed Forces risk their lives to preserve our freedom and the American way of life. We must honor those who have served when they are in need and that is why Congress has continued to increase VA funding, an uncommon occurrence in today's fiscal climate.

Yet, the VA continues to fail with the needs of our veterans. With increasing frequency frustrated veterans, I represent complaints to me about waiting months, even years for a decision on their disability claims.

Even more frustrating is that when my own inquiries to the VA of these cases are mostly ignored. So, I appreciate the help of this Committee for working with me to request a GAO audit to seek answers for our veterans.

The GAO audit confirmed our veterans' worst complaints, that the VA is not processing disability claims in a timely manner. Immediately, Chairman Miller and I called on the Veterans Affairs Secretary to take swift action to implement the GAO recommendations to help our veterans.

Unfortunately, when this Committee allowed me to question VA Under Secretary for Benefits, Allison Hickey, during a hearing, instead of acknowledging the problems identified by the GAO, she rejected many of the audit's findings.

As I have repeatedly said, if the VA refuses to help our veterans the House would. Today's hearing on H.R. 2138 and the Chairman's bill H.R. 2189 and others, is keeping that promise to our veterans and is another step in holding the VA accountable.

My bill addresses the GAO identified factors that contribute to the lengthy processing times of disability claims, improves Congressional oversight of the VA's effort to reduce the backlog and requires the VA to end the backlog by Memorial Day 2015.

The bottom line is the current system is failing our veterans, the very men and women who have served our country and we know we can do better. We must end the backlog.

I am confident that the legislation being considered today will help in this effort. That is why I thank you, Mr. Chairman, for all of your effort.

I know this issue is a bipartisan issue and we want to solve it together to make sure our veterans have all that they need. I yield back.

[THE PREPARED STATEMENT OF HON. KEVIN MCCARTHY APPEARS IN THE APPENDIX]

Mr. RUNYAN. I thank the Gentleman for his testimony. And we will resume—and you are welcome to leave, Congressman McCarthy, if you want.

Mr. MCCARTHY. I thought you liked me.

Mr. RUNYAN. We do, but your colleagues left earlier so, we kept that seat warm for you.

Mr. MCCARTHY. Well, you all have a nice 4th.

Mr. RUNYAN. Thank you. And we resume the round of questions with Ms. Negrete McLeod.

Ms. NEGRETE MCLEOD. I really don't have any questions.

Mr. RUNYAN. Okay, I actually have two more for this panel. Ms. Ansley, dealing with H.R. 2382, could you think of any additional categories that we might have to consider in this piece of legislation beyond homeless veterans?

Ms. ANSLEY. Well, I think there is always a danger of adding so many that no one becomes priority again, but I think that at least bringing in the groups that VBA says it is already giving priority to and also looking at what the Board of Veterans Appeals does, which is to include the financial hardship.

So, I think that those are cases that would at least be a good point to start with. And perhaps, then, even requiring a look back to see, how does that process work with those that are being given priority? Are they moving more quickly? And then are there other categories that we could add?

So, I think we can start with what we already know is supposed to be working, whether it is Board of Veterans Appeals or whether it is what VA is already prioritizing and then go from there.

Mr. RUNYAN. Thank you.

Obviously, we have a lot of legislative ideas in front of us today and they are aimed at reducing and ultimately eliminating the backlog.

Which one of the ideas in front of us today do you think will be the most effective in achieving this goal? Each? Ms. Ansley? And you don't have to say my piece.

Ms. ANSLEY. Well, you just stole what I was going to say, Chairman. No, I think that there are many wonderful things here that could be done.

I think accountability is probably one of the most important. I know you asked us for the most important, but I would have to say it is a two part issue. It is accountability for VA and making sure that they are reaching their goal of meeting the backlog. But also making sure that our veterans have the information that they need to make informed and educated decisions. That is something that my organization, in particular, is really promoting, is making sure veterans have what they need.

So, I think that just as there is no one silver bullet that is going to address any of these issues, I think that looking at the most important thing is, what do our veterans need and what does VA need? And it is accountability and information.

Mr. RUNYAN. Mr. Nicholson, you want to take a shot at it?

Mr. NICHOLSON. I would love to, Mr. Chairman. I think it really depends on sort of what our goal is here. I mean, if our goal is to continue to try to put band-aids on the issue and maybe that is a rather crude way of characterizing it, but fix the small problems along the way, then I would say there are some that actually do accomplish that goal, that do fix problems that have been identified and that need fixing. For example, like I mentioned earlier, your bill, which would add capacity for VHA to get to comp and pen claims so that VBA can get those claims adjudicated quicker, I think would be extremely helpful.

The Pay As You Rate Act, as well would get vets money quicker and then more time could be taken on the other parts that require more analysis.

But if we want a more comprehensive solution that is going to go beyond just the quick fixes and try to look at how we can solve this problem comprehensively and fundamentally for the long term as well as the short term, then I would say the Chairman's Commission bill is going to go that entire way in doing that.

Mr. RUNYAN. Thank you, Ms. Jones?

Ms. JONES. Thank you. They are all very important because they all tend to fix or to help eliminate the backlog. If I had to choose right now, 1809. Because 1809 gives the veteran better information and it helps them recognize the benefits of the fully developed claims.

And I have talked about that a little bit today because we have been heavily involved in that. We've had the opportunity to go around and to look to see what the service officers have given to the VA and then what the VA is doing with that information.

Throughout our quality review visits we have been able to talk about fast letters and the directives that have been put out to the VA employees and make suggestions and have them understand a little bit better what is supposed to be done with that information.

Veterans are getting paid more quickly through the FDC program. We have seen claims that have been adjudicated in 30 days, 60 days, 90 days, 115 days and that is a lot better than the traditional claims process.

And it gives the veteran an opportunity to take an active part in getting their claim through the system. Give the VA exactly what they need, get those claims back, awarded quickly to the veteran so they can move on, have a better quality of life, get the health care that they deserve, the benefits that they have earned and not have it take so long.

It also helps the VA continue to move on more quickly with the claims that don't fall under the fully developed claims guideline. So 1809 is a very important piece of legislation today.

Mr. RUNYAN. Thank you. Any other Members have any other questions? With that, thank you all for your testimony and you are now excused and I will ask the third panel to come forward.

On this panel we will hear from Mr. Thomas Murphy, the Director of Compensation Service with the U.S. Department of Veterans Affairs, he is accompanied by Mr. Richard Hipolit, the Assistant General Counsel with the U.S. Department of Veterans Affairs.

I want to note that because this hearing came together in short order and contains a large number of bills, VA's written testimony was unable to be cleared by OMB in time for today's hearing.

I want to emphasize that I appreciate VA's willingness to be here today despite the fact that the agency's clear views are not yet available. They will be submitted for the record next week.

Accordingly, I want to make sure that we are all clear that although VA will not be presenting oral remarks at today's hearing, they are here to answer any technical questions to the bills on the agenda today.

Any more substantive questions may be submitted for the record. Once VA's cleared the written testimony, this will be made available.

I would like to thank again, Mr. Murphy and Mr. Hipolit for being here today and I will begin with some questions.

First, a question on H.R. 2382, which would legislate certain priority groups for claims processing, including the elderly and terminally ill veterans.

In addition to these veterans, what type of veterans does the VA currently try to prioritize for claims processing?

STATEMENT OF THOMAS MURPHY

Mr. MURPHY. The current priorities we have are Priority Group Number 1, is Medal of Honor recipients, homeless veterans, extreme financial hardships, terminally ill, and a couple others that I can't recall off the top of my head.

But, the point is, many of the priorities that are called out in this bill, those veterans are already in Priority Group 1.

Just let me put a little clarity around what exactly that means. We are under a major push with the two year initiatives, the one year initiative that is ongoing right now.

These claims in this category have priority over even that work that comes in. So, these are the first cases that are worked before we even go into the backlog issues of one year and two year claims.

Mr. RUNYAN. Is it uniformly applied across all the ROs?

Mr. MURPHY. I can't sit here and tell you that I guarantee that 100 percent of the time it is complied at all times. We are still in a manual/automated process and as we complete the fielding and moving all claims into that, then I will be able to answer that question with certainty.

Mr. RUNYAN. Can you generally discuss how the contract examination process works at the ten regional offices where it is currently in place?

Mr. MURPHY. We are talking the contract exams—

Mr. RUNYAN. Yes.

Mr. MURPHY. —conducted by our two—well, it is one contractor—two contractors, excuse me. Yes. As an exam is determined the need in order to complete under the regulations and the law we determine an exam is needed and we have at the regional office, we have the option of going down the route of one of our suppliers or to VHA, depending on which is most expeditious and there is also some ties back into the IDIS process with that as well.

It is done direct from VBA's development, BSR, to that contractor through our electronic systems, the exam is ordered and then returned back directly to us.

We measure those for timeliness, for quality, accuracy, et cetera.

Mr. RUNYAN. And you find the use of contract examinations helpful?

Mr. MURPHY. Yes. Yes, it is very helpful to us.

Mr. RUNYAN. We had a veteran recently contacted the Committee and noted that he served on the U.S.S. William Pratt during the Vietnam War. The gentleman noted that his ship as well as the U.S.S. Halsey had been submitted to the VA to be listed as the ships that operated in the territorial waters of the Republic of Vietnam and he wanted to know what the process is and how that request gets moved along to confirmation.

So, could you walk us through how the VA goes determining whether a particular Navy ship from the Vietnam era served in Blue Water or Brown Water.

Mr. MURPHY. There is a process by which we determine, did that ship enter into the Brown Water, up the rivers, the main water streams or did it come in and actually dock or send barges in with sailors on board those.

In that process we contact JESRIK. We give them a specific window measured in months in a timeframe in that and JESRIK will go in and do research on the deck logs and other information in their possession and come back to us and confirm yes or no, was that ship in that location at that time.

Once we receive that information, if it is confirmed that a particular ship was there, we document it and maintain it on a list, on a Web site and make that available to all raters so that we don't have to go out and repeat that research the next time when another veteran from that ship comes in.

So, we are capturing it. It is not a complete list by any means of all ships in the Navy during the duration of the war explaining when those ships were or were not on.

And we are being as wide as we can in our proof. We are using, for example, this sailor that you are talking about, if we had pictures of those that actually went ashore on a barge and it shows them in Saigon Harbor, we use that to develop and ask the right questions and record that that ship was, in fact, or the sailors on that ship were, in fact, exposed to Agent Orange on land in Vietnam. And then we capture that and record that for use later.

Mr. RUNYAN. Thank you. And I will now yield to the Ranking Member, Ms. Titus, for her questions.

Ms. TITUS. Thank you, Mr. Chairman. Mr. Murphy, you said recently in a news story that the VA was at a tipping point in regard to eliminating the backlog and I think the VA is certainly doing a good job and making progress. So I commend you all for that.

You also said that you should have the backlog completely by the end of—or by 2015. Now, Mr. McCarthy's bill, H.R. 2138, wants it to be completed by Memorial Day 2015. That's seven months ahead of the end of the year. How do you feel about that? Is that possible to do that seven months ahead or at what point in 2015 did you mean when you said you could have it done by then?

Mr. MURPHY. I would have to stick with by 2015.

Ms. TITUS. So, that would be by January 2015?

Mr. MURPHY. That would be—let me rephrase that. I would have to stick with in 2015.

Ms. TITUS. So, in 2015 means by Memorial Day?

Mr. MURPHY. I am sorry?

Ms. TITUS. Could you do it by Memorial Day then?

Mr. MURPHY. We are putting every effort we have got. Our prime focus has got—everything we do is targeted at reducing the backlog. Every effort, every dollar we spend is 125 days, 98 percent in 2015.

Ms. TITUS. I know that and I appreciate that. I am just concerned that in 2015 if you do it by Memorial Day that cuts off seven months of 2015 and I don't know if you can get it done by then.

Mr. MURPHY. I don't know if we can either and that is why I am saying that in 2015 we will fix the backlog.

Ms. TITUS. Okay. My other question is going back to Ms. Jones' statement about the work credit system. The VA can do interim payments, but they are reluctant to do that because the employees don't get any work credit for that.

Can you work with us now or will you commit to working with us to revising that system so that will be an incentive for people to get claims done? Or is that a problem for the VA?

Mr. MURPHY. That is a very complex question to a very complex situation in that—

Ms. TITUS. Well, how about a simple answer to a complex question? Yes or no?

Mr. MURPHY. Yes, we would be happy to work with you on exactly how we could look at and restructure the point system for how we award points for work, with the intent being how do you incentivize employees to work better, perform better, be more efficient.

And we are, obviously, putting efforts into that today even beyond what we are looking at here or what is in the bill and in the language in here.

What we do need to keep in mind, that there is—we are in the middle—this tipping point we are talking about has got much to do with the fact that we are operating in two worlds, paper environment and electronic environment and that the scales are tipping very rapidly. That we will be very much in the electronic world and very few in the paper world and as that automation rolls out and develops further, we get much more ability and much more clarity that we can look at and drive accountability and performance with our management, with our leadership, with our individual employees and place those right kind of incentives that you are talking about here.

Ms. TITUS. So, it is a little too early to measure kind of—or come up with new sets of metrics, as everybody likes to talk about now, for performance with the new system? Is that kind of what you are telling me?

Mr. MURPHY. And the general scope with the bill as I read it here, the concept goes in the direction we are already planning for and taking things to do and I think you said it best when you said, it might be just a little bit too early for that.

Ms. TITUS. Okay. Thank you. Mr. Chairman.

Mr. RUNYAN. Okay. On behalf of the Subcommittee I would like to thank you for your testimony and look forward to working with you as your official positions become available to us and you are now all excused.

I ask unanimous consent that all Members have five legislative days to revise and extend their remarks and include any extraneous material.

Hearing no objections, so ordered. I thank the Members for their attendance today and this hearing is now adjourned.

[Whereupon, at 12:47 p.m., the Subcommittee was adjourned.]

A P P E N D I X

Prepared Statement of Hon. Jon Runyan, Chairman

Good morning. This legislative hearing on H.R. 1288, H.R. 1494, H.R. 1623, H.R. 1809, H.R. 2086, H.R. 2138, H.R. 2189, H.R. 2341, H.R. 2382 and H.R. 2423 will now come to order.

Today we have a large number of bills before us and there is a high level of interest in the policy areas that they address - particularly, the backlog of disability benefits claims. Therefore, in the interest of time, I am going to forgo a lengthy opening statement and just briefly touch upon one bill on today's agenda which I am proud to have introduced.

H.R. 2423, the *Disabled Veterans' Access to Medical Examinations Improvement Act*, has three main objectives.

First, the bill would extend the authority of the Secretary of Veterans Affairs to enter into contracts with private physicians to conduct medical disability evaluations.

With the passage of this bill, this successful program allowing physicians outside of VA to conduct contract examinations would continue for an additional three years, through 2016. This would allow VA to more quickly evaluate veterans' disabilities and facilitate access to the care they need.

Second, this bill would also extend license portability to contract examination providers, meaning that physicians with an active state license may provide C&P examinations in another state because they are working on behalf of the Federal government.

Although VA and DoD already provide license portability for physicians working directly for them, this authority is not extended to contract examination providers. This provision is designed to facilitate the C&P examination process by allowing contract physicians the flexibility to travel and assist in areas that are experiencing lengthy delays in scheduling examinations.

Finally, this piece of legislation would also expand the number of regional offices (ROs) allowed to utilize contract examinations from 10 to 15. In addition, it would require the Secretary to determine which ROs would benefit most from the use of contract examinations by performing data analysis of the backlog and disability examination wait times.

C&P examinations are a key component of the disability claims process; therefore, by expanding the authority and scope of the contract examination process, it is my hope that veterans can more quickly receive the necessary medical evidence for their claim. This will cut down on overall development and processing time, resulting in the faster issuance of a final decision.

Again, in the interest of time, I would like to reiterate my request that today's witnesses abide by the decorum and rules of this hearing and to summarize your statement to five minutes or less during oral testimony. We have a large number of bills on the agenda today, and I want to make sure everyone is heard in a timely manner. I would also remind all present that, without any objection, your written testimony will be made part of the hearing record.

I appreciate everyone's attendance at this hearing and now call on the Ranking Member for her opening statement.

Prepared Statement of Hon. Dina Titus

Thank you, Mr. Chairman and thank you for your continued leadership and efforts to address the issues facing our Nation's veterans.

Today, we are examining 10 bills. I support several of these provisions brought forth by my colleagues, and am also proud to have introduced **H.R. 2086, the Pay As You Rate Act, which is supported by a number of major VSO's.** Thank

you, Mr. Chairman, for including it on today's agenda. I hope we can work together to quickly move this legislation to the House floor.

Our first bill, **H.R. 1288, World War II Merchant Mariner Service Act**, sponsored by Mr. Butterfield, pertains to World War II Merchant Mariners, a group who served a critical role keeping the war effort moving forward as an auxiliary to the Navy. This legislation would expand the acceptable forms of documentation used to determine eligibility for benefits as a Merchant Marine, and would greatly assist in allowing these men and women to prove their service.

I also wanted to mention some of the of our bills before us today that are part of a slate of 10 pieces of legislation introduced by Members of the Democratic Caucus to assist VA in tackling the claims backlog.

On today's agenda is **H.R. 1623, the VA Claims Efficiency through Information Act of 2013**, brought forward by Ms. Negrete McLeod (McCloud) of the DAMA Subcommittee. H.R. 1623 requires VA to track the time spent evaluating each type of medical condition in a veteran's disability claim and the performance of each regional office in handling disability claims. Understanding which medical conditions consume the most time to process will help Congress understand the agency's backlog and to shape policies that can expedite the progression of the claim. H.R. 1623 would ensure that VBA builds in detailed measures which will ultimately lead to gains in efficiency by better understanding the backlog and ways to address it.

Next, **H.R. 1809, the Faster Filing Act**, was proposed by Rep. O'Rourke also of the DAMA Subcommittee. This bill would help encourage and educate veterans about the various methods that may increase the timeliness of their claims, such as utilizing the Fully Developed Claims program. The Fully Developed Claims program will not only help to lower the backlog significantly, but Veterans will receive their claims in the appropriate time period with an extra year of benefits as an incentive. This legislation will encourage veterans to utilize the faster approach.

And finally, my bill, **H.R. 2086, the Pay As You Rate Act**, would require VA to pay for medical conditions as they are adjudicated in an electronic system. Currently, veterans typically receive payment when all medical conditions within a claim are fully adjudicated. This legislation will require VA to pay veterans as individual medical conditions are adjudicated, which will pay veterans at a faster rate. Veterans returning from Iraq and Afghanistan average 8.5 contentions in their claims. While some parts of these claims are complex and time consuming, some components are simpler. The VA should compensate veterans for the simpler components as early as possible while continuing to work on the more complex aspects of a claim.

I believe this is a common sense approach, and I hope we can move this bill to the Floor as quickly as possible.

Collectively, the legislation before us today should assist VA in their continued effort to transform their process from mountains of paper one to an efficient, and effective electronic system. In just the past few months, the VA has made great strides in serving our Nations heroes. They have rolled out a transformation plan to all 56 RO's and nearly eliminated all claims over two years old. More needs to be done, and it needs to be done quickly to ensure that veterans receive the benefits they have earned in a timely fashion.

I thank all of the Members for their thoughtful legislation. And, I thank all of our esteemed witnesses for joining us today and look forward to hearing their testimony.

Thank you, and I yield back.

Prepared Statement of Chairman Jeff Miller

Thank you, Mr. Chairman.

With your permission, I would like to make a few remarks on H.R. 2189, a bill I introduced that would establish a commission or task force to evaluate the disability claims' backlog.

VA has recently brainstormed a number of initiatives, in an effort to get the backlog of disability benefit claims under control. We all hope that these initiatives were well meant, well planned and well executed. And, time will tell.

However, starting new initiative after new initiative after new initiative is just no way to do business.

And this is why H.R. 2189 is vital.

An outside, independent analysis is necessary to clearly identify, first, why the backlog exists, and second, how to prevent this situation from ever recurring. Make no mistake, this commission or task force is an opportunity.

The team assembled would work towards VA's goals and would give fresh perspective on the best path forward — towards an intelligent, efficient claims process. Specifically, H.R. 2189 would require an examination of backlog factors, and an analysis of laws and regulations applicable to claims and appeals. Recommendations would be made.

In performing this review, the veteran-friendly, non-adversarial, nature of the claims process would be underscored. Team members would be appointed by Congress, the President, and would include VA representation. This commission or task force would pull perspectives from the veterans service organization community as well as private-sector leaders in fields such as claims processing, logistics, and product tracking. Finally, the bill would require interim reporting on the group's progress, as well as a final report within 180 days.

I am aware that some of the stakeholders here today express skepticism, and suggest this bill is unnecessary. I would respond to this skepticism by reminding all involved that the status quo is unacceptable. Many of those who have shouted the loudest that "change is necessary" are the very first to back down when an idea for real change to the system is proposed.

Yes, VA has made some progress with the backlog numbers. But overall processing times still remain well over VA's 2015 goal. Even with the improvement VA has shown, 65% of claims are still backlogged.

Congress, VA, and veterans can all agree that now is not the time to take the foot off the gas.

I have heard concerns that VA needs additional time to allow its transformation plan to work, and that a commission would slow this already glacial process down. I would like to clarify for all that are here today that this is simply not the case.

Rather, what we are asking this team to do is work with VA to objectively evaluate the situation surrounding the backlog — and arrive at solutions that VA and others, who are so engulfed in the current day to day system themselves, may not be able to see. This is not very different from VA's recent decision to work claims that were pending in excess of two years. That initiative was not part of VA's transformation plan. Yet, it was proposed and advanced on short order because VA decided a course-correction was needed.

Couldn't similar corrections be proposed on short order by a knowledgeable group of independent thinkers? I believe we all know that the answer to that is "yes."

In addition, many academics and well-respected individuals in the veterans' benefits realm have called for an independent commission to evaluate this process. I absolutely agree with them. A "fail first" approach is not acceptable, when there is a chance to do more immediately.

Mr. Chairman, I thank you and the Members of the Subcommittee for your time. I would like to encourage all of you to support H.R. 2189, a bill to establish a commission or task force to evaluate the backlog of disability claims at VA, and I yield back.

Prepared Statement of Hon. G. K. Butterfield

Chairman Runyan, Ranking Member Titus, and members of the subcommittee, thank you very much for allowing me the opportunity to testify in support of my bill H. R. 1288, the World War II Merchant Mariner Service Act. Seeing this bill signed into law is a personal priority and I am hopeful that this hearing signals that I am one step closer to achieving that goal on behalf of coastwise World War II Merchant Mariners.

As this Subcommittee knows all too well, ensuring that individuals who sacrificed so much in service to our country receive the recognition they deserve is one of the most important jobs we have as Members of Congress. For the past three Congresses, I have led a strong bipartisan effort to recognize individuals that served our country during World War II in the Merchant Marine. In this Congress, I am again joined by a strong bipartisan coalition of, at present, 84 cosponsors, in support of H. R. 1288. Five of the bill's cosponsors are members of this Committee including full committee Ranking Member Michaud, and I thank each of them for their support. Passing this bill is the right thing to do and now is the right time to do it.

My bill is very simple. It would expand the types of documentation accepted by the federal government when a very small group of mariners that operated tugboats and barges domestically during World War II apply for veterans' status. Once recognized as a veteran, they would be provided *benefits limited only to burial and a U.S. flag. Let me repeat that – qualifying Merchant Mariners, who can prove service through expanded acceptable documentation, would receive only burial benefits and*

the honor of being recognized by their country for their sacrifice and service. My bill does not provide for health coverage, disability payments, or payouts of any kind to Merchant Mariners who served during World War II and does not impact direct spending.

Currently, the required documents to satisfactorily prove service no longer exist or can be extremely hard to find. I have included documents in my submitted testimony that demonstrate that many of these necessary documents no longer exist or never existed, largely because of decisions by the government over several decades, and I ask they be included in the record.

As a veteran of the United States Army, it is important to note that this bill takes nothing away from the brave men and women who have served and continue to serve our country in our traditional armed forces. It does not diminish the importance of their sacrifices and does not reduce the esteem in which we all hold veterans of our traditional armed forces. These mariners have gone unrecognized for more than 70 years, and they deserve to be recognized for their service because they too helped to protect the freedoms we all cherish as Americans.

My bipartisan bill has been scored by the Congressional Budget Office to have an “insignificant and de minimis” effect on direct spending over a 10 year period. Let me repeat that – the non-partisan CBO has scored this bill as not impacting direct spending.

Estimates show that fewer than 2,000 of these mariners who served the United States during World War II are still living. In fact, it’s very possible that there are only hundreds of left today. Colleagues, we are quickly running out of time to recognize these few remaining Americans that stood up for freedom and democracy when their country needed their help. Without weapons or formal training, these brave folks risked their lives, and tragically too many gave their lives in defense of our great nation. For those that are still living, we must not let their efforts and contributions go unrecognized while we still have a chance. The passing of Senator Lautenberg, the last remaining World War II veteran in the Senate, is a strong reminder to all of us in Congress that if we are to honor and recognize these Merchant Mariners, the time to do so is now.

Mr. Chairman, Ranking Member Titus, colleagues, I thank you for allowing me the time to speak on this important issue today. I strongly encourage you to support H. R. 1288 and urge you to schedule a markup soon so that these few remaining unsung American heroes have a chance to gain the recognition they rightly deserve.

I am happy to answer any questions that members of the subcommittee may have.

Thank you.

Executive Summary

The World War II Merchant Mariner Service Act would accomplish the following:

- Expand the official documentation accepted by the Secretary of Homeland Security to grant veterans status with limited benefits to men and women who solely operated tug boats and barges in the U.S. Merchant Marine along the U. S. Coast during WWII (December 7, 1941–December 31, 1946).
- Provide veterans burial benefits (headstone, flag, plaque, etc)
- Award any commendations, ribbons, or awards earned through service

Exclusive Benefits:

- Burial benefits afforded under chapters 23 and 24 of title 38, United States Code
- Awarding of any medals, ribbons, or commendations through service

Additional Documentation Accepted:

- Social Security Administration records
- Validated testimony by the applicant or closest living relative
- Other official records that provide sufficient proof of service

Status update on HR 1288:

- 84 bipartisan cosponsors, including Ranking Member Michaud

It is believed that, at most, there are 2350 of these World War II Coastwise Merchant Seamen alive today. It is also believed that only 170 of these Seamen would access the benefits provided by HR 1288. Due to the small population of surviving Seamen and limited benefits afforded in this legislation, CBO has determined the bill would have “An insignificant effect on direct spending over the 2014 to 2023 period.”

Congressman Butterfield has introduced this legislation for the past three Congresses, and passing this legislation is a personal priority for him.

Prepared Statement of Hon. Chris Gibson

I would like to begin by thanking the Chairman, the Ranking member, and members of the Committee for holding this hearing. I sincerely appreciate the opportunity to come before the Committee to discuss H.R. 1494, the Blue Water Navy Ship Accountability Act, an important bill designed to help our Blue Water Navy Vietnam Veterans.

During the Vietnam War, the U.S. Army sprayed 20 million gallons of the herbicide "Agent Orange" to remove jungle foliage from the Vietnam terrain. Agent Orange contains dioxin, a toxic chemical residue found in locations where Agent Orange was used or stored. The U.S. Government has since linked dioxin to harmful or serious medical conditions affecting those who served in or around Vietnam, including non-Hodgkins Lymphoma, prostate and other cancers, Type II Diabetes, and Parkinson's disease.

Recognizing the debt owed to veterans who were exposed to Agent Orange, Congress passed, and President George H.W. Bush signed into law, the Agent Orange Act of 1991. The 1991 law empowered the Secretary of Veterans Affairs to declare certain illnesses to be presumed to have been caused by exposure to Agent Orange and enabled Vietnam veterans to receive disability compensation for related conditions. However, in 2002, the VA limited the scope of these "presumptive" illnesses covered within the Act to only those veterans who could provide proof that they had "boots on ground" in Vietnam. Boots on the ground encompassed land forces and the riverine, or Brown Water Navy. As a result, veterans who served in the waters off the coast of Vietnam, commonly called "blue water veterans," were forced to file individual claims with the VA to restore their benefits. The VA has denied 32,880 such claims through 2009.

Under current law, Blue Water Navy Veterans who did not set foot in Vietnam or serve aboard ships that operated on the inland waterways of Vietnam between January 9, 1962 and May 7, 1975 have the burden of proof to demonstrate exposure to Agent Orange and the connection to their illnesses. These claims are decided on a case-by-case basis.

The Bureau of Veterans Affairs maintains a list of U.S. Navy and Coast Guard ships that operated within the vicinity of Vietnam. Some offshore vessels docked to the shore of Vietnam, operated in Vietnam's close coastal waters and sent smaller vessels ashore, or conducted operations on the inland waterways of Vietnam. Current VA policy for when a Veteran files an Agent Orange exposure-related claim requires the VA Regional Office to forward a request for research to the Department of Defense's Army and Joint Services Records Research Center (JSRRC). Evidence confirmed through military records must show that the Veteran was aboard one of these ships that operated close to shore in order to receive benefits. However, the list is imperfect and not comprehensive.

Our Vietnam Veterans should not be made to wait any longer than necessary to receive their benefits. My bill would direct the JSRRC to do a comprehensive search to determine which ships are eligible for coverage under current law, reducing the wait time when new claims are filed. This would help Veterans who are currently sick or, in some cases, have died and claims are being made by their surviving families. Passage of this bill will alleviate some of the current VA Claims backlog our veterans are facing by proactively determining what we know today, rather than waiting until tomorrow when claims are made.

In closing, I would also like to point out that the Congressional Budget Office has indicated H.R. 1494 will have no significant cost and the bill enjoys the support of major veterans organizations such as the American Legion, the Veterans of Foreign Wars, the Military Officers Association of America, the Military Coalition, the Vietnam Veterans Association, the Association of the U.S. Navy, and the Blue Water Navy Vietnam Veterans Association. It researches available documents to determine who is eligible under current law to receive presumptive coverage for exposure to Agent Orange. Thank you, Mr. Chairman, I look forward to any questions your subcommittee may have.

Executive Summary

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to Agent Orange and the connection to their illnesses. These claims are decided on a case-by-case basis.

The Bureau of Veterans Affairs maintains a list of U.S. Navy and Coast Guard ships that operated within the vicinity of Vietnam. Some offshore vessels docked to the shore of Vietnam, operated in Vietnam's close coastal waters and sent smaller vessels ashore.

My bill would direct the Joint Services Records Research Center to do a comprehensive search to determine which ships are eligible for coverage under current law, reducing the wait time when new claims are filed. This would help Veterans who are currently sick or, in some cases, have died and claims are being made by their surviving families.

The bill enjoys the support of major veterans organizations such as the American Legion, the Veterans of Foreign Wars, the Military Officers Association of America, the Military Coalition, the Vietnam Veterans Association, the Association of the U.S. Navy, and the Blue Water Navy Vietnam Veterans Association.

Prepared Statement of Hon. Kevin McCarthy

Thank you Mr. Chairman for holding this hearing today and providing me the opportunity to testify in support of H.R. 2138, the Ending VA Claims Disability Backlog and Accountability Act.

Every day, our brave men and women in our Armed Forces risk their lives to preserve our freedom and the American way of life. When our service members return home, they often seek out the care and benefits the Department of Veterans' Affairs (VA) is mandated to provide, only to be met by bureaucratic roadblocks. The Department of Veterans Affairs has continually stumbled in its efforts to serve our veterans, largely due to the increasing number of backlogged claims. We must honor those who have served, and that is why Congress has continued to increase the VA - an uncommon occurrence in today's fiscal climate. Yet, despite this increased funding, the VA has and is failing to meet the needs of our veterans, and is, in it of itself, a major obstacle to ensuring our veterans have their disability claims resolved in a timely manner.

I continue to hear from frustrated veterans in my community about how they must wait for long periods of time, even years, for a decision on a claim. Recently, these complaints have continued to get worse, occurring more frequently. Even more frustrating, my own inquiries - Congressional inquiries - to the VA on behalf of our veterans were mostly ignored. So I appreciate the help of this committee for working with me to request an audit from the Government Accountability Office (GAO) to seek answers.

The GAO audit confirmed our veterans' worst complaints, and what disturbed me in particular was the number of backlogged claims at the Los Angeles Regional Office (LA RO) - which serves many of the veterans in my district. At the time of the audit, GAO found that 80% of over 25,000 claims at the LA RO were older than 125 days, one of the worst performing regional offices in the country. GAO also determined the average wait time for claims is 318 days from start to finish- nearly three times longer than the VA's targeted completion time of 125 days.

After reviewing the audit, House Veterans Affairs Committee Chairman Jeff Miller and I immediately called upon Veterans Affairs Secretary Eric Shinseki to take swift action to implement the GAO's recommendations to fix the delays in VA services and held a hearing where I questioned VA Undersecretary Allison Hickey on the damaging statistics in the GAO audits and blatant leadership problems within the VA. But instead of acknowledging many of problems identified by GAO - Undersecretary Hickey *denied* many of the audits' findings.

I have repeatedly said that the House will keep the VA accountable to its goal of eliminating the backlog, by processing claims within 125 days with a 98% accuracy rating by 2015. So in addition to the Chairman's bill, H.R. 2189 which I cosponsored, I introduced H.R. 2138 with the Chairman's support to end the backlog. H.R. 2138 addresses the GAO-identified factors that contribute to the lengthy processing times of disability claims, improves congressional oversight of the VA's efforts to reduce the backlog, and increases accountability by requiring the VA to end the backlog by Memorial Day 2015.

The bottom line is many veterans literally wait years before they receive needed benefits and sometimes it can be too late. The current system is failing our veterans, the very men and women who have served our country. They deserve better than this and we want to help the VA to better serve our veterans and *end the backlog*. I am confident both H.R. 2138 and H.R. 2189 will help in this effort.

Mr. Chairman, thank you for allowing me to testify today. I yield back my time.

Prepared Statement of Verna Jones

Chairman Runyan, Ranking Member Titus and distinguished Members of the Subcommittee, on behalf of Commander Koutz and the 2.4 million members of The American Legion, I thank you and your colleagues for the work you do in support of our service members and veterans as well as their families. The hard work of this Subcommittee in creating significant legislation has left a positive impact on our military and veterans' community.

H.R. 1288: World War II Merchant Mariner Service Act

To direct the Secretary of Homeland Security to accept additional documentation when considering the application for veterans status of an individual who performed service as a coastwise merchant seaman during World War II, and for other purposes.

"[Mariners] have written one of its most brilliant chapters. They have delivered the goods when and where needed in every theater of operations and across every ocean in the biggest, the most difficult and dangerous job ever undertaken. As time goes on, there will be greater public understanding of our merchant's fleet record during [World War II]."—President Franklin D. Roosevelt

The question of veteran standing for those that served in the Merchant Marines during World War II has routinely been debated. Is the merchant mariner a veteran? According to a January 9, 1988 decision of the Secretary of the Air Force veteran status is warranted for a merchant mariner that served between December 7, 1941 and December 31, 1946. The American Legion similarly recognizes these standards. We encourage these men to join their brothers and sisters that have served their nation honorably during periods of conflict in The American Legion. Additionally, we support including the Merchant Marine flag "in all National Displays as an official United States Auxiliary Service Flag and to fly beside other Service flags of the Armed Forces as appropriate and in accordance with accepted protocol."¹

H.R. 1288 directly addresses correcting the record for any members who may have served in the Merchant Marines and have lacked the proper documentation to prove service. World War II Merchant Marine and maritime historian Charles Dana Gibson provided testimony to the United States Senate Committee on Veterans' Affairs on May 7, 2008, regarding how some individuals entered the Merchant Marines; the manner that men entered the Merchant Marines has resulted in difficulties for World War II merchant mariners achieving veteran status.

Unlike the Departments of Army and Navy, where enlistment documentation was housed within the War Department, many men in the Merchant Marines were contracted by a private sector employer "through means of 'letters of intent to employ' written by shipping companies and/or unions and addressed to the United States Coast Guard which then issued the seaman's certification for one of three entry ratingSuch men did not go through the apprentice training programs that were operated by the U.S. Maritime Service and for which we do not have the approximate numbers", according to Mr. Gibson².

The nature that many of these men entered Merchant Marine service suggests that records of service may not have been maintained in a similar manner as veterans who served in other branches of the armed forces. As a result, some of these veterans charged with the protection of cargo on vessels, to include soldiers and sailors, may have long been denied benefits entitled to veterans. Through the passage of H.R. 1288, veterans of the Merchant Marines may be able to finally receive benefits earned through their sacrifice to this nation's war efforts during World War II.

The American Legion supports the passage of H.R. 1288.

H.R. 1494: Blue Water Navy Ship Accountability Act

To direct the Secretary of Defense to review the operation of certain ships during the Vietnam Era, and for other purposes.

The exemption of Blue Water Navy Vietnam veterans from presumptive Agent Orange exposure has caused heartache and frustration for many veterans. Current

¹Resolution No. 3, October 2003.

²Chales Dana Gibson, Senate Committee on Veterans' Affairs, May 2008.

regulations require Blue Water Navy veterans to prove going ashore in Vietnam; their ship is one of 244 ships currently registered on Department of Veterans Affairs' (VA) public health website³, or they have to file a claim, ask VA to research to determine if a ship qualifies for presumptive exposure in their quest for VA disability benefits.

According to H.R. 1494, Congress calls upon the Department of Defense (DOD) to "review the logs of each ship under the authority of the Secretary of the Navy that is known to have operated in the waters near Vietnam during the Vietnam Era" to determine whether each ship operated in the territorial waters of Vietnam, the dates of the ship's service in Vietnam, and the proximity of the ship to the shore at its closest point.

Through the passage of this bill, ownership of the whereabouts of naval vessels during the conflict is rightfully placed upon DOD as they were the department ordering the deployment of ships. In August 2012, The American Legion directly addressed this issue, calling upon "DOD to provide a full disclosure of all wartime and non-wartime locations to (VA) where hazardous environmental exposures exist and that armed forces members were exposed through testing, transportation, storage, disposal and environmental contamination."⁴ Additionally, we stated that "(DOD) prepare and provide an updated list of all areas outside of the United States, including but not limited to Panama and Okinawa, where it is known that herbicides, specifically Agent Orange, were used in connection with the location and deployment of troops, to include but not limited to the herbicide or herbicides used; the date of each use of each herbicide; and the units located in each area/place that may have been exposed."

The ownership of location of naval vessels during Vietnam should not completely fall upon VA's shoulders. The ships were deployed by the direction of DOD, as were the sailors. DOD would be the department responsible for the maintenance of these records and should be directed to supply the location of all naval vessels during the conflict.

It is long past time that a comprehensive accounting of these vessels be completed, to save veterans and VA many needless hours of time addressing claims for benefits.

The American Legion supports the passage of H.R. 1494.

H.R. 1623: VA Claims Efficiency Through Information Act of 2013

H.R. 1809

H.R. 1623: To amend title 38, United States Code, to direct the Secretary of Veterans Affairs to make publicly available certain information about pending and completed claims for compensation under the laws administered by the Secretary, and for other purposes.

H.R. 1809: To amend title 38, United States Code, to direct the Secretary of Veterans Affairs to provide notice of average times for processing claims and percentage of claims approved, and for other purposes.

With over 2,600 accredited representatives dedicated in assisting veterans and their dependents with claims for VA benefits, The American Legion is keenly aware of the necessity for transparency within the Veterans Benefits Administration (VBA) and to resolve the backlog of VA claims. Due to this vast network of representatives, we are able to monitor areas of concerns held by the accredited representatives that may negatively affect veterans' claims.

Currently, VBA releases a weekly Monday Morning Workload Report (MMWR). The MMWR contains numerous statistics to include but not limited to, average days pending for a claim and adjudication accuracy. These statistics reflect production and accuracy for each VA Regional Office (VARO) and national averages. Additionally, it provides an accuracy average for the previous three months.⁵

H.R. 1623 and H.R. 1809 direct the VBA to provide statistics indicating the number of claims granted and denied by each VARO. Additionally, H.R. 1623 directs VBA to provide statistics regarding the grant or denial of benefits by medical condition. The American Legion supports full transparency of VBA. As an organization dedicated to support the needs of the veteran community, to include veterans' disability benefits, we assert a full understanding of VBA's policies and the implementation of policies is required. In August 2012, we called upon Congress to require VA to provide in a readily available venue a report of "the number of claims for com-

³ <http://www.publichealth.va.gov/exposures/agentorange/shiplist/list.asp>.

⁴ Resolution No. 95, August 2012.

⁵ www.vba.va.gov/REPORTS/mmwr/MMWL—Summary.doc.

pensation and disability that were submitted, that were granted/awarded, that were denied and that remain in a pending status⁶⁷.

H.R. 1809 discusses veterans pursuing VA benefits through filing a fully developed claim (FDC). As members of the Committee may know, The American Legion has worked closely with White House and VA staff as the FDC process was implemented nationwide. Our involvement with the implementation of the FDC process has resulted in the visiting of numerous VAROs with VA and this Committee's staff. A report of our findings will be released later this year.

What The American Legion has seen is that in many cases, the improvement in processing time by pursuing a claim that qualifies under the FDC process is striking. Helping veterans to better understand what the best option available to them to pursue their claim will help not only countless veterans applying for disability benefits, but also VA as claims are more efficiently routed to the process stream best suited for a veteran's claim. Increasing transparency and access to the data necessary to make informed decisions about their claims is vital to continuing the improvement process in the overall claims system.

The American Legion supports the passage of H.R. 1623.

The American Legion supports the passage of H.R. 1809.

H.R. 2086: *The Pay As You Rate Act*

To direct the Secretary to make interim payments of disability compensation benefits for certain claims for such compensation prior to the adjudication of such claims, and for other purposes.

This legislation would provide a much needed way to start access to health care and benefits for veterans in the disability process. Often, for veterans with complex medical conditions, or multiple medical conditions, the process is lengthy because VA will typically wait until all issues have been fully researched and resolved before issuing a decision that covers all conditions for which benefits are sought. While VA has the authority to grant individual issues and defer decisions on other issues currently pending, this is seldom done. According to findings at American Legion Regional Office Action Review (ROAR) visits to VA Regional Offices (VAROs) this is often because employees do not get credit for such split and deferred decisions, so it goes against their incentive to devote the time to writing a decision they will not receive work credit for.

Starting the flow of benefits to a disabled veteran is important for many reasons. The start of disability payments, even if they are only a small amount of money for a simple condition rated at a low percentage, can often make the difference between making ends meet and falling into dire financial straits. Veterans are compensated for their disabilities in some part because these disorders negatively affect their ability to work and earn a living. Furthermore, receiving a service-connected disability rating gives the veteran access to health care for that disability. The sooner they can receive treatment, the better they can mitigate the negative effects of the disability.

This bill would help direct such decisions, rating the issues that can be rated and starting at least a trickle flow of benefits to the veteran, and that is vitally important to many disabled veterans as they wait through the many months it takes VA to render complete decisions on every issue.

The American Legion supports the passage of H.R. 2086.

H.R. 2138: *Ending VA Claims Disability Backlog and Accountability Act*

H.R. 2138: To direct the Secretary of Veterans Affairs to resolve the backlog of disability claims of the Department of Veterans Affairs, and for other purposes.

Repeatedly, VA Secretary Eric Shinseki has touted VA's bold initiative to eliminate the backlog with 98 percent accuracy by 2015. While we certainly applaud the Secretary's vision, we remain concerned that this initiative will not become a reality. Officials within VBA suggest that a "tipping point" has been reached regarding the backlog of VA claims, as they reported that claims awaiting decisions for at least two years have finally been adjudicated; however, this success raises at least two questions:

- VBA was able to adjudicate claims in 60 days that they could not adjudicate in at least two years. Why were these practices not employed earlier?

⁶⁷Resolution No. 99, August 2012.

■ As these claims were rapidly adjudicated, does VBA feel confident in the accuracy?

The latter question unfortunately will likely not be answered for years as these decisions may be appealed to a VA Decision Review Officer, Board of Veterans' Appeals (BVA), and Court of Appeals for Veterans Claims. Historically, statistics generated through BVA decisions suggest that the quality of adjudication at VAROs is not as accurate as the MMWR would indicate.

H.R. 2138 directs the Secretary to provide tangible metrics to ensure that VBA meets the goal of eliminating the backlog with 98 percent accuracy by Memorial Day, 2015. Additionally, it calls for necessary records from federal agencies to be expeditiously transferred to VA for the purpose of VA claims' adjudication. The enactment of this provision should reduce the timeline that VA experiences when waiting for records from agencies such as the Social Security Administration as suggested by Under Secretary for Benefits Allison Hickey during her March 2013 testimony before the United States Senate Committee on Veterans' Affairs⁷.

It is also noted that this bill calls for a comprehensive training program for claims' adjudicators. Recognizing that VA claims can be significantly complicated due to the nature of the condition(s), the responsible act would include an exhaustive training to help ensure that VBA can achieve Secretary Shinseki's objective.

The American Legion has long conducted VARO visitations to review claims' adjudication quality. We have long held that their training, in its current format, is not sufficient. We applaud the bill's attempt to improve training within VBA. In August 2012, The American Legion petitioned "Congress to pass legislation that requires VA be held accountable for achieving the VA Secretary's stated goal to achieve an operational state for VA in which no claim is pending over 125 days and all claims have an accuracy rate of 98 percent or higher."⁸ We believe the enactment of this bill will aid in the Secretary achieving his objective; more importantly, it will assist in reducing the backlog of claims and allow veterans and their dependents to receive the benefits they deserve.

The American Legion supports the passage of H.R. 2138.

H.R. 2189:

To establish a commission or task force to evaluate the backlog of disability claims of the Department of Veterans Affairs.

The commission or task force established by this legislation would address the backlog of disability claims by considering a broad gamut of considerations, regarding the interests of veterans, the public, the Constitution, and other interested parties. The commission will issue regular reports over the course of half a year addressing their findings on the issue.

The American Legion has no position on this legislation.

H.R. 2341: The Veterans Pension Protection Act

To amend title 38, United States Code, to require the Secretary of Veterans Affairs to consider the resources of individuals applying for pension that were recently disposed of by the individuals for less than fair market value when determining the eligibility of such individuals for such pension, and for other purposes.

The American Legion and our network of over 2,600 service officers regularly work with veterans and their families to ensure they receive the benefits they deserve. Over the last several years, it has become more apparent that predatory actors are moving in and taking advantage of elderly veterans in a vulnerable position, by engaging in questionable business practices which can fleece a veteran of their money while offering false promises of pension programs to pay for elder care facilities.

While The American Legion is tremendously appreciative of critical attention to this issue, and this legislation's aim is admirable – seeking to protect veterans from these predatory practices by increasing the look back period when examining veterans' assets—The American Legion has reservations as to whether or not this is the most appropriate measure to provide relief to veterans and their families. Research conducted through The American Legion's network of service providers shows, that this new look back period would affect surviving spouses of veterans who need benefits, as well as questions how VA would be able to address the in-

⁷ <http://www.heller.senate.gov/public/index.cfm/2013/3/heller-questions-veterans-benefits-administration-about-va-claim-backlog>.

⁸ Resolution No. 99, August 2012.

creased workload of the look back period when pension centers struggle to address their existing workload.

However, as this is a matter of concern, The American Legion continues to work with the expertise of our service officers, membership and staff to determine a course of action which would provide remedy in this situation. When such a remedy is determined, then by our own resolution process our membership, will The American Legion be able to ratify a plan for taking action. Due to the complexity of the situation, there is no consensus and therefore we can neither support nor oppose this course of action.

The American Legion has no position on this legislation.

H.R. 2423: Disabled Veterans' Access to Medical Exams Improvement Act

To improve the authority of the Secretary of Veterans Affairs to enter into contracts with private physicians to conduct medical disability examinations.

In the traditional claims process two of the three critical components needed for a veteran to be granted service connection for a disability require an examining physician. A veteran must have a current diagnosis with information about the extent and severity of the disorder provided by a physician. A veteran also must have a "nexus opinion" or a written analysis by a doctor stating that it is "as likely as not" that the veteran's current disability is a result of an event, injury or disorder sustained in service. There are other methods involving aggravation of a condition, development of a condition secondary to an already service-connected condition, malpractice and other concerns; but physician's opinions are vital to proper decision making in the claims process.

In many regions, contract examinations through outside parties to perform these Compensation and Pension (C&P) examinations are a vital component in ensuring VA has the resources to meet demands in the local area. Not every area has appropriate VHA facilities or resources to provide these exams. In practice, the outside contractors have performed perfectly well, and currently the system relies on these important contract exams to operate smoothly. If the contracting authority were to expire, an already overstressed system would be further taxed, potentially to the breaking point. With wait times for exams a potential delaying factor in an already overlong disability claims process, losing this important piece could be disastrous to attempts to get the claims process back on track in a timely fashion.

The American Legion supports the extension of the contracting authority for these C&P exams. There are other means that will help carry the load on the stressed system such as better use of Disability Benefits Questionnaires (DBQs) by private physicians to alleviate the need for additional exams, and better training of VA employees to recognize and accept private medical opinions that provide valid and complete information sufficient to allow rating of a claim, but losing the contracting authority would set the whole process back.

The American Legion supports the passage of H.R. 2423.

Prepared Statement of Alexander Nicholson

Bill #	Bill Name	Sponsor	Position
H.R. 1288	WWII Merchant Mariner Service Act	Butterfield	No Position
H.R. 1494	Blue Water Navy Ship Accountability Act	Gibson	Support
H.R. 1623	VA Claims Efficiency Through Information Act	Negrete McLeod	Support
H.R. 1809	A bill to direct the VA to provide notice of average times for processing claims and percentage of claims approved, etc.	O'Rourke	Support
H.R. 2086	Pay as You Rate Act	Titus	Support

Bill #	Bill Name	Sponsor	Position
H.R. 2138	Ending VA Claims Disability Backlog and Accountability Act	McCarthy	Support
H.R. 2189	A bill to establish a commission or task force to evaluate the backlog of disability claims of the Department of Veterans Affairs.	Miller	Support
H.R. 2341	Veterans Pension Protection Act	Rooney	No Position
H.R. 2382	Prioritizing Urgent Claims for Veterans Act	Cook	Support
H.R. 2423	Disabled Veterans Access' to Medical Exams Improvement Act	Runyan	Support

Chairman Runyan, Ranking Member Titus, and Distinguished Members of the Subcommittee:

On behalf of Iraq and Afghanistan Veterans of America (IAVA), I would like to extend our gratitude for being given the opportunity to share with you our views and recommendations regarding these important pieces of legislation.

IAVA is the nation's first and largest nonprofit, nonpartisan organization for veterans of the wars in Iraq and Afghanistan and their supporters. Founded in 2004, our mission is important but simple – to improve the lives of Iraq and Afghanistan veterans and their families. With a steadily growing base of almost 270,000 members and supporters, we strive to help create a society that honors and supports veterans of all generations.

As of this week, there are over 833,000 VA claims pending and over 547,000 of those are backlogged. But those who find themselves in need of benefits and care from the VA are more than just numbers and aggregate data to be reported on and tracked each week. Each number represents a face, a person, a family, and a story. To help bring these stories to life for Congress, the media, and the American public, IAVA launched a new digital tool this week called The Wait We Carry, which can be accessed and explored online at www.TheWaitWeCarry.org. We encourage each of you and your staff to take a moment to look at this enlightening data visualization, and use it to find real stories of real constituents in your own home states and communities who are or were stuck in the backlog.

IAVA believes that all veterans must have access to quality health care, benefits, and related care and services. The men and women who volunteer to serve in our nation's military do so with the explicit understanding that they and their families will be cared for during their period of service, and also after their period of service should they sustain injuries or disabilities while serving. IAVA is therefore able to offer its support for many of the bills that are the subject of this hearing today because we believe they would better enable the Department of Veterans Affairs (VA) to live up to this commitment on behalf of the American people.

H.R. 1288

IAVA currently takes no position on H.R. 1288, the WWII Merchant Mariner Service Act, which would designate those who served as Merchant Mariners during WWII as veterans for the purpose of providing these individuals and their family members with access to certain benefits afforded to veterans. While we understand and acknowledge that there is an ongoing debate within the veteran community about whether to bestow veteran status and benefits on other categories of individuals who served our nation during previous periods of conflict, we defer to that debate and to our colleague veteran and military service organizations, whose memberships and constituencies this would impact more, on this recommendation.

H.R. 1494

IAVA supports H.R. 1494, the Blue Water Navy Ship Accountability Act, which would require the Secretary of Defense to determine the proximity to the Vietnamese mainland of Naval vessels deployed to the Vietnamese area of operations during the war in Vietnam, and to provide that information to the Secretary of Veterans Affairs for the purpose of making it available to the public. Many veterans of the war in Vietnam were exposed to harsh chemicals like Agent Orange through direct contact. However, many others were exposed in indirect ways while serving on ships stationed off the Vietnamese coast.

Keeping our promise to care for our veterans when they return home means constantly evaluating and analyzing not only the delivery of their benefits, but also the circumstances that qualify veterans for receipt of those benefits. IAVA supports this bill because it will expand the umbrella of access to resources for veterans afflicted with symptoms related to exposure to Agent Orange to those veterans who also came into indirect contact with the chemical.

H.R. 1623

IAVA supports H.R. 1623, the VA Claims Efficiency Through Information Act, which would direct the Secretary of Veterans Affairs to provide and post statistical information on disability claims on the VA website. This information would include key data points, such as the number of claims pending and the number of claims in backlog status, and these data would be further stratified by VA regional office and the type of medical condition for which a claim has been filed.

The VA already posts this type of information in raw form on its website on a weekly basis, and it has been making important strides toward ending the claims backlog, but the work is far from complete. As of this week, the VA has 833,000 disability claims pending, over 547,000 of which are in backlog status. IAVA supports this bill because it aims to provide America's veterans with clearer information and a more complete picture regarding the disability claims filing processes. At the same time, it will provide Congress with more detailed information on the areas of the claims filing process that are inefficient, enabling legislators to better formulate thoughtful policies.

H.R. 1809

IAVA supports H.R. 1809, which requires that the Secretary of Veterans Affairs post information on the average time for processing claims and the percentage of claims that have been approved on the VA website and in certain VA offices and facilities.

The VA is currently in the process of attempting to simplify and streamline the process for filing and tracking a disability claim. However, at present a vast majority of claims are still stuck on paper rather than in the VA's electronic systems, leaving open the possibility of lost or misfiled claims for a large number of America's veterans. IAVA supports this bill because it aims to provide veterans with more information on the claims process which will assist them in making informed decisions about the best way to file their claim and the expectations they can have on the time it will take to complete the claims process.

H.R. 2086

IAVA supports H.R. 2086, the Pay As You Rate Act, which would allow certain veterans filing disability claims to receive interim payments while their claim is being adjudicated. Too many veterans are waiting too long to receive the benefits they earned by answering their nation's call to service and volunteering to put themselves in harm's way. With over 524,000 VA disability claims in backlog status, the nation is failing to live up to its promise to help these veterans when they return home carrying the injuries of over a decade of war.

The VA's special processing initiative for two-year old claims was developed and carried out to help alleviate this problem. Over a two-month period, VBA was able to eliminate almost all two-year old claims from the backlog and provide provisional ratings based on existing evidence to those that could not be rated outright. This bill takes the success of this special processing initiative a step further by implementing the good faith practice of providing veterans with at least a portion of the benefits they have earned until their claims have been fully processed. IAVA supports this bill because it represents the kind of common sense approach to the disability claims process veterans deserve.

H.R. 2138

IAVA supports H.R. 2138, the Ending VA Claims Disability Backlog and Accountability Act, which would direct the VA to end the disability claims backlog by Memorial Day of 2015 through the implementation of its strategic plan and require the VA to issue periodic reports on its progress toward implementation. This bill also mandates timely measures to increase information sharing between the VA, the Social Security Administration, and the Department of Defense, along with thorough training for claims processors.

While IAVA acknowledged the ambitious intent of the VA's relevant strategic plan when it was announced, we joined many other advocates in expressing concern that the lacked specific details on how the metrics in the plan were derived, the data on which those metrics were based, and sufficient information on how the plan would be implemented. We also expressed concern that insufficient transparency

along the way toward the VA's 2015 goal would make it hard for outside groups and Congress to hold the VA accountable for meeting its own goals. We were also uncomfortable with the inability or unwillingness of VA leaders to articulate for Congress or the American public a date in 2015 by which its backlog-related goals would be accomplished.

This bill seeks to address some of those shortcomings in the VA's strategic plan, especially with respect to keeping Congress and the public informed on its progress. America's veterans understand that goals can only be met when they are clearly defined. IAVA supports this bill because setting clear benchmarks for ending the backlog increases the incentive to get the job done and increases the ability of Congress to hold the responsible parties accountable.

H.R. 2189

IAVA strongly supports H.R. 2189, which would establish a much needed multi-agency task force or working group to evaluate the underlying causes of the VA disability claims backlog, facilitate coordinated remedies to those causes, and help bring outside expertise to bear on the problems the VA has encountered that have resulted in the backlog growing as high as it did and persisting for as long as it has. The existence and work of this task force would in no way impede the ongoing work of the VA to address problems that have already been identified, and it would not simply study the matter from afar and issue a report years later. Instead, the Chairman has smartly and carefully crafted this bill to ensure that the task force would augment and support the VA's ongoing work, contribute more added value to that effort, report on its findings early and often, and increase transparency throughout the process.

The VA is certainly already working to address some of these issues and the confidence deficit that has resulted through reforms such as moving to an all-electronic filing system, increasing access to information, increasing staffing bandwidth and training, coordinating better with other elements within the VA, and communicating more efficiently and effectively with the Department of Defense and other executive agencies. All of these are welcomed reforms, but even the VA admits that there are still snags and challenges with which it needs help. The formation and existence of such a task force would facilitate getting the VA that coordination and outside help, and would also be an important facilitator of looking ahead to potential future challenges so that we do not wind up in this unfortunate situation again. IAVA strongly supports this bill and stresses again that it would in no way impede the good work and progress that the VA is already making on the backlog. Instead, this bill and the resulting task force would only help speed up that process and get the VA the information, resources, and expertise it needs to meet its goals. That is, after all, the common goal of IAVA, other military and veteran service organizations, this Committee, and the VA.

H.R. 2341

IAVA takes no position on H.R. 2341, the Veterans Pension Protection Act, which aims to protect against financial gamesmanship in the pension claims process. The intent of this bill is to avoid unnecessary payment of pension compensation due to fraud and mischaracterized or hidden existing resources, but we also understand that some of our colleague veteran and military service organizations have concerns about how this specific proposal could impact veteran pensioners in other ways. IAVA acknowledges and appreciates the principles this bill is seeking to uphold and believes that all reasonable efforts should be made to eliminate waste, fraud, and abuse from government spending. However, at this time we take no position on this particular piece of legislation.

H.R.2382

IAVA supports H.R. 2382, the Prioritizing Urgent Claims for Veterans Act, which would direct the Secretary of Veterans Affairs to prioritize claims of veterans who are terminally ill or suffering from life-threatening illnesses, and those veterans who are 70 years of age or older. The VA is currently processing over 833,000 disability claims, over 547,000 of which are in backlog status. These claims represent actual veterans experiencing actual hardships and health issues related to their service. One approach the VA has recently adopted to address this issue is the fast-tracking of claims for veterans experiencing financial hardship, homeless veterans, terminally ill veterans, former POWs, and Purple Heart recipients. This bill would codify a mandate to fast-track some of those categories of veterans, the principle behind which the VA seems to already support. IAVA likewise supports this bill because it expands on a practice that ensures that our nation's most vulnerable veterans are provided with the benefits they have earned quickly and effectively.

H.R. 2423

IAVA supports H.R. 1623, the Disabled Veterans' Access to Medical Exams Improvement Act, which would extend the temporary authority of the Secretary of Veterans Affairs to contract with physicians to perform disability examinations through December 31, 2016. It would also extend the ability of a greater number of VA regional offices to use, thereby augmenting the ability of the VA to quickly and efficiently complete more claims.

The VBA's special claims processing initiative for two-year old claims demonstrated how speeding up the medical exam portion of the claim development process can help reduce the overall time for developing and processing a claim. IAVA supports this bill because it expands upon measures to make the disability claim filing process more convenient for veterans and more efficient for the system, which will in turn help clear the backlog quicker.

With over 833,000 claims pending and over 547,000 in backlog status as of this week, we should all be united in supporting every reasonable action to ensure that veterans can receive the benefits they earned in a timely and effective manner. IAVA has helped make this a top priority this year, and we will continue to push, pressure, publicize, and prioritize the disability claims backlog issue until we all succeed in finally ending the VA backlog.

Mr. Chairman, we at IAVA again appreciate the opportunity to offer our views on these important pieces of legislation, and we look forward to continuing to work with each of you, your staff, and the Subcommittee to improve the lives of veterans and their families.

Thank you for your time and attention.

Prepared Statement of Heather Ansley, Esq., MSW

Chairman Runyan, Ranking Member Titus, and other distinguished members of the Subcommittee, thank you for the opportunity to testify regarding VetsFirst's views on the bills under consideration today.

VetsFirst, a program of United Spinal Association, represents the culmination of over 60 years of service to veterans and their families. We provide representation for veterans, their dependents and survivors in their pursuit of Department of Veterans Affairs (VA) benefits and health care before VA and in the federal courts. Today, we are not only a VA-recognized national veterans service organization, but also a leader in advocacy for all people with disabilities.

World War II Merchant Mariner Service Act (H.R. 1288)

This legislation would provide individuals who served as coastwise merchant seamen during World War II with additional ways to prove their service. According to the GI Bill Improvement Act of 1977 (Public Law 95-202) and the Veterans Programs Enhancement Act of 1998 (Public Law 105-368), merchant mariners may use the following documentation to prove their eligibility for VA benefits: certificate of shipping and discharge forms, continuous discharge books, and company letters showing vessel names and dates of voyages. However, these forms of documentation are not always available.

For individuals without applicable Coast Guard shipping or discharge forms, a ship logbook, a merchant mariner's document or Z-card, or other official employment record, Social Security Administration records in conjunction with validated testimony given by the individual or his or her primary next of kin that the individual performed such service will be acceptable proof. In the case of documentation that has been destroyed or is unavailable, other official documentation shall be accepted. Providing such proof would allow these individuals to be eligible for burial benefits; medals, ribbons, and decorations; and the ability to identify as a veteran.

We support this bipartisan legislation and urge its swift passage.

Blue Water Navy Ship Accountability Act (H.R. 1494)

Veterans who served on vessels in and around the waters of Vietnam often face difficulties in proving they were exposed to Agent Orange. In order to benefit from presumed exposure to Agent Orange in filing a claim for disability benefits, veterans must prove that the vessels on which they served traveled on Vietnam's inland waterways or that the ship was docked to the shore or pier and they disembarked ("boots on the ground"). Otherwise, veterans must actually prove that they were exposed to Agent Orange, which can be very difficult.

Although being able to obtain official information regarding the area in which you served is critical for proving exposure to Agent Orange, VA does not have a full ac-

counting of the locations of all vessels that served in the waters near Vietnam. Instead, VA must continue to work with the Department of Defense (DOD) to develop the information as individual claims are received. This delay contributes to the backlog and delays benefits for many Vietnam veterans who have disabilities due to their exposure to Agent Orange.

This legislation would require DOD's Army and Joint Services Records Research Center (JSRRC) to perform a comprehensive review of the logs of all ships that served in waters near Vietnam to determine if the vessels served within the territorial waters of Vietnam. Specifically, the JSRRC must determine whether a vessel operated in the territorial waters of the Republic of Vietnam during the period beginning on January 9, 1962, and ending on May 7, 1975, and where the ship was located in relation to the shore. Proactively researching this information will ensure that veterans' claims for service connection are not delayed due to lack of information under the custody and control of the federal government.

We urge swift passage of this legislation.

VA Claims Efficiency Through Information Act of 2013 (H.R. 1623)

The backlog in processing initial claims for disability compensation is well known. Despite numerous efforts to address the backlog, the difficulty in processing claims in an efficient and timely manner has continued to elude VA. Addressing the backlog will require many solutions because the reasons for the backlog are not only found in the overall claims processing system but also in the customs and culture of each regional office.

This legislation would require VA to make transparent information regarding the processing times of claims by regional office and by each medical condition for which a veteran seeks service connection or an increased rating. Specifically, VA will be required to post, by regional office, the average number of days between the date of the submittal of a claim and the date of the decision, the average number of days each claim is pending, the quality and accuracy rating of the claims adjudication process, the number of claims pending, those pending beyond 125 days and the number of claims completed by current month, the preceding month, current calendar year, and the preceding calendar year. This same information is also required by medical condition.

Although we support this legislation, we believe that the information collected by medical condition would be more useful if the following requirements were included. First, we believe that it would be helpful to consider evaluating processing times for individual medical conditions by regional office. Reviewing information by regional office may highlight problems in processing certain claims that are nationwide in nature versus regional. In addition, instead of requesting information for each medical condition filed, it would be more useful to look at the top 10 conditions for which veterans file for compensation. Otherwise, VA would be forced to provide data for numerous medical conditions, including those for which very few veterans actually seek compensation.

With these changes, we believe that this important legislation would be able to provide data that will not only help to address the backlog but also serve as an indicator moving forward about resource allocation and potential problem areas.

To direct the Secretary to provide notice of average times for processing claims and percentage of claims approved (H.R. 1809)

Veterans now have more options than ever for filing claims for veterans benefits. In addition to filing claims using traditional paper forms, veterans are also able to file claims electronically. For veterans who have identified all of the information needed to prove their claim, the opportunity to submit a fully developed claim promises faster processing times and will as of August 6, 2013, allow the veteran the opportunity to receive up to one year of additional retroactive benefits. In filing claims, veterans also have the opportunity to seek the assistance of a veterans service officer or other individual or to file a claim on their own.

To ensure that veterans are able to make the best educated decisions regarding their benefits claims, this legislation would require VA to post information in regional offices, claims intake facilities and on the Internet regarding processing times and claims for which benefits are awarded. Specifically, VA will be required to provide information regarding the average processing time for claims, whether fully developed or not, and the percentage of claims that were awarded benefits. VA will also be required to provide information regarding claims granted by those in which a veteran was represented by a veterans service organization, those who used the assistance of another individual under a durable power of attorney, and those in which the veteran acted on his or her own behalf. Veterans would also be required

to sign a notice when submitting a claim for benefits that acknowledges that they are aware of this information.

We believe that veterans should have the information they need to make informed decisions regarding their benefits claims. However, we are concerned about the requirement for applicants to sign a notice stating that they are aware of this information. We are not opposed to ensuring that veterans have information regarding processing times and claims approved. But we believe that unless the notice is incorporated into all application forms for VA benefits, the need to receive and sign a separate form could add another layer to the claims process that would further delay it.

If our concerns regarding the need to acknowledge receipt of the notice can be addressed, we think that this legislation would be very beneficial to veterans and other claimants.

Pay As You Rate Act (H.R. 2086)

Veterans today are filing increasingly complex claims for disability compensation. For veterans who file claims with multiple issues, final resolution of all issues in a claim may require a significant amount of time. Once VA has reached a decision on each issue in a veteran's claim, the veteran should begin receiving any owed disability compensation without having to wait for a final adjudication of all issues raised in his or her claim.

This legislation would require VA to make interim payments of disability benefits when an issue is favorably decided for the veteran, as those decisions are made. VA would be required to pay veterans as they rate individual issues for those claims that require VA to make decisions with respect to two or more disabilities. We hope that each decision on an issue will be considered a final decision so that if a veteran wishes to appeal his or her rating that process will be able to begin immediately.

We support this legislation and urge its swift passage.

Ending VA Claims Disability Backlog and Accountability Act (H.R. 2138)

VetsFirst believes that VA Secretary Eric Shinseki is personally committed to eliminating the backlog for veterans benefits. VA's current goal is in 2015 to process initial claims within 125 days of receipt at 98 percent accuracy. In recent years, however, the backlog has only continued to grow despite a variety of efforts to stem the tide.

On January 25, 2013, VA published a strategic plan to accomplish this goal. The Strategic Plan to Eliminate the Compensation Claims Backlog addresses the Veterans Benefits Administration's (VBA) transformation plan which focuses on using people, process, and technology to end the backlog. Despite indications that VA may finally be turning the tide on the backlog, many members of Congress and veterans remain concerned that VA will not be able to finally address its processing delays. Furthermore, even if processing timelines are met, it is unclear whether quality will ultimately be sacrificed by those seeking to ensure that claims are completed within 125 days.

This legislation would require VA to fully implement its strategic plan to ensure elimination of the claims backlog by Memorial Day 2015. At that time, all claims should meet VA's goal of processing claims for disability compensation within 125 days of receipt at 98 percent accuracy. VA would also be required to provide a supplemental report that provides metrics and timelines for implementing the plan. To ensure progress on the plan, the Government Accountability Office would be required to provide 90 day progress reports to Congress on VA's implementation.

VetsFirst believes that VA must be held accountable for reaching the goal of processing initial claims within 125 days of receipt at 98 percent accuracy. No single action will eliminate the claims backlog. Thus, we believe that requiring a continuing evaluation of the metrics that will show if progress is being made will be helpful in ensuring that VA is pursuing the correct policies and procedures and making any needed course corrections that will help them to succeed. We also believe, however, that reporting requirements must be carefully monitored to ensure that the information being collected is needed to facilitate ending the backlog and not diverting critical resources from the mission.

In addition, the legislation would also require the expedited transfer of records under the purview of the Social Security Administration and DOD. It would also require the development of a plan to decrease to 30 days that amount of time needed to provide members of the National Guard and VA with needed medical records. The legislation would also require a training program to ensure that all newly hired claims processors receive at least three years of training and partnering with mentor processors who can assist in the training.

We support the intent of this legislation but believe that implementation will be key to ensuring success.

To establish a commission or task force to evaluate the backlog of disability claims of VA (H.R. 2189)

This legislation would create a commission or task force to study the claims backlog, including the policies and procedures VA uses to evaluate claims and appeals for veterans benefits. The resulting study will be a comprehensive evaluation and assessment of the backlog of claims, an analysis of possible improvements and related issues. As part of the study, the commission or task force will be required to consider the interests of veterans, procedural and substantive due process issues, the responsible use of resources, and the importance of a veteran friendly claims process. The task force or commission will also address the backlog of claims and possible improvements to the claims process, along with a review of the appellate process.

While we believe that VA must act to ensure that the goal of processing claims within 125 days at 98 percent accuracy is met, we are concerned that a commission or task force might hinder VA's current efforts by diverting resources from the overall push to address the backlog. However, VA must be held accountable for effectively implementing its Strategic Plan to Eliminate the Compensation Claims Backlog. A commission or task force that is narrowly focused on VA's current efforts related to the backlog might have benefit for veterans and the claims process.

We also believe, however, that there is a need for a more broad-based commission or task force that will thoroughly evaluate the entire claims process, including the appeals process. The work of such a commission or task force should begin with a review of the most recent commission and task force recommendations, including those of the Veteran's Disability Benefits Commission and the VA Claims Processing Task Force. This would allow the task force or commission to evaluate previous recommendations, and determine whether unimplemented recommendations would be beneficial in improving the claims process, and what additional recommendations are needed. The commission or task force would also need to evaluate the role of technology in claims processing, the effectiveness of veterans service organizations, agents, and attorneys in assisting veterans in prosecuting their claims, and whether the current claims processing system meets the goals and spirit of actually assisting veterans with their claims.

Any broad-based commission or task force would also need to be forward thinking and consider claims processing beyond 2015. Although ending the backlog and increasing claims quality are top priorities, we must also anticipate the needs of claims processing beyond the next couple of years. Thus, it should also consider how to maximize efficiencies that may be afforded through technology and the changing needs of veterans. Otherwise, we may exchange the backlog or another set of equally daunting concerns.

We also believe that any broad-based commission or task force should include a focus on the appeals process. The VA's Office of Inspector General (OIG) reported in a May 2012 report¹ that the inventory of appeals had increased more than 30 percent between fiscal year 2008 and fiscal year 2010. The OIG's report concluded that, "VBA's management of appeals was ineffective in providing timely resolution of veterans' appeals." Clearly, a focused review of the appellate process is needed.

Thus, we believe that a task force or commission should focus either on the backlog of initial claims or the broader claims process, including appeals, but not both. We would ask that either the task force proposed by this legislation be limited in scope or that the focus and timeframes be broadened to include all areas of concern.

Veterans Pension Protection Act (H.R. 2341)

VA's pension program provides benefits for veterans who are low-income and are either permanently and totally disabled, or age 65 and older, if they served during a period of war. These benefits are critical for veterans who have few other resources available to them.

Because these benefits are very important to low-income and/or disabled veterans, we believe that these benefits must be protected to ensure that they are fully available when needed. As a result, we do not condone fraudulent efforts to benefit from the VA's pension program. We also believe, however, that people should not have to impoverish themselves just to receive the services that they need whether in VA's program or any other similar government benefits program.

¹Department of Veterans Affairs Office of Inspector General, Veterans Benefits Administration: Audit of VA Regional Office's Appeals Management Process (May 30, 2012).

The look-back proposed in this legislation seeks to preempt efforts to transfer assets to make veterans eligible for pension benefits. Without commenting further on the specific merits of this proposal, we are concerned that the legislation does not exempt transfer of assets to special needs trusts. Special needs trusts are designed to supplement the services and supports received by people with disabilities through Social Security and Medicaid. The funds in a special needs trust may be used for expenses such as modifying a home for accessibility, paying for recreational activities, or purchasing tickets to visit family. If the funds were made directly available to the individual, then he or she may lose eligibility for Supplemental Security Income (SSI) benefits and Medicaid services and supports, which are income dependent. By placing the funds in a special needs trust, parents can ensure, for instance, that their disabled children retain eligibility for these crucial benefits and services.

A good example illustrating the importance of special needs trusts is found in the current quandary with DOD's survivor benefit plan (SBP). An SBP annuity allows for retiring servicemembers to make a portion of their retired pay available to their survivors. However, federal law requires that these benefits must be paid to a "natural person." Thus, if a child with a disability is in receipt of income dependent services and supports, then the child may lose these benefits and services because SBP funds cannot be paid to a special needs trust. Unfortunately, the amount received from the annuity may not be sufficient to pay for the services lost. Thus, the child not only loses eligibility for the services but then is unable to pay for them privately.

In the November 2011 edition of *Exceptional Parent Magazine*, Kelly A. Thompson, an attorney, relayed how this dilemma played out for one adult child with a disability.

"A recent example concerns a 52 year-old man with an intellectual disability who had lived in a group home for 18 years and attended a day program for individuals with disabilities. His only income was SSI of \$674 per month. His SSI benefits and Medicaid paid for his programs and services. However, when his father, a retired Navy officer, died, his adult son began to receive military SBP in the amount of \$2,030 per month. This SBP payment made him ineligible for Medicaid waiver services. The private pay cost of the programs and services he was receiving prior to his father's death is \$8,600 per month, more than four times his SBP payment. He lost his group home placement, as well as his day program, and was transferred to a state "training center"—a large institutional setting isolated from the community."²

People with disabilities greatly benefit from access to special needs trusts. In the Omnibus Budget Reconciliation Act of 1993, Congress exempted the transfer of assets for the benefit of a person with a disability under the age of 65 from the look-back provisions of the Medicaid program. Thus, not only is a person with a disability able to benefit greatly from a special needs trust but the transfer of assets to the trust for the benefit of another does not count against the transferor in the event that he or she subsequently needs Medicaid assistance. In light of the importance of special needs trust, it is clear that these benefits should be available for the disabled children of veterans, without disadvantaging the veteran in receiving VA pension benefits if needed.

It should also be noted that a person with a disability who is under the age of 65 may have his or her own assets transferred into a special needs trust that directly benefits him or her. These types of trusts may only be established by a parent, grandparent, legal guardian, or a court and allow the individual to remain eligible for Medicaid services and supports. Any remaining funds available at death must be used to pay-back the Medicaid program for services provided.

Any efforts to penalize transfer of assets under the VA's pension program must provide for appropriate exemptions for transfers to special needs trusts similar to those available through other federal programs also based on financial need.

Prioritizing Urgent Claims for Veterans Act (H.R. 2382)

In cases pending before the Board of Veterans' Appeals, veterans who are of advanced age (75 years of age or older), suffering severe financial hardship, or seriously ill may under regulation advance on the docket. VBA has recently testified that initial claims filed by veterans who are homeless, terminally ill, or Medal of Honor recipients or were Prisoners of Wars are processed as expeditiously as possible. However, there are no similar regulatory or statutory protections for initial claims.

² Kelly A. Thompson, "The Dilemma for Military Parents of Children with Disabilities." *EP Magazine*. November 2011.

This legislation would require the Secretary to provide priority for veterans who are age 70, terminally ill, or who have life-threatening illnesses. We strongly believe that statutory protections for our most vulnerable veterans are necessary to ensure that benefits are available to those who are in the most need. However, we suggest that this legislation be amended to also include those veterans who are homeless and those who are suffering severe financial hardship.

We believe ensuring that those veterans who have dire need for benefits should have priority in claims processing. We hope that this legislation will be expanded to include other vulnerable veterans and urge its subsequent passage.

Disabled Veterans' Access to Medical Exams Improvement Act (H.R. 2423)

Veterans who file claims for disability benefits are often scheduled for medical examinations that will provide VA with the information needed to evaluate their claims. To ensure that veterans' claims are not unduly delayed due to the need for medical information, Congress gave VA the temporary authority to use contract examiners in the Veterans' Benefits Improvement Act of 1996 (Public Law 104-275). Congress has continued to extend this authority, which currently expires on December 31, 2013.

This legislation would extend VA's authorization to use contract physicians to perform examinations required for disability benefits claims. The authority, which would be extended to December 31, 2016, would also allow for licensed physicians to travel to other jurisdictions to perform exams as long as they were conducted pursuant to VA's contract. Use of the authority would be limited to 15 or fewer regional offices that will be selected based on the number of backlogged claims, the total pending case workload, the length of time cases have been pending, the accuracy of completed claims and the overall timeliness of completed cases in each region.

We support this legislation because it will not only extend VA's authority to use contract physicians to perform medical examinations for compensation purposes but because it will also allow VA to move resources to the areas with the most need. Veterans who are served by regional offices that experience high volume and delays should not be further delayed in receiving an examination if VA already has contract resources available. We believe that this legislation would provide VA with another important tool in addressing the backlog.

Thank you for the opportunity to testify concerning VetsFirst's views on these important pieces of legislation. We remain committed to working in partnership to ensure that all veterans are able to reintegrate in to their communities and remain valued, contributing members of society.

Executive Summary

World War II Merchant Mariner Service Act (H.R. 1288)

We urge swift passage of this legislation.

Blue Water Navy Ship Accountability Act (H.R. 1494)

We support this legislation because it would provide information that will facilitate processing disability claims related to Agent Orange.

VA Claims Efficiency Through Information Act of 2013 (H.R. 1623)

We support this legislation but believe that it would be strengthened by focusing on the top 10 medical conditions for which veterans file for compensation as opposed to all conditions.

To direct the Secretary to provide notice of average times for processing claims and percentage of claims approved (H.R. 1809)

We support this legislation, but are concerned about the need for applicants to sign a notice acknowledging receipt of the information due to possible delays in claims processing resulting from failure to submit it.

Pay As You Rate Act (H.R. 2086)

We support swift passage of this legislation.

Ending VA Claims Disability Backlog and Accountability Act (H.R. 2138)

We support the intent of this legislation but believe that reporting requirements would need to be monitored to ensure that the information being collected is needed to facilitate ending the backlog.

To establish a commission or task force to evaluate the backlog of disability claims of VA (H.R. 2189)

We believe that a task force or commission should focus either on the backlog or the broader claims process, including appeals, but not both.

Veterans Pension Protection Act (H.R. 2341)

We do not have an official position on this legislation but believe that any efforts to penalize transfer of assets must provide for appropriate exemptions for transfers to special needs trusts.

Prioritizing Urgent Claims for Veterans Act (H.R. 2382)

We support passage of this legislation but believe that additional prioritization categories would be beneficial for our most vulnerable veterans.

Disabled Veterans' Access to Medical Exams Improvement Act (H.R. 2423)

We support passage of this legislation

Information Required by Clause 2(g) of Rule XI of the House of Representatives

Written testimony submitted by Heather L. Ansley, Vice President of Veterans Policy; VetsFirst, a program of United Spinal Association; 1660 L Street, NW, Suite 504; Washington, D.C. 20036. (202) 556-2076, ext. 7702.

This testimony is being submitted on behalf of VetsFirst, a program of United Spinal Association.

In fiscal year 2012, United Spinal Association served as a subcontractor to Easter Seals for an amount not to exceed \$5000 through funding Easter Seals received from the U.S. Department of Transportation. This is the only federal contract or grant, other than the routine use of office space and associated resources in VA Regional Offices for Veterans Service Officers that United Spinal Association has received in the current or previous two fiscal years.

Statements For The Record

HON. THOMAS J. ROONEY

Last year, I asked my constituents to help my office identify fraud against our nation's veterans, particularly elderly veterans. Many came forward to report scams against themselves, their friends and family members.

One of the most common scams both my constituents and the American Legion brought to my attention was a practice called "pension poaching." Here's how it typically works:

- Financial advisors and firms seeking to prey on elderly and disabled veterans – often going into nursing homes under the guise of offering a "free lunch seminar" – promise to help them qualify for VA pension benefits if they divert their assets into trusts or annuities.
- Currently the VA only considers net worth at the time a veteran applies for benefits, therefore the Department cannot determine if an applicant has recently diverted their assets in order to qualify.
- The firms profit from those trusts or annuities, but they are often poor investments for seniors. As a result, victims have lost access to their savings in exchange for a small pension. Meanwhile, the VA pension fund is further drained for veterans in need.
- These firms further profit by charging veterans exorbitant fees and selling them additional, costly services.

As a veteran, I am disgusted by the actions of those who would prey on America's elderly and disabled veterans. These financial predators are not only scamming elderly veterans out of their life savings, they're also undermining the VA pension program in the process.

This month, I reintroduced bipartisan legislation to combat this scam against retired veterans and to strengthen the VA pension program. I'm proud to have Representatives Kurt Schrader (D-OR), Gus Bilirakis (R-FL) and Ron Barber (D-AZ) join me as original cosponsors of this bill, the Protecting Veterans Pensions Act (H.R. 2341).

Our bill would provide a simple solution to stop this scam. H.R. 2341 would eliminate the loophole that allows predators to divert veterans' assets in order to improperly qualify them for a pension. By creating a three-year "look-back" period to determine eligibility for the VA pension program, we can ensure that bad actors are not taking advantage of the system, and ensure the benefits for those veterans that truly qualify for the program.

Importantly, we have been assured by VA that this will not slow down the application process for qualified, retired veterans seeking a pension.

I appreciate the Committee's consideration of our bipartisan bill to stop scams against our nation's veterans, and hope to see this legislation move through the House expeditiously.

DISABLED AMERICAN VETERANS

Chairman Runyan, Ranking Member Titus and Members of the Subcommittee:

Thank you for inviting DAV (Disabled American Veterans) to testify at this legislative hearing of the Subcommittee on Disability Assistance and Memorial Affairs. 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 Subcommittee.

H.R. 1288

H.R. 1288, the World War II Merchant Mariner Service Act, would direct the Secretary of Homeland Security to accept additional documentation when considering the application for veteran status of an individual who performed service as a merchant seaman during World War II.

Specifically, H.R. 1288 would expand methods for validating certain service considered to be active service by the Secretary of Veterans Affairs for the purpose of verifying that an individual performed service under honorable conditions, thereby satisfying the requirements of a merchant seaman who is recognized pursuant to section 401 of the GI Bill Improvement Act of 1977.

DAV has no resolution or position on this matter.

H.R. 1494

H.R. 1494, the Blue Water Navy Ship Accountability Act, would direct the Secretary of Defense to review the logs of each ship operating under the authority of the Secretary of the Navy that is known to have operated in the waters near Vietnam during the Vietnam era.

Specifically, H.R. 1494 would require the Secretary of Defense to review all of the ship operation logs to determine if such ship operated in the territorial waters of Vietnam during the period of January 9, 1962, to May 7, 1975, noting the specific dates, location and distance from shore for each ship. This information would then be provided to the Secretary of Veterans Affairs for verification purposes in support of claims received for entitlement to certain benefits, such as disability compensation for specific presumptive diseases or illnesses related to exposure to Agent Orange or other herbicides containing dioxin.

DAV resolution No. 016, states in part, "... [t]he exclusion of territorial seas or waters from the term "Republic of Vietnam" is contrary to the plain and unqualified language of the law and illogical insofar as its premise is that herbicides could be carried away from the area of application across any expanse of land but not equal or less expanses of water ... veterans who served on ships no more distant from the spraying of dioxin containing herbicides than many who served on land are arbitrarily and unjustly denied benefits of the presumption of exposure and thereby the presumption of service connection for their herbicide-related disabilities."

Complicating this matter is the VA's demonstrated difficulty in obtaining information about each ship, and the respective service members aboard that performed service in the territorial waters, which may have been exposed to dioxin containing herbicides. This legislation would improve the process by providing important information and by accurately identifying all ships serving under the authority of the Secretary of the Navy.

As such, in accordance with DAV resolution No. 016, we support enactment of H.R. 1494 and any legislation directed at including the waters offshore in the phrase "served in the Republic of Vietnam."

H.R. 1623

H.R. 1623, the VA Claims Efficiency Through Information Act of 2013, would direct the Secretary of Veterans Affairs to make publicly available certain information

about pending and completed claims for compensation under the laws administered by the Secretary.

Essentially, this legislation would require the Secretary of Veterans Affairs make specific statistical claims-related information available and publicly accessible on the VA's website. In particular, H.R. 1623 would require each VA Regional Office (VARO) to provide information such as the average number of days pending for a claim and the quality and accuracy of such claims for the three-month period immediately preceding enactment and at one year following.

This information would also include the number of claims pending, the number of claims pending more than 125 days and the number of claims completed during the current month to date, the preceding current month, the calendar year and the preceding calendar year. Similarly, this legislation would require the same type of report from VAROs which breaks down the aforementioned claims by medical condition. Additionally, the Secretary of Veterans Affairs would be required to update this information on the VA's website every seven days.

While a great deal of this type of statistical information is presently available on VA's website, this legislation requires a more in-depth breakdown of information about pending claims. One benefit to making this information available is transparency in the claims process, the inclusion of the veteran into the process, and potentially allowing an individual to become more educated about the claims process even before a claim is submitted; however, we recommend the language of the bill be expanded to include the specific link to the information being published on VA's website in every notice sent to a veteran.

DAV supports the intent of H.R. 1623 of making this type of information available on VA's website, however, we are concerned about the possibility that this legislation, if enacted, may cause more work for VA at a time when the primary focus is directed at reducing the backlog of claims.

H.R. 1809

H.R. 1809 would amend title 38, United States Code, to direct the Secretary of Veterans Affairs to provide notice of average times for processing claims and percentage of claims approved. The goal of legislation is to encourage veterans to seek the assistance of veterans service organizations (VSOs) and file claims for VA benefits using the Fully Developed Claim (FDC) process.

H.R. 1809 would make available to all current and potential veteran claimants useful information regarding the success or allowance rate of claims in each VARO by requiring the Secretary of Veterans Affairs to publish this information on VA's website. Additionally, this information will be required to be conspicuously posted in every VARO and, when a claim is received, VA will notify the claimant of such information, including information about the benefit of filing a FDC, such as faster processing time and eligibility to receive up to an extra year of benefit payments.

The type of information this legislation is seeking to publicize to every claimant is the average processing time of claims and the percentage of allowed or granted claims for those with representation versus those without representation. Additionally, H.R. 1809 will require the information to be broken down into the percentage of claims that were FDC submitted electronically versus paper as compared to those who do not file their claims through the FDC program in electronic, standard paper or non-standard paper form.

DAV supports the principle of this legislation, which is to bring better awareness and information to a claimant prior to filing a claim for benefits, similar to H.R. 1623. However, H.R. 1809 is directed at providing more in-depth information to a claimant about representation in keeping with the primary goal of encouraging claimants to submit their claims for benefits through the FDC program.

DAV agrees with providing and making available information about the percentage of claims allowed for those with representation versus those without representation. We also agree with encouraging claimants to submit their claims through the FDC process, as is a standard practice for DAV. Nonetheless, DAV believes, in order to fully reach the goal of this legislation and, more importantly, to benefit the claimant in the best way possible, the posted information should provide a breakdown of the number of claims represented and the allowance rate for each VSO and for representatives other than VSOs. Otherwise, this information may not allow an individual to make an informed decision about representation. Moreover, when publishing this type of information, it should include the fact that DAV and other VSOs provide representation to virtually any claimant in the process, with the exception of frivolous or fraudulent claims. Conversely, others providing representation, including attorneys, tend to be much more selective in their representation; often choosing to represent only claims wherein the predicted outcome is favorable to the

claimant. DAV believes this should also be made clear to a claimant in the published information.

Like H.R. 1623, DAV supports the intent of H.R. 1809, which will require VA to make this information available to claimants; however, we are concerned about the possibility that this legislation, if enacted, may cause more work for VA at a time when their primary focus is directed at reducing the backlog of claims.

H.R. 2086

H.R. 2086, the Pay as You Rate Act, would direct the Secretary of Veterans Affairs to make interim payments of disability compensation benefits for any disability for which a decision can be rendered prior to the complete adjudication of such claim. Currently, when VA receives a claim with multiple contentions and some issues can be adjudicated and finalized and others need further development, VA can make a decision to grant or deny specific issues and defer those needing further development.

Although VA can finalize and initiate payment for those issues ready-to-rate, they simply defer final action until all issues, specifically those needing development, have been completed. According to VA, this allows them to produce one rating only; however, with development being the major reason for delay in most claims this means compensation for the other ready-to-rate conditions must wait – the veteran must wait.

Moreover, VA already has the authority to do what this legislation seeks, to provide interim compensation payments, or rather, initiate compensation payments for those issues that can be finalized without delay. VA, for their own convenience, chooses not to take such action rather than taking action that is more beneficial to a veteran.

In accordance with DAV resolution No. 205, we support enactment of H.R. 2086, as it will codify and require the Secretary of Veterans Affairs to provide compensation payments for those conditions that can be finalized, thereby providing financial support to many veterans much sooner in the process.

H.R. 2138

H.R. 2138, the Ending VA Claims Disability Backlog and Accountability Act, contains several provisions intended to help reduce the backlog of pending veterans' disability compensation claims. The legislation seeks to address several of the key findings and recommendations contained in the General Accountability Office (GAO) report (GAO-13-89) on claims processing issued in December 2012.

Section 3 of the bill would require the Secretary to eliminate the backlog by May 25, 2015 (Memorial Day), and to submit to Congress a report containing detailed timelines and metrics with which to judge VA's progress toward meeting that goal. Three years ago, Secretary Shinseki established the goal of having all claims adjudicated within 125 days with 98 percent accuracy by 2015; however, no specific end date or interim goals were stated. In January of this year, VA transmitted to Congress its "Strategic Plan to Eliminate the Compensation Claims Backlog," which contained an overview of the claims transformation strategy developed by VBA over the past several years, but it did not include interim milestones.

DAV and other major VSOs involved in assisting veterans file claims have been regularly consulted by VBA on most of the initiatives and programs included in this plan, including Fully Developed Claims (FDCs), Disability Benefit Questionnaires (DBQs) and the Veterans Benefits Management System (VBMS), and we support the implementation of this plan. However, we have consistently called for stronger oversight to ensure that VBA is on the right track to reform the claims process so that every claim is decided right the first time, not just to eliminate the current backlog.

By requiring detailed timelines and metrics with which to judge the progress of the transformation plan, this provision would provide Congress and VSOs with valuable tools to better judge VBA's progress, and to help make recommendations for course corrections, if they are necessary. Regarding the end date for eliminating the backlog, we would recommend that the Secretary be required to include with the interim goals required by this Section a specific end date in 2015 in order to properly set expectations inside and outside of VBA. With that small change, we would strongly support this section.

Section 6 of the bill would require GAO to issue progress reports on how well VBA is implementing its plan and meeting the specific timelines and targets required by Section 3 discussed above. We support this provision to provide an additional independent perspective on whether VBA is on track to meet its stated goals and offer expert recommendations to improve the claims process.

Section 4 of the bill would require VA to enter into agreements with the Social Security Administration (SSA) and Department of Defense (DOD) to require both agencies to transfer records requested by VA to adjudicate claims for disability compensation within 30 days of VA's request. This provision would also require VA and DOD to develop and submit to Congress a plan to ensure that National Guard medical records are also transferred to VA within 30 days of a request.

The longest delays in processing compensation claims result from incomplete medical, service and financial records needed to support the claim. While all delays in receiving records are problematic, it is simply unacceptable to have such delays for records in the custody of federal or state governmental agencies, and therefore DAV supports this section of the bill. Furthermore, in order to strengthen this Section, we recommend that language be included so that federal or state agencies that are not able to comply with such record requests in the timeframes established be required to respond in writing stating a reason for their failure time they are unable to comply.

Section 5 of the bill seeks to strengthen VBA's training programs for new employees by requiring such training to continue for three years. DAV has long called for increasing the quality and quantity of training provided to VBA's claims processors, not just for new employees, but for all employees as part of a continuing education program, and thus we support the intention of this section. However, the bill's language does not provide specific details of how the proposed three-year training program for new employees would be different than current training, including on-the-job-training and mentoring programs, or how it would affect continuing education programs. We would be pleased to work with the Committee to develop more specific proposals that could improve all of VA's training programs.

H.R. 2189

H.R. 2189 would establish a commission or task force to study and report on the causes of the backlog of compensation claims and make recommendations on how to improve VA's claims adjudication and appeals process. The bill would require the first report to be delivered to Congress within 60 days of the first meeting of the commission or task force, require additional interim reports every 30 days thereafter, and require the final report to be issued 180 days after the first meeting. The Secretary of Veterans Affairs would be required to either implement the recommendations of the commission or task force, or submit to Congress a justification for failing to implement any recommendations. The commission or task force would be composed of 15 individuals appointed by Congressional and Administration leaders, approximately half of whom are required to be veterans. The commission or task force itself would then appoint five nonvoting, nonmember advisors from VSOs, and would have a mandate to seek advice from additional outside experts.

Over the past several years, there has been a renewed and intensified focus put on resolving the longstanding systemic problems plaguing VA's claims processing system. Facing a growing backlog of pending claims; projecting a sharp rise in the number to be filed in the future; and realizing that its paper-based system was no longer capable of managing its workload, VBA in 2009 reached out to VSOs involved in the claims process to seek our input on how to develop a new system. VBA leadership admitted that their old system was broken and committed to building a new system based on the paradigm of getting each claim done right the first time.

Since then, DAV and other VSOs have worked closely and collaboratively with VBA to develop, review and oversee the implementation of dozens of new initiatives designed to improve the people, processes and technology that adjudicate claims for disability compensation and other benefits. During this time, GAO has also closely studied the problems and issued numerous reports and testimonies, making detailed recommendations. In addition, the Advisory Commission on Disability Compensation (ACDC), statutorily established as follow-on to the Veterans Disability Benefits Commission (VDBC), has also provided oversight and input to VBA over the past four years, bringing additional outside expertise and perspective to bear on claims processing reform, and continues in this role today.

And of course Congress has and continues to vigorously examine the causes of the backlog and review VBA's plans to design and build a new processing system. Both House and Senate authorization and appropriations committees have conducted dozens of hearings and made numerous recommendations on how to improve the claims process, address the current backlog of claims, and prevent future backlogs from recurring. There have been new studies and reports required, as well as new statutory changes approved to streamline VBA's processes, often in consultation with both VBA and VSOs.

Just last month, the House Committee on Veterans' Affairs held an insightful roundtable discussion bringing insurance industry experts together with VBA's compensation experts to see how private sector experience might benefit the current transformation efforts. DAV and our partners in The Independent Budget have recommended that a similar panel of outside, private sector experts from major IT companies review the progress of VBMS.

Over the past year, VBA has rolled out most of the major components of its transformation plan to all of its Regional Offices, including the Transformation Organizational Model and the VBMS. Individual initiatives, such as FDC, Disability Benefit Questionnaires (DBQs), and Quality Review Teams (QRTs), have also been implemented and VBA is starting to realize the benefits of these new programs. Legislative changes made over the past couple of years to streamline unnecessary or burdensome steps in the claims process are also just being implemented.

Given all of the research, discussion, consultation and planning that has taken place over the past several years, as well as the implementation and rollouts that have only recently taken place, we believe that the timing is not right for a new commission or task force focused on the causes of the backlog, or developing new solutions, until the current plan has had time to take full effect. In fact, there is beginning to be some concrete evidence that measurable progress is being made.

The number of claims currently pending on Monday, June 24th, was approximately 802,000, which is down from approximately 889,000 two months earlier. The number of claims pending over 125 days, VBA's official target for backlogged claims, has also fallen over the past two months from 611,000 to about 524,000 claims. There is still a long way to go before it is certain that these reductions will continue at this pace, or whether the transformation is working as planned, however at this juncture we believe that VBA's focus should remain on optimizing the transformation rather than considering new changes before the new system has had sufficient time to operate. For the above reasons, we do not support this legislation at this time.

H.R. 2341

H.R. 2341, 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 pension that was recently disposed of by the individuals for less than fair market value when determining the eligibility of such individuals for such pension.

DAV has no resolution or position on this matter.

H.R. 2382

H.R. 2382, the Prioritizing Urgent Claims for Veterans Act, would amend title 38, United States Code, to establish a priority for the Secretary of Veterans Affairs in processing certain claims for compensation. This legislation seeks to codify an existing practice within VA, which is to process compensation claims with expedience and priority for those veterans who are age 70 or older, terminally ill, suffering life-threatening illness, financially destitute, homeless, or other grave situation. However, H.R. 2382 limits the claimants included to be veterans age 70 or older, terminally ill, or with life-threatening illness.

While we certainly appreciate the principle of this legislation to codify this existing practice, we believe it is unnecessary as the VA generally has no difficulty with their current practice expeditiously advancing the claims of individuals who are experiencing extreme or grave situations or circumstances. In fact, if this practice is codified it may be detrimental to some claimants by limiting the classification of circumstances. In doing so, H.R. 2382 would adversely impact VAs ability to determine priority or urgency for many claimants with severe circumstances, other than those included.

H.R. 2423

H.R. 2423, the Disabled Veterans' Access to Medical Exams Improvement Act, would extend and expand VA's authority to enter into contracts with private physicians to conduct medical disability examinations as an important tool in processing the volume of pending and future claims for disability compensation. Under this legislation, VA's authority to contract for disability examinations would be extended until December 31, 2016; it is currently set to expire at the end of this year. The bill would also expand from 10 to 15 the number of VA Regional Offices (VAROs) that could participate in this pilot program. Finally, the legislation would allow licensed physicians under a VA contract who are performing disability examinations

for claims to conduct such examinations in any state without having to be licensed in that particular state.

Over the past decade, DAV National Service Officers (NSOs) have found that the quality and timeliness of compensation exams conducted by contractors was generally as good – sometimes better – than disability exams conducted by VA physicians, who are usually more focused on treating veterans rather than evaluating their disabilities under the VA Schedule for Rating Disabilities. Moreover, with demand for VA medical care rising, it is important that VA’s treating physicians, especially specialists, remain focused on providing high quality care to their patients. In addition, the more technologically-advanced and user-friendly scheduling and IT systems used by some contractors has also contributed to higher customer satisfaction scores from veterans receiving contract exams. For these reasons, we support extending the authorization for at least an additional three years to ensure that VBA continues to have this tool to help reach timely claims decisions. We would even recommend that VA consider whether it might be more cost efficient to extend the authorization further than three years if that would help to reduce the average annual cost and conserve precious budgetary resources.

For many of the reasons above, we also support expanding the pilot program to more than 10 VAROs; in fact we don’t believe it’s necessary to place an arbitrary cap on the number of VAROs allowed to use contract exams. The decision to use or not use contract examinations is and should be determined solely by VA and VAROs participating in the current pilot program based on their workload, local capacity and available resources. If contract disability compensation exams provide the same or better quality and timeliness, at the same or less cost per exam compared to the actual cost of using VA physicians, we find no compelling reason to limit their use to only 10 or even 15 VAROs. As such, we recommend that the Committee consider removing altogether the limitation on the number of participating VAROs, thereby allowing each individual VARO to determine when and if they use contract exams, basing their decisions solely on the best interest of veterans.

DAV does not have a resolution on allowing licensed physicians to conduct medical disability examinations across state lines and we have no position on that section of the bill.

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

PARALYZED VETERANS OF AMERICA

Chairman Runyan, Ranking Member Titus, and members of the Subcommittee, Paralyzed Veterans of America (PVA) would like to thank you for the opportunity to offer our views on legislation impacting the Department of Veterans Affairs (VA) that is pending before the Subcommittee. These important bills will help ensure that veterans receive the best services available to them.

H.R. 1288, the “World War II Merchant Mariner Service Act”

While PVA recognizes the valuable service provided by the Merchant Marines during World War II, PVA has no position on H.R. 1288, the “World War II Merchant Mariner Service Act.”

H.R. 1494, the “Blue Water Navy Ship Accountability Act”

PVA supports H.R. 1494, the “Blue Water Navy Ship Accountability Act.”

H.R. 1623, the “VA Claims Efficiency Through Information Act of 2013”

PVA supports H.R. 1623, the “VA Claims Efficiency Through Information Act of 2013.” Providing more information to veterans with claims pending would seem to be particularly beneficial. Requiring the Secretary to maintain an internet website to provide this information is both an efficient and accessible method to inform veterans who may have claims pending. In addition, providing the numbers by regional office (RO) allows a better and more objective examination of the success of the various ROs as well as their success in processing claims for specific medical conditions.

H.R. 1809

PVA supports H.R. 1809. Like H.R. 1623, it will provide greater information to a veteran submitting a claim. Providing information on average wait times for claims processing and the percentage of claims approved will increase the under-

standing of the process and may help set expectations of how long a veteran may have to wait for a claim to be adjudicated.

H.R. 2086, the “Pay As You Rate Act”

PVA strongly supports H.R. 2086, the “Pay As You Rate Act.” While reducing the backlog and providing timely disability ratings should remain the number one priority for all involved, in reality it is critical to focus on the immediate needs of many veterans with disabilities who await receipt of benefits. At present, veterans who have been waiting for a decision on their initial claims endure hardships during transition from service, particularly among service members and veterans living with disabilities, family responsibilities, unemployment, and other adjustment issues. Those with complex claims (8+ issues, severe disabilities, mental and poly traumas) face barriers to health access and economic hardship and they will benefit most from a timely decision on an initial claim for VA benefits. It does not make sense that payment and benefits should be delayed even though a decision on a specific disability has been made by the Secretary. While this will not solve the problem of unmet needs for disabled veterans who are waiting for their final decision, it will begin providing access to care, benefits and financial assistance that is so critical to an improved quality of life.

H.R. 2138, the “Ending VA Claims Disability Backlog and Accountability Act”

PVA supports H.R. 2138, the “Ending VA Claims Disability Backlog and Accountability Act,” but with a key modification. While we understand the desire to codify VA’s plan and stated deadline to reduce the backlog, PVA believes that setting Memorial Day 2015 as the date for achieving the VA standard of a claim approved or denied within 125 days after the date of submission with a 98 percent accuracy date is arbitrary. PVA is not aware that VA has ever identified a specific date in 2015 to reach its goal. PVA has always believed that this was an intentional decision by VA to allow the greatest flexibility to either use the end of Fiscal Year 2015 or the end of Calendar Year 2015 to meet its goal. PVA does not believe it matters which date is used as long as the requirement is met. If the VA can achieve the desired outcome by Memorial Day 2015, PVA would be extremely pleased; however, we feel that making this a legislative requirement places an additional burden on VA that is unnecessary. That being said, PVA supports and has always supported the need for milestones and targets that allow congressional oversight and measures of progress toward the 2015 goal that VA seems unwilling to more clearly establish or define.

H.R. 2189

PVA does not support H.R. 2189, which would establish a commission or task force to evaluate the backlog of disability claims of VA. PVA believes that the time has passed for a commission to examine the claims backlog and instead aggressive oversight is needed, which the Committee has been attempting with VA. VA has committed to eliminating the backlog by 2015 and we believe that they are working toward this goal in good faith. In fact, the backlog has been reduced.

Currently there are approximately 802,000 pending claims, which is down over 80,000 from April 2013. The number of pending claims over 125 days has fallen in the same period by almost 90,000. Now is not the time to consider changes to the system which will simply be a distraction. Constant changes and distractions as “new ideas” were tried or studied have in many ways hurt efforts to reduce the backlog and should not be attempted now.

However, there are issues that the Committee should continue to aggressively pursue. PVA feels that VA needs to publicly establish milestones and measures of effectiveness, sharing those with Congress and stakeholders. We find it hard to believe that VA does not have its own internal milestones to know if it is making progress on the backlog. If this is the case, the Secretary should publish these milestones. If VA does not have milestones, it is even more important for the Secretary to explain why and also to explain how he is tracking progress without them.

H.R. 2382, the “Prioritizing Urgent Claims for Veterans Act”

PVA is unsure of the necessity of H.R. 2382, the “Prioritizing Urgent Claims for Veterans Act.” In fact, VA is already taking these steps when necessary. While PVA understands the intent, the legislation seems arbitrary. For example, the legislation uses age 70 as a determining factor, however, a 65 year old may be in a much more

difficult situation and in need of claims adjudication whereas a 70 year old may be much better off both financially and physically. In addition, the proposed language doesn't mention "financial hardship" as a condition. PVA would recommend this be included which would potentially help widows awaiting DIC and veterans on Pension with static, catastrophic injuries. These are the ones most often impacted by the backlog.

H.R. 2423, the "Disabled Veterans' Access to Medical Exams Improvement Act"

PVA supports H.R. 2423, the "Disabled Veterans' Access to Medical Exams Improvement Act." VA has had great success with the use of contract physicians. Extending the temporary authority until December 31, 2016 will further support the effort to reduce the backlog and then provide additional authority for a year beyond VA's backlog reduction goal to ensure the ability to maintain the 125 day decision goal. More importantly, if VA misses its 2015 backlog reduction target, contracted physicians will still be available to continue supporting the process with no additional legislation required.

Mr. Chairman, we would like to thank you once again for allowing us to address this legislation. PVA would be pleased to take any questions for the record.

Information Required by Rule XI 2(g)(4) of the House of Representatives

Pursuant to Rule XI 2(g)(4) of the House of Representatives, the following information is provided regarding federal grants and contracts.

Fiscal Year 2013

No federal grants or contracts received.

Fiscal Year 2012

No federal grants or contracts received.

Fiscal Year 2011

Court of Appeals for Veterans Claims, administered by the Legal Services Corporation—National Veterans Legal Services Program— \$262,787.

J. DON HORTON

Dear Chairman Runyan,

Thank you for allowing me the opportunity to submit testimony in support of H. R. 1288, and the forgotten services of some 10 to 30 thousand members of the Merchant Marine who sailed on coastwise barges and tugs during World War II. Most have gone unrecognized for their gallant service in defense of this country when all were needed to support our troops overseas and keep the enemy from our doors. H. R. 1288 would finally correct the travesty of not recognizing the service of these individuals and give the few remaining men and women a shot at gaining recognition as veterans.

The United States Merchant Marine has been largely viewed by the general population as large ships sailing across oceans and seas carrying exotic cargo from one country to another. Little information to what actually takes place within the service is known or understood by the public. Most citizens have little knowledge that our Merchant Marine was established before our United States Navy or Coast Guard, and many do not know that during our nation's wars our Merchant Marine is looked upon as the Fourth Arm of Defense.

As you know, the United States' effort to fight and win the greatest war in history was comprised of a coalition of civilians and servicemembers from the greatest generation this nation has ever known. There were three major components in that coalition, our fighting forces overseas, the civilian production machine here at home and, the United States Merchant Marine that served as the link.

Our Merchant Marine has proven itself time and again in every war we have encountered. History has consistently noted the brave seamen who crossed oceans carrying our troops and war materials in every war, and who often encountered enemy actions that sent many of those brave souls to the bottom of the seas. Stories have been written about their heroic efforts to keep our shipping lanes open even while

losing ships enemy hostilities here on our own shores during World War II. At times, during World War II, we were losing our ships faster than they could be built. The commanders of the German U-boats considered the waters off the east coast to be a shooting gallery because of our lack of security and adherence to keeping our shoreline dark. The bright lights from the various amusement parks and residential areas along the coastal beaches provided the perfect backdrop for German U-boats to pick our ships off at will.

We fought World War II on a global scale, with major fighting on three fronts. Logistics for this war in terms of supplies reached a scale never since matched. The supply lines to our front lines stretched across both oceans. They were very vulnerable, especially at the very start of the war. Our nation was caught off guard by the magnitude of the logistical effort required to maintain our front lines. Every effort was made to keep our troops adequately supplied by working around the clock in our defense plants. Every able bodied person, rather it be man, woman or child stood up to do their part. This nation came together like no other time to produce the supplies required to keep that war effort moving forward. This effort has not been matched since, and probably will never be again.

The task of transporting our troops and the majority of materials overseas fell to our Merchant Marine. The United States had a very small inventory of ships that could carry our troops and supplies, and the German U-Boats were sinking them faster than we could build new ones. Enemy submarine successes threatened the outcome of the war in the first few years. In fact, the loss of shipping along our coastline during the first part of the war was so great that our own government had to step in and instruct our news outlets not to give out the number of ships lost. There was fear that our seamen would refrain from shipping out, thereby creating critical manpower shortages. This would have caused shipping delays and quite possibly could have placed our chances of winning the war in jeopardy. Had it not been for the gallant efforts of merchant seamen manning vessels against threatening odds, the war could have ended much differently.

The great loss of ships caused our nation to call upon another group of vessels that had generally been placed out of service. Our country had some 250-300 old wooden hulled barges that were rarely used. Most had long passed their effective life span. Some were built around the middle of the nineteenth century and their condition was poor. Many barges began their life as sail schooners in the mid-1800s. There was a short-lived belief that sails would help propel these barges and give the tugboats towing them a little help. By the turn-of-the-century most had their masts removed and extra hatches added to the hulls to carry more cargo.

There were some seventy companies that did business in the coastal trades, and about 700 barges or schooners were recorded as actively participating. Records indicate the first wooden hulled barge was built around 1856 and maybe the last around 1923. They ranged in sizes in tonnage from 600 to 2400 tons. During World War II there may have been a little more than a few hundred barges remaining to carry out this tradition.

After the turn of the 20th century, companies began to send the barges out into larger bodies of waters. Soon the coastwise trade for barges was where the money was for companies. A tow of three barges could carry more payload of, say coal, than several locomotives could carrying 300 coal cars or 600 trucks carrying the same payload and at a fraction of the cost.

Shortly after the outbreak of World War II, it became apparent that we needed every possible source of commerce to keep our supplies lines open. These barges were quickly called back into service even in their very old and primitive conditions. It was not uncommon to see ten or twenty tugs and their barges moving cargo up and down the coast on any given day. As demand for commerce grew the barges began playing a larger role in the defense of our country. After all, no other mode of transportation could offer the benefits at lesser costs. They were by far the most economical means to move product around the country.

The German U-boats sank our ships faster than we could build them. Larger and faster ships were needed to keep our shipping lanes open and to keep our troops overseas supplied with badly needed materials. Here at home, every available means of moving war materials to our defense plants became a necessity, regardless of the risk.

These barges kept alive a tradition dating back before the birth of this nation. Our forefathers brought this lifestyle with them when they landed here to establish this country. Families were traditional on some of the barges. This emanated from the river barges that traveled the major tributaries of our nation for as long as this nation has existed. Our major source of commerce came by river throughout our country. Often the crew that manned some of these barges during the summer school breaks was comprised solely by families. Companies who owned these barges

looked favorably on those that were manned by families. It was believed families would remain on board more so than single seamen mainly because of the primitive living conditions generally found on most barges. Families tend to adapt more easily.

Barge seamen endured a life that was extremely primitive as most barges were without the average necessities found ashore. There was no electricity, running water or the usual bathroom conveniences. Heat came from a simple coal stove that was used for cooking as well. Light from kerosene lamps was the norm. This life was hard and it left its mark on you. With the ever present German U-boats, young seamen matured fast. This was a far cry from a young man's dream of sailing the 7 seas.

These coastwise barge seamen were a small, dedicated and mostly unknown group who served in the US Merchant Marine. They made little news but played a very important role during World War II. They moved bulk cargo and war supplies to the various defense factories and power plants along the East Coast. Minimal news or entries in history were made as most gave little attention to them. They were considered by many as insignificant. Historians wrote limited information and they would only make news if something disastrous happened. Storms would cause sufficient damage and some would make the news if fatalities occurred. History passed them by and carried their records along with it.

Since the younger and more able-bodied seamen preferred the large more modern ships, barges were more or less left to others less traditional crews. Some elderly seamen came back to the sea and brought their families to serve as members of the crew. This brought forth a resurgence in the traditional use of barge families. Many women who were refused opportunities to work on the larger vessels came aboard the barges as crew as well. Some of the seamen that came to work on the barges were without the credentials now required to prove service on these vessels. They worked alongside those with credentials and were paid the same wages with the same taxes withheld. They performed the same work and were exposed to the same threats as the certified seamen were. Yet, today, many of the seamen that operated tugs and barges cannot prove their service because they do not have the proper documents that others were provided. Many were directly denied documents because of their age, gender or disability. Today we call this discrimination.

Many seamen were considerably older than the required draft age and often disabled. Many were missing a leg, arm or an eye. School age children manned the crew positions as well as any other seamen. They proved their mettle. These barges carried the bulk raw war materials to the ports that fed the defense plants that built war supplies and equipment for our troops overseas. The use of these barges freed our larger merchant fleet to concentrate on the vital necessity of transporting supplies and equipment to our troops on the front lines. This was not a small task.

At the start of the war, women tried repeatedly to join the US Merchant Marine. They were thwarted by the War Shipping Administrator (WSA), Admiral Emory S. Land who declared that there was no place in the Merchant Marine for women. By this order from the WSA, the US Coast Guard refused to document women who served. Women served anyway and performed every duty asked of them, without any formal recognition their work. They served on barges and other vessels, mostly as cooks and messmen. They were paid salaries and Social Security taxes were taken from their wages. They performed the same services as those with proper credentials on the same vessels and did it well. They deserve to be recognized for their service to our country.

Efforts to gain status as seamen by the women were met with stern denials from the Captains of the Port (COTP) stationed at the various coastal ports. I was present in June of 1942, when the COTP of New York denied my mother and sister their official documentation as seamen. Instead he issued an official US Coast Guard Identification Card to my mother and told her my sister did not need one as she was below the age of 16. Children could move about freely through the security checkpoints on the docks if accompanied by a parent. He stated by order of the WSA, he was directed to deny official seaman's papers to women upon application.

Thousands of other women were denied official documentation for service in the Merchant Marine. To this day, there has been no way for these women to gain their due recognition as seamen of the United States Merchant Marine and thus gain veterans status of this nation. A letter from the US Coast Guard (attached) dated 09 Apr, 2010, states, "The US Government did not issue mariner credentials to females during World War II."

Recent research of 29 barges and tugs brought forth over 1100 seamen who served between 1942 and 1943. From that group there were 87 seamen with traditionally female names who served aboard those vessels. That transmits to a ratio of almost 9 percent of the work-force being women, if one could use this finding to be an ap-

proximate ratio of seamen who served on coastwise vessels. In today's military service, where women are recognized for their service, the ration is placed at 14%. This finding provides an astounding proportion of women serving during World War II in the Merchant Marine that have never been officially recognized as seamen and veterans. This is wrong and it needs to be corrected. Passing H. R. 1288 would remedy this shameful situation.

Other research has brought forth two other actions that have inhibited seamen who served in the Merchant Marine during World War II from seeking recognition as veterans. The Commandant of the US Coast Guard's order of 20 Mar 1944 relieved the masters of tugs and seagoing barges of the responsibility of issuing shipping and discharge papers to seamen. Then, the US Maritime Administration issued orders to destroy ship's deck and engine logbooks in the 1970s. A US Coast Guard Reference Information Paper #77 dated April, 1990 refers to these actions.

World War II brought about the advent of women in the military and they proved themselves. They earned some of our country's highest honors for their service. However, the women who served in the US Merchant Marine in World War II were denied their Official Mariner's credentials and have never been able to achieve what they most gallantly earned, veteran status. Those of us who hold this status perceive it as one of our most honored possessions.

On 21 March, 2013, US Representatives G. K. Butterfield, Walter Jones, Mike McIntyre & Mark Meadows of North Carolina and 37 other Representatives introduced a bill in the House of Representatives that may help these coastwise seamen and women gain what has been denied them for more than 67 Years. H.R. 1288, the World War II Merchant Mariner Service Act would direct the Secretary of Homeland Security to allow other forms of documentation to prove service in the World War II Merchant Marine. Official Records have either been withheld, destroyed, or denied, thus preventing somewhere between 10,000 to 30,000 coastwise merchant seamen from gaining their rightful place as veterans of our country.

I offer the following items in support of H. R. 1288, and to demonstrate the need for this legislation:

RATIONALE FOR HR 1288 "WW II MERCHANT MARINERS SERVICE ACT"

Findings 1: The US Merchant Marine Seamen of WW II gained veteran status under a court ruling via Schmacher, Willner, et al, V. Secretary of the Air Force Edward C. Aldridge, Jr 665 F Supp 41 (D.D.C 1987) providing they meet certain eligibility requirements.

Findings 2: USCG Information Sheet #77 (April 1992) identifies **acceptable forms of documentation** for eligibility meeting the requirements pursuant to Schmacher V. Aldridge, 665 41(D.D.C 1987)

- a. Certificate of Discharge (Form 718A)
- b. Continuous Discharge Books (ship's deck/engine logbooks)
- c. Company letters showing vessel names and dates of voyages

Findings 3: Some 10,000 to 30,000 coastwise seagoing tug and barge merchant seamen have been or may be denied recognition upon application because actions taken by government agencies (prior to P. L. 95-202) have removed required eligibility records from being available to the veteran.

Findings 4: Commandant USCG Order of 20 March, 1944 **relieves masters of tugs, towboats and seagoing barges of the responsibility of submitting reports of seamen shipped or discharged on forms 718A.** This action removes item (a) from the eligibility list in Findings 2.

Findings 5: USCG Information Sheet # 77 (April, 1992) further states "Deck logs were traditionally considered to be the property of the owners of the ships. After World War II, however, the deck and engine logbooks of vessels operated by the War Shipping Administration were turned over to that agency by the ship owners, and **were destroyed during the 1970s**". This action effectively eliminates item (b) from the eligibility list in Findings 2.

Findings 6: Company letters showing vessel names and dates of voyages are highly suspect of ever existing due to the strict orders prohibiting even the discussion of ship/troop movement. Then consider item (c) of Findings 2 should be removed from the eligibility list. USCG Info Sheet # 77, page 2 refers

Findings 7: Commandant, USCG Ltr 5739 of 09 Apr 2010 states, "**The US Government did not issue mariner credentials to females during the World War II.**" And "**The NMC now processes requests for DD 214s as a part of their normal business practices. This removes cost to prepare documents for veteran leaving no costs required.**"

Findings 8: CBO preliminary cost report of 10 June, 2013: “The costs associated with the attached bill language have an **insignificant** effect on direct spending over the 2014 to 2023 period”. They are considered **De Minimis**.

Findings 9: *Excerpts from Pres. Roosevelt’s fireside Chat 23: On the Home Front* (Oct. 12, 1942): “In order to keep stepping up our production, we have had to add millions of workers to the total labor force of the Nation. In order to do this, we shall be compelled to use **older men, and handicapped people, and more women, and even grown boys and girls**, wherever possible and reasonable, to replace men of military age and fitness; **to use their summer vacations, to work somewhere in the war industries.**”

Findings 10: After the Revolutionary War many Acts of Congress were enacted to provide pensions to those veterans applying for support. Thousands of servicemen were without documented service and remained without any viable means to prove service. Excerpts from documents retained at the NARA provide: **Generally the process required an applicant to appear before a court of record in the State of his or her residence to describe under oath the service for which a pension was claimed.** This sets precedence for using certified oaths in conjunction with the Social Security documents as alternative documentation.

Findings 11: The USCG cannot provide a true estimate of Merchant Mariners serving in World War II. GAO/HEHS-97-196R refers. Estimates range from 250,000 to 410,000 from recognized historians. None of these historians were aware of these 10,000 to 30,000 coastwise merchant seamen where many served without proper credentials and did not include them in their above estimates... **Some were elderly handicapped; others women and some were school children** who served in a billet, drew wages and paid taxes. **They served on the same vessels in the same hostile war zones and performed the same services alongside others who were documented.** Yet, only about 90,000 merchant mariners have been recognized as veterans with just **1192** of these veterans are in receipt of compensation or pension benefits. This is a vast disparity in ratio of the other service branches.

Findings 12: DOD and NARA Agreement N1-330-04-1 of Jul, 08, 2004 puts in place a procedure to transfer military personnel files of individuals from all services, (including civilian personnel or contractual groups who were later accorder military status under the provisions of Public Law 95-202). This agreement affects military personnel records of individuals 62 years after separation from service. Action has taken place for all **except** the US Merchant Marine IAW P.L 95-202. This **inaction** by the **Department of Homeland Security via (COMDT USCG)** has caused many of the mariners to have **gone unrecognized** for their services. Many have passed without ever gaining recognition or benefits and soon all will be History. Only about 90,000 out of 250,000 have ever received recognition as veterans with many unable to gain access because of age and health condition requiring assistance for others outside family. Had compliance taken place, these records would be available to all and providing the mariner a chance to being recognized many years ago and enjoying the benefits awarded to them via public law.

Whereas: (1) by court order, Schumacher v. Aldridge 665 F Supp 41 (D.D.C. 1987) **provided for veteran status** to certain US Merchant Marine seamen during WW II (07 December, 1941 to 31 December, 1946) with the same benefits accorded all veterans as administrated by the VA.

Whereas: (2) President Roosevelt’s speech of 12 Oct, 1942 **puts in place the use of elderly and handicapped individuals, school children and women in an effort to support war efforts** by replacing men of military age and fitness, and in stepping up our production of war materials for those on the front lines.

Whereas: (3) DOD & NARA Agreement N1-330-04-1 of July 08, 2004 **provides for the transfer** of military records to the National Personnel Records Center, St. Louis, MO for use as archival records, open to the public. But **no action has taken place by the DHS for the mariner in almost 9** years causing the veteran loss of due access of his records that may accord him recognition as a veteran.

Whereas: (4) HR 1288 provides for **alternative records** to be used in place of **records lost, destroyed or denied** for coastwise seamen affected and allow women and school children be recognized for their services rendered for the first time ever.

Whereas: (5) Costs for HR 1288 is considered **De Minimis** via Findings 8 **removing cost as a consideration.**

Together we can make a difference as these brave seamen did for us during WW II. They stood up for us and in doing so they kept this country free. The very least we can do is repay them with the recognition they have most graciously deserve. Let’s stand up for them and make it possible for them to gain their rightful position as veterans. Will you help make it happen?

The reason I am interested in gaining recognition for the men and women who manned the barges during WWII is that I was one of them and I know we are deserving and have been overlooked after giving so much for the war effort and **Freedom**. The tugboat Menomonee was sunk off the coast of Virginia on 31 Mar., 1942 at 37° 34" N, 75° 25" W by the German U-boat 754, with the loss of my brother, William Lee Horton, Jr. at the age of 17, while serving his country.

Below is a summary of my family's approximate time in service during WW II. Many families had as much service as we did but I have been unable to document them to the extent of my own family from firsthand experience:

William Lee Horton Family

Name	Date of Birth	Death Date	Seaman Z No	Position Held
William Lee Horton	12/06/1894	02/17/70	Z 187260	Master
Sadie Owney Horton	11/25/1899	12/08/98	429571// 031*	Cook
William Lee Horton, Jr	11/17/1924	03/31/42	Z 245 185	Able Seaman
Jack Oswald Horton	01/19/1929		Z 474 431	Master
James Donnell Horton	03/03/1932		Z 474 532	Able Seaman
Doris Jean Horton	01/28/1927	03/06/94	Not Available	Messman

- Sadie Owney Horton was denied seaman papers in New York City, NY by the Maritime Commission Office when she filed for seaman's papers in 1942. They informed her that they were not accepting women in the Merchant Marines at that time. This was their policy. They issued her a formal USCG identification, depicted above, and were directed to use that for work.

WW II WAR ZONE STATISTICS

Calculations: Average Days at Sea per trip

Roundtrip: 10 to 14 days Single trip: 3 to 5 days Per Month: 5 single or 2.5 round trips

Name	Months		Years		Round		Single		Days		Years	
	Service	Service	Service	Service	Trips	Trips	Trips	Trips	at Sea	at Sea	at Sea	at Sea
William Lee Horton	61	5.1	153	306	918 to 1515						2.51 to 4.15	
Sadie Owney Horton	36	3.0	90	180	540 to 900						1.48 to 2.47	
William Lee Horton, Jr	04	0.4	13	26	78 to 130						0.21 to 0.36	
Jack Oswald, Horton	32	2.7	80	160	480 to 800						1.32 to 2.19	
James D. Horton	18	1.5	45	90	270 to 450						0.74 to 1.23	
Doris Jean Horton	03	0.33	12	24	60 to 80						0.20 to 0.22	
Collective TOTALS	:	153	12.93	393	786	2346 to 3805	6.46 to 10.66					

Note: Trips usually originated in Hampton Roads, VA loading a cargo of war materials, (ore, scrap metals, sugar, salt, lumber, coal, etc.). Destination of these barges pointed north. Ports visited, to off load the cargo, were many with the nearest to Hampton Roads, VA being Philadelphia, PA and reaching as far north as Nova Scotia. These ports included Detroit, MI; Stamford, CT; Bridgeport, CT; Hartford, CT; New Haven, CT; New London, CT; Providence, RI; New Bedford, MA; Fall River MA; Boston, MA, Portland, ME; Halifax, Nova Scotia and others. There were 786 trips made that should have resulted in 786 discharges.

Consider: Days at sea were days spent in the presence and fear of enemy submarines continuously. Waters off the US East Coast were a war zone 24/7 and merchant ships were constantly being attacked by German submarine Wolf packs. These tows moved at a pace of 2 to 6 knots and were sitting ducks for the taking. Threat of being attacked by the enemy submarines was constant. Captain W. L. Horton spent the equivalent of 3 years on these treacherous sub infested waters. Sadie Owney Horton spent about 2 years. The siblings together spent about 2.7 years in this Atlantic host also. This was a significant courageous wartime undertaking for any family and recognition for their magnificent and heroic services and the sacrifices they made for our country should be noted. Collectively, the Horton family spent 12.9 years in US Merchant Marine during WWII with over 8 years traveling those waters heavily infested with those hostile German submarine wolf packs that spread havoc on the US Merchant vessels. There were few military units that endured more than this length of time in any war zone, ever.

BARGES for HORTON FAMILY

OWNER: SOUTHERN TRANSPORTATION CO. COMMERCIAL TRUST BLDG. PHIL. PA
APPROX

Name	Year Worked	Gross Tons	Year Built	Hull Number	Builder	Location
TUCKAHOE	1940	1267	1913	165394		CHES. CITY, MD
TENNESSEE	1941	1327	1918	167417		CHES. CITY, MD
COHASSETT	1941-2	21229	1893	27655		CLEVELAND, OH
CHELSEA	1942-3	1327	1919	218878	KELLEY , SPEAR, CO	
PORTLAND	1943-4	2129	1919	167794	MISSOURI VALLEY BRIDGE & IRON	QUANTICO, VA

OWNER: CULLEN TRANSPORTATION CO. 80 BROAD ST., NEW YORK, NY; SOC
SEC EMPLOYER NO # 13-5017994

CULLEN #17	1945	1371	1917			
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OWNER: P. DAUGHERTY CO. GAY & LOMBARD STS. BALTIMORE, MD;
EMPLOY #52-0296180

MARYLAND	1945	1371	1917	214687	AMERICAN CAR & FOUNDRY Co.	SOUTH PORTLAND, ME
DELAWARE	1946	1371	1916	166194	AMERICAN CAR & FOUNDRY Co.	SOUTH PORTLAND, ME
BALTIMORE	1947	1371	1916	214479	GILDERSLEEVE SHIP	GILDERSLEEVE, CT
PROVIDENCE	1948	1371	1917	215749	AMERICAN CAR & FOUNDRY COM	SOUTH PORTLAND, ME

Additional Barges one or more of the Horton family served on before, during and after WWII

Name	G/Tons	Built	Number	Company
Allegany	2298	1921	167100	P. Daugherty Co.
Frederick	2301	1921	166621	P. Daugherty Co.
Montauk	1371	1915	21374	P. Daugherty Co.
Charles J. Hooper	2217	1922	222439	Eastern Transp. Co.
Bango	2129	1919	167793	Southern Transp. Co.
Chester	1327	1919	164514	Southern Transp. Co.
Cohasset	2129	1922	27655	Eastern Transp. Co.
Monokin	1287	1919	219409	Southern Transp. Co.
Orinoco	1287	1919	165033	Southern Transp. Co.

PORTS VISITED WWII Timeframe between Dec 07, 1941 to Dec 31, 1946

Baltimore, MD	Bangor, ME	Boston, MA	Fall River, MA
Hoboken, NJ	New Bedford, MA	New Haven, CT	New York, NY
Norfolk, VA	Palisades, NY	Perth Amboy, NJ	Philadelphia, PA
Portsmouth, NH	Providence, RI	Stamford, CT	Williamston, NC



PHOTO: (1) "Don Horton, age 12, 1944" (2) Mom & Dad, circa 1943 (3) Mom on "Cohasset" 1942

HR 1288 could help some gain recognition as a veteran. This legislation can correct a travesty that has gone unnoticed or ignored for such a long time. Costs associated with this bill have been deemed **to have an insignificant impact on direct spending** by the CBO so cost should not be an issue. This bill stands alone in helping these coastwise merchant seamen gain recognition that they have been deprived of due to records being withheld, destroyed, or denied. This needs to be corrected and soon. These seamen are leaving us at an alarming rate. If not now it will all be for history. We need to stand up and do what is right for these seamen. We must do what is right and support this bill.

Thank you again for allowing me the opportunity to provide you some history and reasoning as to why H. R. 1288 is needed. I hope you now understand what this small group did to assist this nation when all were needed to keep us free from the enemy during a very bleak time for our country. They did what was right for our country and now we need to do what is right for these seamen.

Very Respectfully,

J. Don Horton, Veteran
 WW II & Korean War
 US Merchant Marine & USCG