

**LEGISLATIVE HEARING ON: H.R. 3936, 4087, 4757,
4758, 4759, 4782, 3715; A DRAFT BILL ENTI-
TLED “MEDAL OF HONOR LEGACY ACT”; A
DRAFT BILL ENTITLED “LOVE LIVES ON ACT
OF 2016”; A DRAFT BILL ENTITLED “TO
AMEND TITLE 38, U. S. CODE, TO IMPROVE
THE CONSIDERATION OF EVIDENCE BY BOARD
OF VETERANS’ APPEALS”; AND, A DRAFT BILL
ENTITLED “TO AMEND TITLE 38, U.S. CODE, TO
PAY SPECIAL COMPENSATION TO CERTAIN
VETERANS WITH THE LOSS OR LOSS OF USE
OF CREATIVE ORGANS”**

HEARING

BEFORE THE

SUBCOMMITTEE ON DISABILITY ASSISTANCE AND
MEMORIAL AFFAIRS

OF THE

COMMITTEE ON VETERANS’ AFFAIRS
U.S. HOUSE OF REPRESENTATIVES
ONE HUNDRED FOURTEENTH CONGRESS

SECOND SESSION

WEDNESDAY, APRIL 13, 2016

Serial No. 114-62

Printed for the use of the Committee on Veterans’ Affairs



Available via the World Wide Web: <http://www.fdsys.gov>
U.S. GOVERNMENT PUBLISHING OFFICE

25-125

WASHINGTON : 2017

For sale by the Superintendent of Documents, U.S. Government Publishing Office
Internet: bookstore.gpo.gov Phone: toll free (866) 512-1800; DC area (202) 512-1800
Fax: (202) 512-2104 Mail: Stop IDCC, Washington, DC 20402-0001

COMMITTEE ON VETERANS' AFFAIRS

JEFF MILLER, Florida, *Chairman*

DOUG LAMBORN, Colorado	CORRINE BROWN, Florida, <i>Ranking</i>
GUS M. BILIRAKIS, Florida, <i>Vice-Chairman</i>	<i>Minority Member</i>
DAVID P. ROE, Tennessee	MARK TAKANO, California
DAN BENISHEK, Michigan	JULIA BROWNLEY, California
TIM HUELSKAMP, Kansas	DINA TITUS, Nevada
MIKE COFFMAN, Colorado	RAUL RUIZ, California
BRAD R. WENSTRUP, Ohio	ANN M. KUSTER, New Hampshire
JACKIE WALORSKI, Indiana	BETO O'ROURKE, Texas
RALPH ABRAHAM, Louisiana	KATHLEEN RICE, New York
LEE ZELDIN, New York	TIMOTHY J. WALZ, Minnesota
RYAN COSTELLO, Pennsylvania	JERRY MCNERNEY, California
AMATA COLEMAN RADEWAGEN, American Samoa	
MIKE BOST, Illinois	

JON TOWERS, *Staff Director*

DON PHILLIPS, *Democratic Staff Director*

SUBCOMMITTEE ON DISABILITY ASSISTANCE AND MEMORIAL AFFAIRS

RALPH ABRAHAM, Louisiana, *Chairman*

DOUG LAMBORN, Colorado	DINA TITUS, Nevada, <i>Ranking Member</i>
LEE ZELDIN, New York	JULIA BROWNLEY, California
RYAN COSTELLO, Pennsylvania	RAUL RUIZ, California
MIKE BOST, Illinois	

Pursuant to clause 2(e)(4) of Rule XI of the Rules of the House, public hearing records of the Committee on Veterans' Affairs are also published in electronic form. **The printed hearing record remains the official version.** Because electronic submissions are used to prepare both printed and electronic versions of the hearing record, the process of converting between various electronic formats may introduce unintentional errors or omissions. Such occurrences are inherent in the current publication process and should diminish as the process is further refined.

CONTENTS

Wednesday, April 13, 2016

	Page
Legislative Hearing On: H.R. 3936, H.R. 4087, H.R. 4757, H.R. 4758, H.R. 4759, H.R. 4782, H.R. 3715; A Draft Bill Entitled "Medal Of Honor Legacy Act"; A Draft Bill Entitled "Love Lives On Act Of 2016"; A Draft Bill Entitled "To Amend Title 38, United States Code, To Improve The Consideration Of Evidence By Board Of Veterans' Appeals"; And, A Draft Bill Entitled "To Amend Title 38, United States Code, To Pay Special Compensation To Certain Veterans With The Loss Or Loss Of Use Of Creative Organs"	1
OPENING STATEMENTS	
Honorable Ralph Abraham, Chairman	1
Honorable Dina Titus, Ranking Member	2
Honorable Jeff Miller, Full Committee Chairman	3
Honorable Corrine Brown, Full Committee Ranking Member	5
Prepared Statement	35
Honorable Ryan Costello, Member	6
Honorable Mia Love, U.S. House of Representatives, 4th Congressional District; Utah	8
WITNESSES	
Mr. David R. McLenachen, Deputy Under Secretary for Disability Assistance .	9
Prepared Statement	35
Accompanied by:	
Mr. Matt Sullivan, Deputy Under Secretary of Finance and Planning and CFO, National Cemetery Administration, U.S. Department of Veterans Affairs	
Mr. Patrick K. Hallinan, Executive Director, Army National Military Cemeteries, Department of the Army	11
Prepared Statement	43
Mr. Carl Blake, Associate Executive Director for Government Relations, Paralyzed Veterans of America	21
Prepared Statement	44
Mr. Aleks Morosky, Deputy Director, National Legislative Service, Veterans of Foreign Wars of the United States	23
Prepared Statement	47
Mr. Paul R. Varela, Assistant National Legislative Director, Disabled American Veterans	25
Prepared Statement	51
Ms. Elizabeth Davis, Advocate for Survivors' Benefits	26
Prepared Statement	54
Mr. Edward G. Lilley, Team Leader for Health Policy, National Veterans Affairs and Rehabilitation Division, The American Legion	28
Prepared Statement	56

LEGISLATIVE HEARING ON: H.R. 3936, H.R. 4087, H.R. 4757, H.R. 4758, H.R. 4759, H.R. 4782, H.R. 3715; A DRAFT BILL ENTITLED “MEDAL OF HONOR LEGACY ACT”; A DRAFT BILL ENTITLED “LOVE LIVES ON ACT OF 2016”; A DRAFT BILL ENTITLED “TO AMEND TITLE 38, UNITED STATES CODE, TO IMPROVE THE CONSIDERATION OF EVIDENCE BY BOARD OF VETERANS’ APPEALS”; AND, A DRAFT BILL ENTITLED “TO AMEND TITLE 38, UNITED STATES CODE, TO PAY SPECIAL COMPENSATION TO CERTAIN VETERANS WITH THE LOSS OR LOSS OF USE OF CREATIVE ORGANS”

Wednesday, April 13, 2016

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 10:07 a.m., in Room 334, Cannon House Office Building, Hon. Ralph Abraham [Chairman of the Committee] presiding.

Present: Representatives Abraham, Titus, Lamborn, Brownley, Zeldin, Ruiz, Costello, and Bost.

Also Present: Representatives Miller, and Brown.

OPENING STATEMENT OF RALPH ABRAHAM, CHAIRMAN

Mr. ABRAHAM. Good morning. This hearing will come to order.

Before we begin, I would like to ask unanimous consent that Chairman Miller and Ranking Member Brown be allowed to sit at the dias, speaking on their bills and ask questions.

Hearing no objections, so ordered.

I want to thank you all for joining us today to discuss legislation pending before the Subcommittees. The eleven bills on the agenda address important issues for veterans and their families, including providing additional compensation benefits, honoring deceased veterans, and finding new ways to improving claims and appeals processing.

I would like to focus my remarks on the bill I am proud to have introduced, H.R. 4782, the Veterans' Compensation Cost-of-Living Adjustment Act of 2016. I would also like to thank my colleague Ranking Member Titus for being an original cosponsor.

H.R. 4782 would authorize a cost-of-living increase as of December 1st, 2016 for veterans and their families who receive VA disability compensation or other benefits. Veterans earn these benefits as a result of their service to our Nation. They and their families depend on these payments to help make ends meet.

The amount of the increase would be based on the Consumer Price Index, which is also used to determine the cost-of-living adjustment for Social Security beneficiaries.

Last year, veterans and Social Security beneficiaries did not receive a COLA, but cost of living may go up this year. Therefore, it is absolutely essential that we pass H.R. 4782 to ensure that veterans' benefits keep up with the rate of inflation.

With that said, I look forward to productive and meaningful discussion on each of the eleven pieces of legislation before us today. I appreciate the work of my colleagues who introduced these bills, and I also want to express my gratitude to the witnesses for being here to discuss them with us.

I will now yield to my colleague Ranking Member Titus for any opening statement she may have.

OPENING STATEMENT OF DINA TITUS, RANKING MEMBER

Ms. TITUS. Thank you very much, Mr. Chairman, and thank you for holding this hearing today, so we can discuss some of this important legislation that affects our veterans.

I want to thank you also for including my bill, the Medal of Honor Legacy Act.

We have heard estimates from Arlington National Cemetery that they are going to be at capacity within two decades, so we need to have a plan for what we are going to do there at the cemetery, and we certainly need to include in that plan our Medal of Honor recipients.

In the history of our country, we have awarded more than 3,400 Medal of Honors since the decoration's creation 155 years ago. Three hundred and sixty one of these recipients are buried at Arlington and there are 77 living recipients still with us today. So the purpose of this legislation would be to ensure that they have a place at Arlington for these very few, very special servicemen and women who have received this highest honor.

We worked with the Army and VSOs in guiding our language, and we thank them for their help, and we have tried to redraft the bill so that it includes their suggestions. I understand, though, that they would like to lower the number of places that we are going to set aside in the bill and to use this as an opportunity to plan future uses of Arlington. I think that is all fine and planning is good, but I don't want that to become an excuse for not getting it done. Too often when we say we are going to do a study, that means we are going to put it on the shelf, and we don't know when anything will happen. So we don't want that to be the case here.

I also am very supportive of the policy to help veterans who have lost the use of a reproductive organ. These are veterans who have

put everything on the line for the country and now IEDs have made the injury more prevalent. So we want to do all we can to help them start a family. I don't want us to do it kind of in a half-way manner, though. If we are going to do it, we should do it right, and we should do it so it covers the problem and provides a benefit that really does make a difference and can be taken advantage of to address this challenge.

Also, I would just like to point out that since there is not a lot of discussion between the two sides prior to the legislative meetings, two issues that I hope that we will consider in the future, one that I have talked about for several years, and that is how to address the appeals process to get ahead of it, so that we don't have the serious backlog problem that we have now with just the application for benefits. I know that the VSOs are working on this, the VA has said it is a priority. I hope that we will have a real substantive hearing on some of the ways to address that legislatively.

And finally, once again, and I will say this as long as I am here, I am disappointed that the legislation I requested that we would consider today, H.R. 1598, which is the Veterans' Spouses Equal Treatment Act, was not included. This is simply to bring the VA in line with the Supreme Court decision, so that we recognize spouses of all genders, that we don't say a spouse has to be a member of the opposite sex. This is just outdated legislation or language in legislation that needs to be updated. It doesn't extend any kind of rights, it doesn't impose on states' rights, it doesn't say you support gay marriage, it simply brings the language up to date.

So I hope that at some point, since there is bipartisan support for that, and the VA supports it and VSOs have said they support it, that we will consider that legislation.

And with that, I yield back.

Mr. ABRAHAM. Thank you, Ms. Titus.

Chairman Miller, I appreciate you taking time to be here today. You are now recognized to discuss your bills.

**OPENING STATEMENT OF JEFF MILLER, CHAIRMAN, FULL
COMMITTEE**

Mr. MILLER. Thank you very much, Mr. Chairman. It is a pleasure to be here.

Ms. Titus, thank you for your hard work on this Subcommittee as well.

As Members already know, our priorities must include ensuring that those who have been injured as a result of their service are fairly compensated for that injury, and that veterans who have passed on receive the honor and the respect that they deserve.

My bill, which was noticed for this hearing as a draft bill entitled To Amend Title 38, United States Code, to Pay Special Compensation to Certain Veterans with the Loss or Loss of Use of Creative Organs, that is introduced as H.R. 4892, would ensure that veterans who have suffered a traumatic injury to their creative organs would receive appropriate compensation for those injuries.

In addition to regular compensation payments, VA provides a special monthly compensation or SMC to service-disabled veterans due to circumstances such as the loss of a limb. For veterans who have suffered an anatomical loss or loss of use of a creative organ

as a result of a service-connected disability, SMC currently pays approximately \$100 a month.

Although veterans appreciate this benefit, it does not adequately compensate the veteran for the unique nature of the injury that prevents the ability to have a family. According to the Department of Health and Human Services, private adoption fees can cost anywhere between \$5,000 and \$40,000.

The bill would provide two separate special monthly compensation payments or SMC payments of \$10,000 each. Veterans would be able to use this money however they see fit, and to meet the needs of that veteran's specific circumstance.

For example, a veteran could choose to use this benefit to defray adoption fees or to buy a house large enough to take care of foster children that they may bring into their home. However, a veteran may also choose to use these funds in other ways, as is typical for compensation payments.

If a veteran does decide to use this benefit to raise a family, the real winner in fact is the children. Who better to teach our Nation's children the important values like patriotism and service than the men and women who have served in the armed forces.

As we consider proposals that would provide fair compensation for our wounded warriors, it is also important to ensure that veterans who have passed away receive the deference and respect that they are due.

But before I discuss my other bills that are on today's agenda, I want to comment on VA's opposition to the important legislation that I just described.

According to testimony, VA opposes my bill because it would create an inequitable benefit favoring some veterans over others. Really? Further, VA argues that the benefit would add an undue level of complexity to the claims process.

Mr. Chairman, I am stunned at best. Once again, we have a situation where VA is more inclined to support the status quo than to address a real-world issue, the inability to start a family because of a service-related injury.

Further, to argue this would add a level of complexity to the claims process is offensive to me. As VA testifies, these individuals already get a very minimal amount of compensation for a creative organ loss. Would it really be that difficult to identify and provide a meaningful benefit to those who have lost the biological ability to start a family?

What I would ask today is the Department go back to the drawing board and reconsider its position on this particular piece of legislation.

Mr. Chairman, I have also introduced three other pieces that help our Nation to better honor the deceased men and women who have sacrificed so much in defense of our freedom.

One bill, H.R. 4757, would authorize the VA to furnish a special headstone or medallion to adorn the graves of those who were awarded the Congressional Medal of Honor and who are buried in a private cemetery. Currently, the VA does not have the authority to do so if the veteran passed away prior to 1990 and is buried at a private cemetery in a marked grave.

H.R. 4757 would allow Medal of Honor recipients, some of our Nation's most treasured veterans, to receive the recognition they deserve by providing a government headstone, marker and medalion for privately buried Medal of Honor recipients who served on or after April 6th of 1917. This ensures that as a Nation, we are appropriately honoring those veterans regardless of where they are laid to rest.

I have also introduced H.R. 4758, which would authorize the issuance of the Presidential Memorial Certificate to deceased members of the Reserve or Reserve Officers Training Corps who are eligible for burial in a national cemetery. A Presidential Memorial Certificate is signed by the President and expresses the country's gratitude for that individual's service. I hope that the families who receive this certificate will understand how appreciative we as a Nation are for their loved one's service and their sacrifice.

And finally, I authored H.R. 4759, which would authorize VA to pay the burial transportation costs to state or tribal veterans' cemeteries. Currently, the law only allows transportation costs to a national veterans' cemetery. This bill will ensure that families are not financially penalized if they choose to have the veteran buried in a state or a tribal cemetery.

And I would ask all of my colleagues to support this legislation when it comes up for a vote, and I yield back my time.

Mr. ABRAHAM. Thank you, Chairman Miller.

Ranking Member Brown, thank you for joining us. You are now recognized to discuss your bills.

**OPENING STATEMENT OF CORRINE BROWN, RANKING
MEMBER, FULL COMMITTEE**

Ms. BROWN. Thank you, Mr. Chairman, for this opportunity to speak on behalf of the important bills under consideration today.

I am particularly pleased that we will be considering the bill H.R. 3715, the Final Farewell Act, that is of great importance to my constituents. While VA has the authority to provide weekend services to veterans and their families, they rarely do. This has been a particular challenge for various religions and cultures who bury their loved ones on Saturdays.

Just two weeks ago, I attended a funeral service on a Saturday, then had to wait along with the family until Monday to bury their loved one because the cemetery would not bury the servicemembers on Saturdays. This compound stress from losing a loved one and being forced to break with tradition is unnecessary.

My legislation, the Final Farewell Act, will make it easier for families with religious and cultural traditions to bury their loved ones at a time that works for the family. And I am going to include some additional language there, because I want to make it clear, it is not just a cultural issue, it is also a serious financial burden to have to leave the bodies over to Monday, it is an additional cost that the families have to incur. Our veterans deserve to have their commonsense convenience.

Thank you for considering H.R. 3715 and the support of this commonsense change.

Another bill I am very proud to have introduced is the Loved and Lives On Act.

And there are ten surviving spouses in the audience. Can you just stand up?

So if it's ten here, you know it's thousands in the community. Thank you all for being here today.

I had the opportunity to host our surviving spouses at a roundtable last November. I heard them loud and clear, follow the United Kingdom's lead by eliminating the age restriction on remarriage.

What many may not know is that our current law is discouraging widowed spouses of our most valiant servicemen from remarriage. The U.K. noted that many of these spouses are in committed relationships, but refrain from marrying to retain their income. The right thing to do is clear, and I hope to have my colleagues' support on this matter.

Lastly, I would like to voice serious concerns for the legislation proposed from Chairman Miller that would pay two lump sum payments of \$10,000 for those who lose their use of a creative organ. This legislation is trying to address a health issue by offering cash instead of needed timely treatment, and I strongly oppose it.

I believe a better alternative and compromise is the language that's been agreed to in a bipartisan manner in the agreement struck by the Senate to provide these veterans with health care. This language is very similar to language proposed last year by Chairman Miller and in concept, I support that.

Being able to have a family is an important step toward healing our veterans and their families. I am committed to find a way to make this happen.

And I want to mention one last thing as I close. This Committee passed a bill a long time ago, it is important to have institutional memory, that we forbid fertility treatment for veterans, female veterans, and I think we need to take a look at that, and this is something that we need to rescind, because this should be an option for those veterans that want this additional service. And the reason why we did it is because sometimes these treatments lead to abortion because something is wrong with the servicemember. So we need to take a look at what we have done from this Committee's standpoint.

I want to thank you for bringing these bills up and I am looking forward to working with them as they move to the Floor.

I yield back the balance of my time.

[THE PREPARED STATEMENT OF CORRINE BROWN APPEARS IN THE APPENDIX]

Mr. ABRAHAM. Thank you, Ranking Member Brown.

Are there any other Members that would like to speak about their bills?

Representative Costello.

OPENING STATEMENT OF RYAN COSTELLO

Mr. COSTELLO. Mr. Chairman, thank you for including my legislation today and for the opportunity to speak in support of H.R. 3936, The Veteran Engagement Team Act, also known as the VET Act.

This legislation would offer a solution for the veteran who needs assistance navigating the VA claims process. That solution, bring professionals into the community for our veterans to talk face-to-face with a real person who can offer them help in realtime. Many veterans, unfortunately, struggle to navigate the VA's bureaucracy to submit their disability claims and receive the benefits they are due.

To further complicate the process, our veterans are often subject to preventable delays that plague our current system. Lost paperwork, a lack of communication, and an extensive claims backlog.

This past summer, a Vietnam veteran asked my office for assistance with the VA and his disability claim. He initially applied for disability benefits years ago based on medical conditions he believed were service-connected, but his request was declined. Several months later, he reapplied. While he was ultimately approved for some benefits, the process took well over a year.

Soon after in March, 2015, the veteran applied for an increased disability rating due to diabetic neuropathy, PTSD and Parkinson's, and again in June, 2015 for cancer. After contacting my office, my staff discovered that the VA facility incorrectly listed the veteran as having filed a cancer claim in March, 2015. The VA then informed him they could not process the July claim as they already had one from the spring. However, this veteran was only diagnosed with the cancer in June, proving the claim was grossly misfiled by the VA. Thankfully, my office was able to resolve this situation and prevent a further delay of the veteran's benefit.

Sadly, stories like this have become far too common for our veterans. They submit their disability claims to never hear of them again, while they sit idle in a box for months or even years, and sometimes having been misfiled. Clearly, there is a claims processing problem.

In an effort to ensure our veterans' claims are timely processed and do not suffer as a result of a growing claims backlog, I introduced the VET Act, a three-year pilot program that streamlines the process by creating a one-stop shop for veterans. The legislation will bring VA employees into the community, providing veterans with direct access to physicians, claims raters and other personnel to facilitate the completion and adjudication of claims. And if the request is not completed during the allotted time period, the VA is required to give the veteran a clear explanation of the next steps necessary to complete the claim.

That last piece I think is a frustration for many veterans, not knowing or having that clear explanation of what they must do next in order to fully have the claim completed so that it can be processed.

The VET Act will undoubtedly reduce wait times, miscommunication and lost paperwork that plague the system today. In addition, this method has been tested and proven successful by the American Legion's Veterans Benefits Centers, as well as the VA's Claims Clinic at two regional offices. H.R. 3936 will continue upon the success and ensure veterans across the Nation are receiving this one-on-one assistance in their communities.

Importantly, this would be a major step in restoring the trust that for many has been broken between the VA and the veterans they serve.

I would encourage all my colleagues, Mr. Chairman, to support this bill, and I yield back the remainder of my time.

Mr. ABRAHAM. Thank you, Mr. Costello.

It is an honor then to be joined by our colleague Mrs. Love from Utah at the witness table today. Thanks for being here. You have got a proposal bill, H.R. 4087, the Fair Treatment for Families of Veterans Act.

You are now recognized, Mrs. Love.

STATEMENT OF MIA B. LOVE

Mrs. LOVE. Thank you, Mr. Chairman. Thank you, Ranking Member Titus, and thank you, Ranking Member Brown, and the Committee for granting me the opportunity to appear today.

I am here today to speak on behalf of H.R. 4087, the Fair Treatment for Families of Veterans Act. This bipartisan legislation currently has 66 cosponsors, including four Members of the House Committee on Veterans' Affairs. It has garnered the support from both sides of the aisle, because while it is simple and straightforward, it is extremely important to veterans and their families.

Presently, Federal law stipulates that recipients of VA benefits are not entitled to compensation, dependency or indemnity for compensation or pension benefits for the month of their death. Instead, the effective date of reduction or discontinuance of these benefits is the last day of the month before a marriage, remarriage or death occurs. This can be problematic for families of beneficiaries who may unexpectedly be required to pay living expenses for the last month of a loved one's life.

Compounding the problem, there are instances in which the VA has paid benefits in arrears for the months during which an individual died, only to require that those benefits be repaid after the payment has been made. Unfortunately, those benefits have frequently already been used for necessary living expenses.

I know of several families of deceased benefit recipients that are required to pay back benefits that were already used. One family in my district received a letter six months after a relative's death requiring them to repay money that has already been paid to them and for the relative's care. A Texas family received a letter asking them to pay back money that had been received and used for care seven months earlier.

Families like these have had to take money out of their personal accounts, sometimes retirement saving accounts, to cover unexpected costs. This has added stress and financial hardships to what has already been a challenging situation for them.

The Fair Treatment for Families of Veterans Act would help families avoid this problem by changing the date of benefit reduction or discontinuance. The effective date would be adjusted from the last day of the month before, to the last day of the month during which the death, marriage or remarriage of the beneficiary occurs.

In other words, these beneficiaries would be entitled to monthly benefits until they die instead of until the month before their

death. This way veterans and their families will experience greater peace of mind and avoid unexpected, burdensome expenses.

Our veterans and the families that support them deserve some degree of financial certainty in exchange for the sacrifices they have made for our Nation. I believe that this is the right thing to do, and I encourage the Committee to enthusiastically support this important bipartisan piece of legislation.

Thank you.

Mr. ABRAHAM. Thank you for bringing this bill forward and speaking of it at today's Subcommittee hearing.

We will forgo a round of questioning for Mrs. Love and any questions that any one of us may have, may be submitted for the record.

Now I invite our second panel to the table.

Thank you for being here. We are joined by David McLenachen, the Deputy Under Secretary for Disability Assistance of the Veterans Benefits Administration. He is accompanied by Mr. Matt Sullivan, the Deputy Under Secretary of Finance and Planning and CFO of the National Cemetery Administration. Mr. Patrick Hallinan, the Executive Director of the Army National Military Cemeteries. In his role, Mr. Hallinan is in charged with overseeing Arlington National Cemetery. Thanks for all being here.

Mr. McLenachen, it is good to see you again, and you are now recognized for five minutes.

STATEMENT OF DAVID R. MCLENACHEN

Mr. MCLENACHEN. Thank you, Mr. Chairman.

Mr. Chairman, Ranking Member Titus, Members of the Subcommittee, thank you for the opportunity to present the views of the Department of Veterans Affairs on several bills that are pending before the Subcommittee.

Joining me today is Mr. Matthew Sullivan, Deputy Under Secretary for Finance and Planning for the National Cemetery Administration.

Mr. Chairman, VA supports H.R. 4782, the Veterans' Compensation Cost-of-Living Adjustment Act of 2016. This draft bill would express the Nation's gratitude to service-disabled veterans and their surviving spouses and children, and would show that the value of their benefits keep pace with inflation.

VA also supports the general intent of H.R. 4757 to identify the grave sites of Medal of Honor recipients buried in private cemeteries. However, the extraordinary service that the Medal of Honor represents should be memorialized for all recipients regardless of their date of death or burial location.

We would be happy to work with the Subcommittee to amend the bill to authorize a separate and distinct marker for the grave site of any Medal of Honor recipient.

Although VA supports the proposal on H.R. 4758 to expand the eligibility for Presidential Memorial Certificates, we strongly recommend amending the bill to allow issuance of certificates regardless of the date of death of the individuals, and to allow VA to provide eligible next of kin, relatives or friends of Reservists and retirees with a meaningful symbol of remembrance.

VA supports the concept contained in H.R. 4759, subject to the availability of funds. We especially support expanding the transportation allowance to state and tribal cemeteries for the unclaimed remains of veterans who die without next of kin, as there are no costs associated with this expansion, and it would ensure the availability of a dignified burial option for these veterans.

VA has concerns with several of the bills that remain. For example, VA does not support H.R. 3715, which would require VA to provide interments, funerals, memorial services, and ceremonies at national cemeteries during most weekends if requested for religious or cultural reasons. This draft bill would inadvertently disrupt VA's current flexibility to accommodate these very requests. VA already conducts committal services and interments on weekend days on a case-by-case basis.

VA does not support H.R. 3936 for the reason being that we are currently piloting a program that is similar to the events described in this bill. These claims clinics, while successful for some of the participating veterans, have not reduced the overall processing time for veterans' claims. We have determined that event-oriented processing is more costly and resource-intensive than VA's traditional claim processing.

VA likewise does not support H.R. 4087, which would adjust the effective date of reductions and discontinuances of VA benefits due to marriage, remarriage or death. This amendment is ambiguous, would significantly increase VA's accrued benefits caseload, and increase mandatory benefit expenditures resulting from an additional month of entitlement after a beneficiary's death, and it might also complicate VA and the Department of Treasury's efforts to meet the requirements of the Improper Payments Elimination and Recovery Improvement Act.

VA cannot support the draft bill to pay lump-sum special monthly compensation to veterans with service-connected loss or loss of use of creative organs, because the compensation program already provides additional compensation for these veterans. The lump-sum payments would also be a departure from VA's longstanding monthly benefit payment structure and inequitable for veterans with other severe disabilities.

Although VA appreciates the intent of the bill to improve consideration of evidence by the Board of Veterans' Appeals, which is to expedite appeal processing, we cannot support it as written.

The fiscal year 2017 President's budget observed that improvements to the timeliness of appeals processing should be achieved through comprehensive reform of the process that is in current law. However, this bill seeks to address a single step in the current multi-step process, while not addressing significant defects in the overall statutory framework that currently precludes efficiency in the process as a whole.

Finally, Mr. Chairman, VA cannot support the draft bill that would modify the definition of surviving spouse to permit entitlements to VA benefits when a surviving spouse of a veteran remarries. The draft bill is overly broad, would be very costly, and would overburden VA's survivor benefit programs. However, VA does not oppose amending or appealing the obsolete provisions in Section 5120.

Mr. Chairman, this concludes my statement. We are happy to entertain any questions that you or the Committee may have.

Thank you.

[THE PREPARED STATEMENT OF DAVID R. MCLENACHEN APPEARS IN THE APPENDIX]

Mr. ABRAHAM. Thank you, Mr. McLenachen.

Mr. Hallinan, you are recognized for five minutes.

STATEMENT OF PATRICK K. HALLINAN

Mr. HALLINAN. Chairman Abraham, Ranking Member Titus and distinguished Members of the Subcommittee, thank you for this opportunity to provide the Department of the Army's views on the Medal of Honor Legacy Act.

Arlington National Cemetery is unique and an iconic place devoted to those individuals who made a significant life commitment of service to the defense of our Nation in the armed forces. Arlington Cemetery was originally established as a national cemetery for soldiers who die in service of the country. Eligibility has changed through time, but always honored individuals who made a significant life commitment of service.

These heroes served in every war or conflict since the founding of our Nation. Arlington National Cemetery maintains the honor and dignity of each graveside service while hosting approximately four million guests annually. This duality of purpose brings the sacrifices of those buried at Arlington Cemetery closer to the American people.

On behalf of the cemetery, the Department of the Army, I express our appreciation for the support Congress has provided us over the years.

In May of 1864, Arlington National Cemetery was established as one of the first of 12 national cemeteries as a place to inter soldiers who die in service of the country. Eligibility has significantly expanded over time to include all former members of the armed forces whose last period of services terminated honorably, as well as their eligible dependents.

The proposed Medal of Honor Legacy Act legislation as drafted, would direct the Secretary of the Army to reserve a certain number of burial plots at Arlington National Cemetery for individuals who have been awarded the Medal of Honor and for other purposes.

The Army understands the intent of the proposed legislation is to honor the recipients of the Medal of Honor. However, the legislation as drafted does not address the broader concerns of eligibility to preserve the life of the cemetery well into the future.

This bill would reestablish gravesite reservations that were eliminated by Congress in December of 2010. Reservation of gravesites for one specific group would ultimately exclude persons who also went above and beyond in their service to our Nation, including those who pay the ultimate sacrifice and die in defense of the Nation.

Currently, there are a total of 3,497 Medal of Honor recipients from all conflicts, 77 of those are living recipients. At present, there are 409 Medal of Honor recipients interred throughout the more than 70 sections of Arlington National Cemetery. Burial decisions

are ultimately the personal preference of the deceased and their family. We should not assume they will all choose interment at Arlington National Cemetery. Based on past history, we are confident that if asked, most living recipients would prefer to be buried among the comrades with whom they served.

The present rate of interment and inurnment, coupled with the current inventory of available gravesites and niches, which includes the nearly complete Millennium project, but does not include the unfunded Southern Expansion project, indicates that Arlington National Cemetery will run out of space for first interments or inurnments in the mid-2030s. The impact of this legislation may result in unavailability of grave sites for future servicemembers killed in action.

The Army understands the general intent of the legislation; however, the bill does not address the broader question of how long does our Nation want Arlington National Cemetery to remain an open and active cemetery. The ability to redefine eligibility with the possibility of extending beyond our current borders to gain more contiguous space will allow the Army to ensure that the cemetery remains available for first interments for our Nation's heroes well into the future. We must take a holistic approach to solve this issue, which will require extensive coordination with the military services, our national Veterans' Service Organizations, the Advisory Committee on Arlington National Cemetery, and the Congress.

Mr. Chairman, Ranking Member Titus, this concludes my testimony. I will gladly respond to any questions that you or the Subcommittee Members may have.

Thank you.

[THE PREPARED STATEMENT OF PATRICK K. HALLINAN APPEARS IN THE APPENDIX]

Mr. ABRAHAM. Thank you, Mr. Hallinan.

I will begin the questioning. Mr. McLenachen, even though there was no COLA last year across the Federal Government, please explain why it is important for Congress to pass the American Heroes COLA Act of 2016.

Mr. MCLENACHEN. Mr. Chairman, one of the things that we really have to prevent, both working together, VA and the Congress, is to prevent our benefits from losing the value that they have to veterans and survivors. And that is really the key point for your bill, which is making sure that they have that value and continue to increase with the cost of living generally. It is a very important bill.

Mr. ABRAHAM. Back to you, Mr. McLenachen. As you know, SMC was originally devised to provide some additional compensation to veterans who had suffered the actual loss of limbs in service. Since its inception in the 1930s, however, SMC has evolved to meet the changing needs of the veterans. For example, SMCT was created because of the VA's Special Monthly Compensation program did not adequately address the needs of the veterans who experienced a severe traumatic brain injury.

For most veterans who receive SMC, VA provides health care such as expensive prosthetics at no cost to the veteran. And since

the VA does not provide adoption services, this bill would instead authorize two lump sums to defray the cost of adoption services, if the veteran so chooses. Therefore, we are not creating a separate category for veterans, rather we are responding to the unique needs of the veterans who rely on the VA for their care.

So I guess the question is, why is the VA opposed to assisting veterans who have suffered a catastrophic injury to their creative organs?

Mr. MCLENACHEN. Yes, thank you for the opportunity to explain our position.

We are very sympathetic to the needs of these severely disabled veterans and in fact, as I looked at the data before the hearing, over the last three fiscal years we have granted compensation for about 105,000 veterans for this very disability. It is our position that Congress got it right when Congress categorized certain severe disabilities in Section 1114(k). It is our position that all those veterans who have those type of disabilities should be treated the same and that is our main opposition to this particular bill.

I understand the concerns regarding in this particular instance, individuals who have lost the use or lost creative organs due to their service-connect, but there are other individuals that are in that category that are also severely disabled. For example, a veteran who has completely lost the ability to speak. It is VA's position that all these veterans with these severe disabilities should be treated the same.

Mr. ABRAHAM. And we will have some follow-ups on that, if that is okay.

Mr. Sullivan, how would you allow VA to pay the costs of transporting deceased veterans to state or tribal cemeteries to help veterans receive a dignified and proper burial?

Mr. SULLIVAN. Mr. Chairman, they would be eligible to apply for the transportation allowance that those that are eligible right now to apply for to our national cemeteries. It would be a similar process.

Mr. ABRAHAM. Okay. Mr. McLenachen, one last question. You raised a technical concern with H.R. 4087 within your written testimony, particularly the potential for survivors to receive both the full amount of the veteran's compensation for the month in which he or she died, as well as a DIC benefit for that same month.

If an amendment were adopted, it would specify that a survivor could only receive either compensation benefits for the month of the veteran's death or DIC benefits for that month, would the Department be more receptive to that legislation?

Mr. MCLENACHEN. Well, that would be a step in the right direction to clarify some of the ambiguity that we identified in the bill. So that would be one correction that would be helpful.

I don't think that goes far enough. I think there would be other corrections that would be necessary. For example, under the bill, VA would still be required to pay a month of additional benefits to others. Those payments could go to anybody other than the spouse. So the heirs, it could even accede to an estate, it could be passed on to others through the estate of the veteran.

So we still have a lot of concerns about that bill.

Mr. ABRAHAM. Okay. Thank you.

I now recognize Ranking Member Titus for any questions she may have.

Ms. TITUS. Thank you very much, Mr. Chairman.

I would just ask Mr. McLenachen. You mentioned that this is a very important bill, that we bring the benefits up to the current rate considering the increase in the CPI. I have been sponsoring or cosponsoring this measure for years now and, if it is so great that we do it for one year, wouldn't it be greater if we just did it for every year automatically like we do Social Security, so that we don't have to come back and deal with the vagaries of politics in Congress every year?

Mr. MCLENACHEN. I know that that idea has come up in the past, and I know the Department has taken a position on it in the past. Although it is not before us here today, I am sure we would be happy to provide you our views on that if you ask for them.

Ms. TITUS. Okay. You can't just tell me off the top of your head, if this is great, that wouldn't be greater?

Mr. MCLENACHEN. Well, one difficulty that we have with the way that the law is structured now is, we come before you every year to discuss the new COLA bill for this fiscal year. Certainly, we would avoid that problem if there was legislation that was entered. Whether the Department would support that particular bill is something that we would have to get back to you on.

Ms. TITUS. All right. Thank you.

Mr. Hallinan, you mentioned that the bill that sets aside a certain number of plots for our Medal of Honor recipients does not address the whole problem of how we plan what is going to happen to the cemetery over the next, I don't know, century, so let me ask you this. How long do you think it would take you to do a study of what we need, how we need to address the fact that the cemetery is going to be full or how we expand it, or how we have equal eligibility or how all the services and all the wars are included? How long will it take you to do that study and why don't you get busy doing it now?

Mr. HALLINAN. It is a great question and I appreciate the opportunity to respond to it.

We have already started down this path. We are looking at how long can we maintain the full operational integrity of Arlington National Cemetery well beyond 2050. We have met with some of the national VSO organizations. Our advisory committee that reports to the Secretary of the Army has been tasked with this issue. So we are actively working the issue.

But to answer your question directly, I would estimate approximately four to five months we should be able to come back with a report to this Committee as to what we would think would be good recommendations to extend the life of Arlington National Cemetery.

Ms. TITUS. Right. Well, that is shorter than I figured, but in the meantime, are you opposed to setting aside any plots for Medal of Honor winners or just the fact that there are too many plots set aside in this legislation?

If we reduced it to, say, a hundred, would that still be a problem for you?

Mr. HALLINAN. It would not be a problem if there were a hundred based on the amount that have been interred to date, the 409. We have 95,000 plots available at Arlington National Cemetery right now, I believe we would have to report back to the Subcommittee and back to Congress in time to avert any potential problems down the road in the future.

Our concern is with the actual reservation process since Congress did away with reservations. There was a concern about—do we reserve a certain section. The feeling is among Medal of Honor recipients, most times they want to be buried among comrades or even if they have family members interred at Arlington National Cemetery previously, how do you accommodate their wishes. Our goal is to always work with the families and accommodate their wishes.

So we would not have a problem with a hundred. The bigger issue for us, as you pointed out, is the concern about what happens after 2030, because the Southern Expansion is unfunded. If the Southern Expansion were funded and we were to implement operations that would take us to the 2050s to be an open and active cemetery.

And I think it is incumbent on us, we have the responsibility and duty to say, does the American people want the cemetery at Arlington to close the first interments after 2050 or 2030?

Ms. TITUS. Okay, that is enough, that is enough.

I am just saying, out of 95,000, it looks like a hundred is not too many to set aside for our Medal of Honor winners.

Mr. HALLINAN. It is not.

Ms. TITUS. So, I mean, despite all this study and all these statistics and all this whatever it is you are talking about, I don't think that is too many.

But okay, will you get back to us with that study in four or five months? On the record, that is what you think it is going to take?

Mr. HALLINAN. Yes.

Ms. TITUS. And we appreciate that.

I would like to go back then to Mr. McLenachen. You are opposed to, as I am, the proposal put forth by Chairman Miller with the lump sum, even though I am very supportive of the notion of helping our veterans who have lost the ability to have a family. Are you more supportive of the proposal that has been put forth in the Senate that considers this more as a health care issue than a lump sum that can be used for these various purposes that the Chairman now is supporting, even though originally he was more in line with the Senate bill?

Mr. MCLENACHEN. I am not familiar with and I don't know whether the Department has offered a position on the health care bill for the Senate. Our main objection, as I mentioned, was basically equity for severely disabled veterans.

You know, a second piece of that is the bill would have us provide these lump-sum benefit payments to this subset of these severely disabled veterans. VA generally pays benefits on a monthly basis for compensation. So it would be a significant change for us to have to start paying lump-sum benefit payments and administering a completely different payment process for veterans.

Ms. TITUS. I don't believe that Senate bill includes that, so maybe it would be more in line with what you support.

Thank you, Mr. Chairman.

Mr. ABRAHAM. Thank you, Mrs. Titus.

Mr. Costello, five minutes, questions?

Mr. COSTELLO. Yes, thank you.

Mr. McLenachen, good morning.

Mr. MCLENACHEN. Good morning.

Mr. COSTELLO. In reviewing your testimony, and all my questions will relate to H.R. 3936, a couple questions. How much does a claims clinic cost? Or how much, to use the term, those event-based team concepts, which I guess we will call claim clinics, how much does one cost?

Mr. MCLENACHEN. What I would like to do is get back to you when we are done with wrapping up our analysis of the pilot that we have done, which we started in 2012.

That is a very good question, because our position is that really we don't get the bang for the buck out of the claims clinics. We can serve veterans better, we think, through the processing that we currently do.

I don't want to really say too much more than that as far as the cost, because we haven't fully analyzed the results of the pilot that we have been doing.

Mr. COSTELLO. When do you expect that you will issue analytical documentation on that pilot program?

Mr. MCLENACHEN. I believe that is expected to be wrapped up next month, so we could get back to you then.

Mr. COSTELLO. So the work product will be issued in a month or your—

Mr. MCLENACHEN. The work product. The analysis of the pilot that we conducted since 2012.

Mr. COSTELLO. Will be forthcoming in the next month or two?

Mr. MCLENACHEN. Yes.

Mr. COSTELLO. So you have done sort of a comparative analysis, at least, I don't want to say philosophically, but I know you don't want to commit to numbers, how do you know what the number of claims that can be processed per work hour by an employee?

In other words, you are comparing it to what is in place right now, how do you know whether what is in place right now is working as efficient as it should be?

And I will ask a follow-up after.

Mr. MCLENACHEN. Well, I think, as you know, we have done a lot of work over the past few years to become more efficient in how we process claims. I think, you know, the idea of the claims clinic or such as what is suggested in your bill—

Mr. COSTELLO. Right.

Mr. MCLENACHEN [continued]. —you know, it was first raised back at a time when we had a very significant backlog of disability claims that we were working. We have made a lot of progress over the past few years and so we are at the point now where the question is, do we devote resources to that type of veteran-engagement scenario, which is important, and we are not denying that that type of engagement with veterans is very important.

I think our Secretary has made it clear with setting up his, you know, Veterans' Experience Office in VA that that is a very important role for the Department.

So we have to just find some balance between the resources required to do a claims clinic and the resources required to make sure we timely provide benefits to all veterans, and I think that is the balance we are looking for.

Mr. COSTELLO. And it seems to me another consideration there is also whether a claims clinic ends up resulting in a lower likelihood of appealing that decision. And so, will your analysis or what we see forthcoming look at that aspect?

Because one of the frustrations is that you file a claim, it is processed, it is incomplete, and you get bounced back and forth. So you are there for a long, long time. Whereas with the claims clinic, at least in theory and I am curious to see how it works in practice, is by virtue of having everyone there available you get a much more comprehensive, immediate evaluation, so that you know what is needed and it is right there and, if it is not there, then there is a clear explanation on what is needed in order to ultimately file a complete claim, so that it is not remanded or it is not bouncing around.

And I think even more frustrating is when a claim is filed and you don't know until nine months later or some arbitrary period of time that it is incomplete. I mean, that is maddening. I am not pointing the finger at you specifically.

So within the analysis of what it costs, it seems to me that the ability to file a fully complete claim up-front, even if it is more time-consuming for staff or more staff needs to be allocated to that versus the traditional way of claims processing, may over a period of years actually be more efficient. That is a hypothesis.

And so I hope that what you do provide provides some substance, some substantive analysis on that point.

Mr. MCLENACHEN. I think it is a really good point. If we can check to see whether, I guess you would call it our customer service really aids in satisfaction for the veteran when they are going through the claims process. So I will go back and check and see if that is an element that we are looking at in the analysis.

Mr. COSTELLO. My final point, I know I am running out of time—oh, I am out of time.

Mr. ABRAHAM. Go ahead, sir.

Mr. COSTELLO. The VA press releases relative to the claims clinics indicate that they were a, quote, "great success," and that, quote, "attendance has greatly increased." And so what I glean or gather from that is that they are successful and that they do help individual veterans.

Your testimony seems to suggest, and so I am asking for you to sort of provide some commentary, your analysis seems to suggest that it is not the preferred method or at least you have some concerns about seeing it expanded. So I am asking you to reconcile that what I view as a little bit of a disparity.

Mr. MCLENACHEN. Without a doubt, I think the veterans that have participated in the claims clinics found it to be a good experience. So we are not denying that. I think the question is, though, how much resources do you put into something that provides a few

veterans a better experience versus processing claims in a timely manner for all veterans. And that is the balance I was mentioning.

So I don't think the Department is taking the position that there shouldn't be any claims clinics or that your bill is a bad idea, it is just doing the analysis to figure out, well, what is the best use of the resources that we have, that have been given to us, and then determining what is the future of these type of engagements.

Mr. COSTELLO. And then I will conclude, I would also be curious on what the satisfaction level is of those who go through the claims clinic process, you know, 70-percent favorable, 80-percent favorable. You know, if you go to your local VA hospital, they get very high satisfactory rates. Versus the satisfaction rate of those who go through the traditional claims process. That seems to me to be a very relevant consideration moving forward.

Thank you for your testimony and answering my questions.

I will yield back. Thank you, Mr. Chairman.

Mr. ABRAHAM. Thank you, Mr. Costello.

Ms. Brownley?

Ms. BROWNLEY. Thank you, Mr. Chairman.

I just wanted to ask a few questions around Mr. Miller's bills with regards to reproductive assistance for service-connected disabled veterans. And, Mr. McLenachen, I think you said earlier that one of your objections is that all veterans should be treated the same; is that correct?

Mr. MCLENACHEN. Within that category of special monthly compensation, yes.

Ms. BROWNLEY. Okay. Well, you know, my concern really related to this is I agree that every veteran should be treated the same, but not with regards to the up-front cost, but with regards to the outcomes, which in this case is having children, creating a family, that the outcomes should be the same, not the investment up-front to get to that end. And so that certainly is a concern certainly that I have.

And I also wanted to ask you with regards to, I know the Department of Defense provides these services to our military men and women. And obviously they serve in our military, they leave the military, and then suddenly they receive their benefits from the VA and they are not similar at all. In fact, right now they are very, very different, one does and one doesn't.

So I think Mr. Miller's bill in terms of payment is a step in the right direction, but I think we need to go further in terms of making sure that we have equal outcomes with regards to our men and women who have served, who are disabled, who want to have a family.

I also, with regards to the funding, and maybe you can comment, but with regards to the lump-sum payments of two \$10,000 payments, if the VA was going to pursue this, do you think that that cost is or that payment is enough to cover the cost?

Mr. MCLENACHEN. Well, I don't have an opinion on whether the payment of this particular lump-sum benefit serves the purpose that Chairman Miller had in mind. You know, I did mention that approximately 106,000 grants over the last three fiscal years is what we would be looking at here.

And unfortunately, if you are asking about costs, you know, I apologize for not having the costs for some of these bills available for the hearing, we are going to follow-up as soon as possible with a separate views letter on the costs. But roughly I just wanted to give you an idea of those, that is about 106,000, thirty some thousand a year that these benefits would be going.

One thing that the Committee could look at is, rather than lump sums, whether there is some other fit within the current scheme of special monthly compensation that might be more appropriate. There are higher levels of special monthly compensation.

Ms. BROWNLEY. Well, again, I would be looking in terms of equity, in terms of outcome.

It is my understanding that if one chooses to pursue IVF treatments, that that can cost approximately \$12,500 per treatment, sometimes it is going to take two, three, four, five times is typical. If there is sperm extraction, that can cost 2,500 to \$3,000. So I think, you know, to get to that outcome, it is going to require more.

The other question I just wanted to ask is that in your testimony you stated that a potential change that could be helpful for surviving spouses in lieu of the Love Lives On Act would be amending or eliminating 38 U.S.C. 5120. However, I am having a hard time understanding how that would help surviving spouses who are interested in remarrying and retaining their pension benefits.

Mr. MCLENACHEN. Thank you for that question, because we didn't intend a misunderstanding there.

That would not be a helpful amendment or repeal. Simply our position is that that is an obsolete provision that Congress should repeal. It has to do with postal workers reporting spouses that have remarried to the department. It is clearly an obsolete provision and we have no objection to it being repealed.

Ms. BROWNLEY. Thank you.

I yield back.

Mr. ABRAHAM. Thank you, Ms. Brownley.

Dr. Ruiz?

Mr. RUIZ. Thank you, Dr. Abraham. My questions have been asked, so I have no further questions.

Mr. ABRAHAM. Okay. Well, I am going to open a second round of questions just real quick, because there are a couple things I want to get answered here.

This goes back to you, Mr. McLenachen. Why is the Department opposing to paying DIC benefits to a surviving spouse who remarries prior to the age of 57?

Mr. MCLENACHEN. So, Mr. Chairman, let me begin with this, that, you know, historically, going back a long time, the purpose of some of our survivor benefit programs is to take care of spouses who have lost the support of their spouse and our programs have been very effective for that. I have administered those programs for about the last five years now; we take it very seriously.

It would be a very substantial change given the current law, the current scheme that is in the law, and the exceptions that are provided, and those exceptions are, you know, if a spouse reaches the age of 57, that remarriage is not a bar. Also, if at any time a remarriage is terminated or annulled, it becomes void, automatically the spouse becomes eligible again for DIC. So Congress constructed

the current statutory framework to ensure that spouses do have the support they need if they do not remarry.

This would be a dramatic shift away from that policy, and it would be an expensive change in policy, as well as burdening our current survivor benefit programs, which are very important that we process those quickly and get them to the spouses that need them.

Mr. ABRAHAM. All right. Thank you.

Mr. Hallinan, how would reserving a thousand grave sites, or even a hundred, for recipients of the Medal of Honor impact burial availability at Arlington National Cemetery for servicemembers who are killed in action?

Mr. HALLINAN. Mr. Chairman, it wouldn't have no immediate impact. We view the intent of this legislation is to protect those plots ongoing into the future so there is an availability. It would have no immediate impact. Our concern, as I raised in my testimony, is the broader issue of more holistic approach as to keeping Arlington open and active in the out years.

Mr. ABRAHAM. Okay.

Mr. Sullivan, under what circumstances does the Department currently provide committal services on weekends?

Mr. SULLIVAN. Mr. Chairman, as a matter of policy, we provide commitments or interments on weekends for extraordinary reasons. Those could include, potentially, cultural or religious preferences. We do also provide weekend interments for servicemembers killed in action. And as a matter of policy, we do not go more than 48 hours without providing burial services. So on three-day holiday weekends, we will ensure that we provide burial services on one of those weekend days.

Mr. ABRAHAM. Thank you. Ms. Titus?

Ms. TITUS. Thank you very much.

I would just like to go back to the possibility of remarrying for surviving spouses. And I know they stood up earlier, but we didn't really give them their due. They made a real effort to come here today, and we often talk about the veteran's family and the sacrifices that they make, and how extreme their sacrifices are, as well as those made by the veteran themselves, and I would just like to take a minute to say again thank you all for your courage and for coming here to discuss what I think is a very important issue. And you heard the VA say we need to get rid of things that are antiquated. I certainly think this is antiquated too. I mean look at the veterans who are making the ultimate sacrifice, and you see how very young so many of them are, the majority, and so thank you again for coming.

I just wonder if the VA would be supportive if resources were provided to cover these benefits, and also if you have looked at how the UK did it to see if there are any kind of parallels or why it would be so difficult for us to accommodate this when they were able to do that? Mr. McLenachen, could you address that?

Mr. MCLENACHEN. Yes, Ranking Member Titus, I think you are aware that we are always interested in improving our benefit programs, and this is no exception. We are always looking for ways to improve the DIC Program, the survivors' pension program, burial benefit—monetary burial benefits, so we are not opposed at

looking at ways to improve our program. So, I hope, you know, that addresses your question, that if there was funding available for a particular program improvement, I am sure the Department would take that into consideration in its views for a bill.

Ms. TITUS. I think we should look at how it has been done in other places too, because I think that might provide some guidance or some encouragement that if they can do it, we can do it too. So let's look at that.

Then one last thing, I just can't resist mentioning this. You said we should repeal—you mentioned a certain provision we should repeal it because that language is really antiquated. And I think the VA would agree that we need to repeal the language, that it is equally antiquated, that refers to a spouse as a member of the opposite sex, instead of realizing that this is not our grandfather's military or VA anymore, and that is an antiquated concept, not just in society, but in law, and by the Supreme Court.

Mr. MCLENACHEN. I believe that the Department has expressed its views in support of that bill in the past.

Ms. TITUS. Thank you very much. Thank you, Mr. Chairman.

Mr. ABRAHAM. Thank you, Ms. Titus. Ms. Brownley?

Ms. BROWNLEY. I don't have any more questions, except I just would like to also, as Ms. Titus did, say thank you to the spouses that are here in the audience, and, you know, for their commitment, and their courage and strength to be here with us all today. And I think that it is frustrating, I think, to hear from the VA, quite frankly, that the problem, you know, with the Love Lives On Act is that it is just too cumbersome to really handle, that we should have an attitude of "This makes sense, let's see how we can move towards this goal and let us know how much it is going to cost so that we can wrestle with that information and be able to assess our priorities, understanding that we can't pay for everything, but let us make those judgments and move forward."

I yield back.

Mr. ABRAHAM. Thank you, Ms. Brownley.

Thanks again for the panel, showing up. If there are no other questions, you are excused.

I now recognize our final panel of witnesses.

We have today Mr. Carl Blake, the Associate Executive Director of Government Relations for the Paralyzed Veterans of America; Mr. Aleks Morosky, the Deputy Director of the National Legislative Services at the Veterans of Foreign Wars of the United States; Mr. Paul R. Varela, the Assistant National Legislative Director for Disabled American Veterans; Ms. Elizabeth Davis, who will discuss her experience with survivors' benefits; and Mr. Edward G. Lilley, the Team Leader for Health Policy of the National Veterans Affairs and Rehabilitation Division at the American Legion.

Again, thank you for being here, and for your hard work for the advocacy of our veteran heroes. Mr. Blake, we will begin with you. You are recognized for five minutes, sir.

STATEMENT OF CARL BLAKE

Mr. BLAKE. Thank you, Mr. Chairman, Chairman Abraham, and Ranking Member Titus, on behalf of Paralyzed Veterans of America I would like to thank you for the opportunity to testify today. You

have my full written statement for the record, so I will limit my comments to the one bill on the agenda that has the greatest impact on PVA members.

Since 2001, more than 1,400 servicemembers have suffered specifically a genitourinary injury. Over that same time thousands of veterans have suffered catastrophic TBI and spinal cord injury that have also precluded their ability to have children naturally. Unfortunately, the VA is limited, and in some cases prohibited, from providing health and financial services that fully meet the needs of these veterans. When a veteran has a loss of reproductive ability due to a service-related injury, they bear the total cost to provide for their family and to create a family. It is often the case that veterans cannot afford these services and are not able to receive medical treatment necessary for them to conceive children. For many veterans, procreative services have been secured in the private sector at great personal and financial cost.

Let me say that PVA does support H.R. 4892, as introduced, that would pay special compensation to certain veterans with the loss or loss of use of creative organs. As stated, this bill would provide up to a total benefit of \$20,000.

Let me also say that we sincerely appreciate the work of both this Subcommittee staff, and the Health Subcommittee staff, to find a workable solution to what is the real problem. But let me be clear: the legislation that was introduced serves as a means to an end, but it is not the right means to the right end. We believe there are two significant problems that remain with this bill, even if it is enacted. First and foremost we believe that reproductive services should absolutely be part of the medical benefits package of the Department of Veterans Affairs. If this country is willing to send young men and women into harm's way, who will suffer grievous injuries, then it is our responsibility to make them whole again. If that means losing the ability to have children, then it is incumbent upon this country to do what is necessary to restore that possibility. The proposed legislation seems to provide a way to get to that point, but it is working around what the actual issue is.

The second flaw that we see with this legislation is the value of the benefit and the inequity it creates between men and women veterans. While the benefit seemingly affords catastrophically disabled veterans, most of whom are men, the opportunity to procure reproductive services, in particular IVF, which is the hot button issue, it does not address the financial burden for women who suffer a similar grievous injury. IVF on average costs about \$10,000 for one round of treatment. So this bill would arguably provide for a couple of rounds of that. That would benefit primarily men, who usually use that as a service option outside of the VA because it is not available if they choose to have children with their spouse.

It is important to note that while the average cost of one treatment of course of IVF is approximately 10,000, the average cost of a domestic single child adoption ranges anywhere from \$15,000 to \$40,000. Additionally, the cost of gestational surrogacy can range anywhere from \$60,000 to \$120,000. And those are the options that most often a woman veteran, with a catastrophic injury that precludes their ability to have children, has to rely upon. And so while

this bill provides a meaningful step to afford the opportunity for these types of services, it doesn't come close to providing the option for women veterans who often experience this. I know the Subcommittee recognizes this and this is a challenge, but it is something, I think, that needs to be considered if this bill is going to be moved forward.

Again, let me reiterate that our priority is that reproductive services should be made a part of the medical benefits package. That is what is part of making whole the veteran who has sacrificed so much. There is not any other, that I am aware of, particular injury that a servicemember can suffer while in service to this country that the VA doesn't both compensate and provide health care services in some setting to offset their loss. I recognize that this is a complicated issue. This is not a complicated issue for PVA and its members. We know what the right thing is to do; we hope Congress will see what the right thing is and act upon that as well.

Thank you, Mr. Chairman. I would be happy to answer any questions that you have.

[THE PREPARED STATEMENT OF CARL BLAKE APPEARS IN THE APPENDIX]

Mr. ABRAHAM. Thank you, Mr. Blake.

Mr. Morosky, you are recognized for five minutes.

STATEMENT OF ALEKS MOROSKY

Mr. MOROSKY. Thank you, Mr. Chairman, Ranking Member Titus, and Members of the Subcommittee, on behalf of the Veterans of Foreign Wars of the United States, I would like to thank you for the opportunity to offer our thoughts on today's pending legislation. The bills we are discussing today are intended to improve many of the benefits that veterans need and deserve, and we thank you for bringing them forward.

Mr. Chairman, the VFW supports the Final Farewell Act, which would allow VA to permit weekend burials at national cemeteries when requested by the veteran's family for religious or cultural reasons. We believe this is a perfectly reasonable accommodation.

The VFW supports H.R. 3936, the VET Act, which would establish a three-year pilot program to carry out veteran engagement team events at ten locations nationwide, to adjudicate veterans' disability claims on the spot. Our VFW service officers have witnessed similar claims clinics already being held in select locations and have reported on how successful they can be. In one extreme case, a homeless female veteran from Winston-Salem, North Carolina, whose claim was stalled in the local appeal process, was able to produce the piece of evidence needed to grant, resulting in a retroactive payment of over \$100,000. Our only suggestion for the bill would be to also hold the events on weekends, as well as normal business hours, as many veterans who work full-time would likely be unable to attend during the work week.

The VFW supports the Fair Treatment for Families of Veterans Act, which would grant payments through the end of the month when VA benefit is discontinued due to death or marriage. We believe this is the right thing to do, so as not to burden grieving families with unnecessary debt due to unforeseen overpayments.

VFW supports H.R. 4757, requiring VA to furnish to the survivors of any deceased Medal of Honor recipient a headstone, marker, or medallion signifying that veteran's status as a Medal of Honor recipient. VFW fully supports this as the final resting places of those who receive our Nation's highest award for valor should be granted special recognition.

The VFW also supports H.R. 4758, which would authorize the award of the Presidential Memorial Certificate to members of the Guard and Reserve, as well as ROTC candidates who die in the line of duty.

Likewise, we support H.R. 4759, which authorizes VA to cover transportation costs for veterans interred in state and tribal cemeteries similar to veterans interred at VA national cemeteries.

We support the Veterans' COLA Act of 2016, which increases VA compensation and other benefits, providing cost of living adjustment beginning December 1 of this year; however, we continue to oppose the rounding down of the COLA increase as we believe this is a money saving device that comes at the expense of veterans and their survivors.

The VFW supports the draft bill to grant two payments of \$10,000 as special compensation to veterans who have lost or lost the use of their reproductive organs as a result of their military service. Due to widespread use of improvised explosive devices in the wars in Iraq and Afghanistan, both male and female servicemembers have suffered from spinal cord and reproductive injuries. Many of these veterans hope to one day start families, but their injuries prevent them from conceiving. The funds provided by this bill could be used for adoption or other expenses. And we see this bill as an excellent complement to H.R. 2257 and H.R. 3365, which would expand VA fertility treatment options for veterans who have suffered similar injuries.

The VFW supports the draft bill to improve the consideration of evidence by the Board of Veterans Appeals. Under this bill, additional evidence received after the submission of the Form 9 would be subject to initial review by the Board by default. Veterans may still elect to have evidence reviewed by the AOJ. This is important, as some veterans may feel confident that the additional evidence they are submitting will allow the AOJ to grant their claims in full without the need to wait for their appeals to reach the Board.

The VFW further supports the provision of the bill that would require additional evidence to be reviewed by the AOJ within 180 days when the veteran makes that election. We also support the intent of requiring the AOJ to certify the appeal within 180 days after the review is completed, but would suggest that that timeframe be shortened to, perhaps, 60 days. In our view, one of the logjams in the appeal process is that the AOJs take far too long to certify appeals once their work is completed.

Lastly, we suggest a minor technical change to subsection (a)(2)(b) of Section 1, by inserting at the beginning "If such review does not result in a fully favorable decision."

The VFW supports the draft bill to reserve a thousand burial plots at Arlington National Cemetery for individuals who have been awarded the Medal of Honor. The 77 living Medal of Honor recipients and those who may be awarded our Nation's highest

award for valor in the future should be granted a final resting place in our Nation's most hallowed burial ground.

And finally, the VFW supports the Love Lives On Act, which would allow surviving spouses who remarry to continue receiving VA survivor benefits. We believe that surviving spouses, many of whom are young, should not have to endure a life of loneliness just so they can continue to receive the benefits granted to them through the death of their spouses.

Mr. Chairman, this concludes my statement, and I am happy to answer any questions you may have.

[THE PREPARED STATEMENT OF ALEKS MOROSKY APPEARS IN THE APPENDIX]

Mr. ABRAHAM. Thank you, Mr. Morosky.

Mr. Varela, five minutes, sir.

STATEMENT OF PAUL R. VARELA

Mr. VARELA. Dr. Abraham, Ranking Member Titus, and Members of the Subcommittee, good morning. On behalf of DAV, thank you for the opportunity to discuss the merits of the bills before us today.

I will focus my comments this morning on two pieces of pending legislation and two bills in draft form that are of particular interest to our organization. First, H.R. 3936, the Veteran Engagement Teams Act, or VET Act. This bill would require VA's Secretary to carry out a three-year pilot program facilitating vet events in order to complete on-site processing of claims for disability compensation and pension. DAV supports the VET Act in accordance with our national resolution 001, that calls for enhanced outreach to ensure that all wounded, ill, and injured veterans receive all benefits they have earned. We are pleased to support this bill, and look forward to working together towards its enactment.

Second, H.R. 4782, the Veterans' Compensation Cost-of-Living Adjustment, COLA Act of 2016. This bill would increase the rates of disability compensation, clothing allowance, and dependency indemnity compensation, effective on December 1st, 2016. Consistent with DAV resolution 013, which calls on Congress to support legislation to provide a realistic increase in disability compensation, we support this bill.

While Congress has customarily determined a COLA in parity with Social Security recipients, it is important to note there have been several years in which Social Security recipients did not receive a COLA, as was the case this year. Likewise, beneficiaries in receipt of VA compensation and survivor benefits did not receive a COLA.

Furthermore, DAV believes Congress should consider a better formula to compensate service-connected veterans, their survivors, and dependents, for wounds, injuries, and illnesses sustained during military service. DAV members passed resolution number 059, which calls on Congress to support the enactment of legislation to provide a realistic increase in VA compensation rates to bring the standard of living of disabled veterans in line with that which they would have otherwise enjoyed had they not suffered their service-connected disabilities.

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

Third, the discussion draft for special monthly compensation, SMCU. If enacted, the legislation would pay SMCU to veterans entitled to receive SMCK due to the loss of or loss of use of creative organs. Seemingly, this bill contemplates one possible option to provide some assistance in the form of compensation to overcome reproductive challenges associated with service-connected disabilities. DAV does not view this proposal as a comprehensive measure to solve this problem, as these veterans may require additional services beyond what the two \$10,000 payments would cover. More must be done to ensure that veterans stricken with wounds, illnesses, and injuries that impede upon their natural ability to procreate receive to the maximum extent possible the full complement of services and benefits required to achieve a desired outcome. DAV does not have a resolution from its members pertaining to lump-sum payments for the loss or loss of use of creative organs, but would not oppose passage of this legislation. However, if legislation were to be enacted to provide for these lump-sum payments, it should not be used to supplement or offset other forms of payments or services that would aid these veterans in their procreative and adoptive pursuits.

Finally, Mr. Chairman, the evidence development discussion draft. If enacted, the legislation would affect consideration of evidence before the agency of original jurisdiction AOJ, and the Board of Veterans Appeals board. DAV opposes this legislation as it would create artificial suspense dates, limits an appellant's opportunity request for AOJ review of evidence, unnecessarily routs uninvestigated appeals directly to the board, attaches finality due to a board's decision on evidence reviewed in the first instance, and does not address how appellants would be made aware of their evidence review options.

Simply closing the record or limiting AOJ review of evidence with the intention of getting the information before the board in the first instance has several inherent consequences as described in greater detail within our written testimony. Because of the potential detrimental effects on the due process rights of veterans, DAV would be opposed to this legislation if it were to be enacted.

For the remaining bills, please see our written testimony for our comments and organization's positions. Dr. Abraham, Ranking Member Titus, and Members of the Subcommittee, I look forward to your questions today, and thank you.

[THE PREPARED STATEMENT OF PAUL R. VARELA APPEARS IN THE APPENDIX]

Mr. ABRAHAM. Thank you, Mr. Varela.

Ms. Davis, you are recognized for five minutes.

STATEMENT OF ELIZABETH DAVIS

Ms. DAVIS. Thank you. I would like to take a moment and thank Chairman Abraham and Ranking Member Titus for this oppor-

tunity to testify on behalf of the Love Lives On Act for our military surviving spouse community. With me in attendance today are several of the widows of our Nation's heroes. Although I will only be speaking about my own personal experience, each of these individuals has a heartbreaking story of sacrifice for our Nation.

My name is Elizabeth Davis, and I am a 29-year-old mother, nurse, and widow to my marine. My husband, First Lieutenant Matthew Davis, was killed on 7 November 2014. While Matt was serving as officer of the day on regimental duty, he was struck and killed by a fellow 2-5 marine who was drunk driving and evading the police. Matt was a selfless, gregarious, giant of a man with a sense of humor as big as he was. Nothing will ever change my feelings for him, even though I know he will not be coming back.

The night I found out he was killed, I actually had a heart attack when our best friend showed up in his dress blues to deliver the news in the early hours of the morning. I quite literally will bear the scars on my heart from this news for the rest of my life.

After recovering from the shock of being widowed, I decided I was going to honor my husband by devoting my time and energy into making this rough journey easier in any way possible for other military widows. I started looking for ways to help widows provide for themselves and their families when I moved back to Virginia. The first step was to ensure that Virginia accepted the Department of Defense's definition of gold star spouse, making sure that we honored the sacrifices of those killed in the line of duty as well as those killed in action. With the help of my delegate, House Bill 98 was introduced and passed through the Virginia House of Delegates and Senate. Recently, I was granted the opportunity to discuss with the Commandant in the Marine Corps, General Neller, how the culture of alcohol in the Marine Corps has impacted my family.

I have also remained active in the Stafford County Armed Services Memorial Committee. My long-term goal is to ensure that our widowed community, which has already given so much for this great Nation, faces no additional or unnecessary hardship.

The next step, which I pray you will support, is to improve the lives of this very small, but very important community. We are seeking repeal and amendment to the age stipulation through the Love Lives On Act. Currently, as the widow of a fallen servicemember, you may remarry and retain your benefits after the age of 57. With the vast majority of our heroes being young and leaving behind spouses who are equally young, it is unreasonable to expect a surviving spouse not to seek out happiness and love again well before he or she is 57.

As it currently stands, I and the other survivors in this room have no incentive to move on with our lives and rebuild our families. Rather, we are strongly bound to remain single parents with incomplete families in order to retain benefits that our husbands earned by dying for this country. The full impact of this, the current limitation is felt not only by the surviving spouse, but also by the children of our fallen. These benefits have been earned at the cost of loss of life for country, and are necessary in maintaining the needs of the spouse and all of the surviving children.

This program is vital because it provides the ability to have a safe home and food on plate for the families who are left behind. In almost every case of a widower or widow, our Nation puts the draconian decision to choose to seek love again over being pragmatic with our finances. This choice is ultimately made for us, hindering the very freedoms our spouses gave their lives for under the current guidelines.

Why would anyone in this room choose to remarry when we can receive these benefits but date a new person in perpetuity? Amending the statute would cement the belief in our servicemembers that the United States cares what happens to them as individuals. Not only is the sacrifice and commitment that they made in dying for our country forever, but so too is the commitment of the United States to their families should they perish.

The risks and lifestyles associated with our Nation's military can be unpredictable, but providing benefits for those left behind should not be. We should not be punished for seeking out love and happiness that our spouses would want us to have. As a spouse, we deserve to try and heal and be happy, and for the children left behind, they deserve a stable, loving home, where both of their parents are legally recognized as a family unit, without repercussion of the loss in necessary income.

Through your vote, you can make a positive change for the families of our fallen heroes. By continuing to provide benefits to surviving spouses, families will heal and produce children that will grow up knowing that service has meaning. For us as widows, life truly is too short. We fully grasp that concept, often in our 20s and 30s when our peers won't have to face these kind of hardships for decades. Please enable us to have a choice in marriage before the age of 57.

The widows and children of the fallen were handed a folded flag on behalf of a grateful Nation. In that short moment of handing the flag over, there is no if or but when it comes to the commitment our husbands showed this great Nation. I have the utmost faith that the men and women in this room will do their best to honor that oath paid for in blood well before we are 57.

[THE PREPARED STATEMENT OF ELIZABETH DAVIS APPEARS IN THE APPENDIX]

Mr. ABRAHAM. Thank you, Ms. Davis. There are simply no words to express what I know you and the ones behind you and the thousands across the Nation in your shoes, unfortunately, are feeling, but thank you for your service, and those behind you for your service to this country, certainly your fallen heroes that you no longer have.

Mr. Lilley, you are recognized for the American Legion for five minutes.

STATEMENT OF EDWARD G. LILLEY

Mr. LILLEY. Thank you, and good morning, Mr. Chairman, Ranking Member Titus and Members of the Committee. On behalf of National Commander Dale Barnett and the over two million members of The American Legion, we are pleased to offer remarks regarding pending legislation. The slate of bills covers a wide range

of topics, and proof that the impact of the Department of Veterans Affairs and its benefits are due to the wide-ranging needs of veterans community, many of whom have physical and emotional scars related to their service in the armed forces. There are several good bills up for discussion today, and you have my full written remarks, but in the interest of time, I would like to focus on four key bills.

First, I would like to start talking about the VET Act. In response to a national crisis, The American Legion immediately went to work in communities throughout the country, meeting with veterans face to face, one at a time. American Legion began setting up veterans benefit centers, or VBCs, throughout the country by collaborating with VA staff, American Red Cross volunteers, and other community partners to staff over a dozen VBCs across the country within the first nine months of the Phoenix scandal. During these VBCs, we were able to assist more than 3,000 veterans and their families with scheduling outpatient appointments, enrolling in the VA health care system, and applying for compensation, pension, disability indemnity compensation benefits, and other services veterans and their families needed assistance with.

I would like to share two success stories on how veterans' lives have been impacted by our VBCs. A homeless veteran who came to the Fayetteville, North Carolina VBC looking for assistance stated "I didn't have a lot of faith in what was going on, but someone did help me out and I want you all to know that in my bank account this morning was my \$11,000 retro check. I can now move me and my son out of my vehicle and I can buy my son a healthy meal." A veteran from Texas stated, "I had an appointment that was 120 days down the road with my primary doctor. They took care of it and moved it up a month and a half."

The VBCs work in the same manner as this bill, putting all the players in the community together to get the help to the veterans. This bill would help veterans receive the benefits they have earned by addressing the barriers between VA and the veterans they serve within the community. Therefore, The American Legion supports the VET Act.

The Medal of Honor is the United States of America's highest military honor awarded for personal acts of valor above and beyond the call of duty. The intent of the next two bills is to expand benefits to Medal of Honor recipients. H.R. 4757 would direct the VA to furnish at a private cemetery a headstone, marker, or medallion that signifies the status of an eligible veteran as a Medal of Honor recipient. The Medal of Honor Legacy Act would hold 1,000 of the remaining 60,000 burial plots at Arlington National Cemetery to be exclusively assigned to Medal of Honor recipients should they choose to be buried there. This would allow those who have received the highest military honor to continue to have a place at the Nation's most hallowed burial place. By resolution, The American Legion supports any legislation that would expand the benefits to Medal of Honor recipients.

Finally, I would like to discuss the Compensation Cost of Living Adjustment Act of 2016, or COLA. This bill allows for a COLA for VA disability benefits. However, within section 2 of this bill, it is noted that each dollar amount increased under paragraph 1, if not

a whole dollar, shall be rounded to the next lower whole dollar amount. In order for The American Legion to support this bill, we ask Congress to remove section 2 and allow veterans to receive the full benefits awarded due to their service without rounding down.

Again, on behalf of National Commander Dale Barnett, and the members that comprise this Nation's largest wartime veteran service organization, we appreciate the opportunity to speak before you this morning to discuss these bills that could have long-lasting effects upon the veteran community. I will be happy to answer any questions the Committee may have. Thank you.

[THE PREPARED STATEMENT OF EDWARD G. LILLEY APPEARS IN THE APPENDIX]

Mr. ABRAHAM. Thank you, Mr. Lilley, and thank you all for your testimony.

I will start with some questions, and this is for everyone on the panel. Based on your organization's experience, how would veterans and their families benefit, assuming that they receive the COLA next year?

Mr. Blake?

Mr. BLAKE. Well, that is assuming that there is going to be a COLA, particularly this year when we had zero percent. I mean, I think it is a well-established fact that the cost of living doesn't go down year after year despite what the COLA statistics suggest. It impacts their ability to pay their bills, you know, provide for their families, I mean we are talking about not necessarily significant amounts, but it plays into the way that many families budget for their daily living. Without the COLA, you know, that has an impact.

Mr. ABRAHAM. Mr. Morosky?

Mr. MOROSKY. I concur with that, Mr. Chairman. You know, in addition, this year where there wasn't the COLA, we received a lot of calls from our members talking about how they feel as though cost of living has gone up. Food gets more expensive, housing costs have gotten more expensive, you know, having looked into it, you see that the reason why the CPI stayed flat was because gasoline prices fell so much. But as has been pointed out by others, some people who are severely disabled or elderly people may not necessarily benefit as much from falling gasoline prices, but they certainly feel the raising medical costs, the raising housing costs, and the raising food costs. So cost of living increases is critically important.

Mr. ABRAHAM. Thank you. Mr. Varela?

Mr. VARELA. Thank you, Dr. Abraham. I would align our comments with that of PVA and VFW, but also add what the representative from American Legion stated about eliminating the round-down provision which I think is particularly important this year if we are able to get a COLA passed, seeing as one was not passed this year. And also, you know, we want veterans who are receiving disability compensation to be able to meet a basic standard of living, and we continue to erode the potency of their disability compensation as it pertains to their ability to maintain that standard of living.

Mr. ABRAHAM. Ms. Davis, do you have a comment?

Ms. DAVIS. No, sir, I do not. Survivors do not receive a COLA.
Mr. ABRAHAM. I understand.

Mr. Lilley?

Mr. LILLEY. Mr. Chairman, for these veterans and their family members, COLA is not simply an acronym or a minor adjustment in benefits, instead it is a tangible benefit that meets the needs of the increasing costs of living in a Nation that they bravely defended. By resolution, American Legion supports any legislation to provide a periodic cost of living adjustment increase, and to increase the monthly rates of disability compensation. So we agree that it is an important benefit that needs to be increased.

Mr. ABRAHAM. All right. Thank you all.

Mr. Varela, this is for you, I guess. Why do you believe that the current rate on special monthly compensation, SMCK, is not sufficient for veterans who have received a catastrophic injury to their creative organs?

Mr. VARELA. If I am not mistaken, the rate that is paid for SMCK is roughly \$100 a month. I don't know that that is enough to help somebody procreate. It is not enough to help somebody procreate, and it wouldn't be enough to help with adoptive services. So there has to be something else in place to help overcome that barrier where that special monthly compensation doesn't really achieve the particular outcome.

Mr. ABRAHAM. Okay.

Mr. Lilley, the next question is for you. You indicate that you support the draft legislation on development of evidence. How do you think this proposed change would expedite the appeals process?

Mr. LILLEY. So Mr. Chairman, we have seen proof. So VA issued Fast letters 13-21 and 14-02 in 2013 and 2014, respectively, that directed its employees to proceed in the manner directed by the drafted legislation. In July of 2015, the VA included language from the Fast letters in M-21-1. While preparing for this testimony, American Legion contacted one of our seasoned accredited representatives in Detroit, and he couldn't have been more empathetic and supportive of the results of the Fast letters. Instead of veterans waiting for nearly a year to have supplemental statement of the case, or SSOC, the case could be forwarded to be certified by the BVA. American Legion is supportive of the VA having efficient manners to adjudicate claims and appeals through eliminating the requirement of an SSOC, and veterans are not being punished for submitting evidence following the filing of the substantial appeal.

Mr. ABRAHAM. Okay. All right. Thank you, Mr. Lilley.

Mr. Morosky, please elaborate on what you believe that the families of the reserve and the National Guard servicemembers should be able to receive a presidential memorial certificate commemorating their service to the country?

Mr. MOROSKY. Well, quite simply, Mr. Chairman, these are servicemembers who have died in the line of duty. We already grant it to active duty servicemembers who die in the line of duty. We feel as though members of the Guard and Reserve as well as ROTC cadets who die training in the line of duty, you know, their families are equally deserving of that recognition.

Mr. ABRAHAM. Thank you. I am out of time.

Ms. Ranking Member Titus?

Ms. TITUS. Thank you. Thank you very much. I appreciate Mr. Blake, you mentioning how this whole compensation for loss of creative organs also affects women. But it would be very nice to have some women veterans at the table talking about it themselves. So I hope, as this moves forward, we have those representatives here to help us structure this in a way that will truly be helpful.

It seems to me that somebody, some time, made an arbitrary decision that an organ is worth a certain amount. You lose an arm, you get a certain amount. You lose an eye, you get a certain amount. You lose the ability to have children, you get a certain amount. So we are saying that the inability to have children is worth \$100 a month. Is that kind of how it works, Mr. Blake, or anybody?

Mr. BLAKE. I guess, theoretically speaking, that is probably true.

Ms. TITUS. Do you think it is worth more than that?

Mr. BLAKE. Well, in my opinion, it is priceless.

Ms. TITUS. Exactly, exactly. Thank you very much for saying that. I mean, that says it all. But I would ask one specific question about the bill that is before us that has to do with this issue, which I agree with what many of you said is not the way to go about addressing it and it is just kind of half-assed, actually. But under this bill, where you get a lump sum to pay for adoption, I don't believe there is anything in the bill, and correct me if I am wrong, that says you have to be married to get this, to use this money for adoption. And also you could be a gay couple and use this money for adoption. Is that accurate?

Mr. BLAKE. I don't think it makes any particular distinction. I think you are eligible for the benefit, the veteran is eligible for the benefit. The relationship they are in is not contemplated in the context of the legislation.

Ms. TITUS. Okay. Thank you very much. I yield back.

Mr. ABRAHAM. Thank you, Ms. Titus.

Ms. Brownley?

Ms. BROWNLEY. Thank you, Mr. Chairman, and thank you Ms. Davis for your testimony, particularly today. And we appreciate, we are deeply sorry, and appreciate your husband's service to our country and certainly your service to our country as well, because we all know here that it really takes a whole family to support the man or woman who is on the battlefield. So thank you very much for that. And to all of the other spouses that are here today standing with you on this really important issue.

I just think it, you know, when we are talking about a benefit to surviving spouses, when someone dies in a family, I think everyone, their wishes for the surviving spouse, particularly in this case for the surviving family members is that they want to be, first make sure that their family is taken care of, and secondly to wish them, you know, happiness in their future life. And I think this is a really important bill to try to meet that criteria, if you will.

And, you know, when someone who has served our country and served our country so bravely, we need to make sure that, if they die, that we are taking care of them and they don't have to worry about their family once they are deceased. That they need to know unequivocally that we are going to take care of their family. And

so I think this bill is extremely, extremely important to make sure that we are taking care of the family and wishing the spouse a quality of life and happiness in his or her life, without question.

And I guess, Ms. Davis, I would just ask the question to you based on your conversations and your advocacy with the widowed community within the military, do you have relationships with people who have absolutely postponed their happiness and their pursuit of happiness because they have to be 57 years or older?

Ms. DAVIS. Absolutely, particularly when there are children involved, that monthly benefit is mandatory, just to keep the household running and all of our basic necessities. We are punished if we do get married. We are punished at a certain age if we don't get married. We are punished with some of our benefits if we choose to work. So we are kind of stuck in this catch-22 where we have to postpone our lives. It is not really a choice that we get to make. And it is extremely unfortunate that we have these heroes who we are so proud of, who have defended all these freedoms for everybody else, but nobody is looking out for our freedoms and that is not okay. I hope that answers your question.

Ms. BROWNLEY. Yes, yes thank you. And I think, you know, another point that I would just make on this particular issue when we are talking about our younger men and women, surviving spouses who are younger, if they choose to work, they are very early in their career. And we know as we climb the career ladder, we tend to make more as we pursue that career year after year after year, so logic says when you are young and early you just might be beginning that process. And that compensation becomes even more important for our younger spouses than those who might have been—may have been working in their careers, and as they reach an earlier age, might be yielding, you know, more significant income. That doesn't apply to everyone, but it could apply to some.

So, anyway, I just want to thank you again, you know, for your courage to be here, and for the other surviving spouses who are here, thank you for being here, thank you for your testimony, and thank you for your advocacy, and we hope very much that we can succeed in this endeavor.

The last question that I would just ask very quickly of The American Legion is that I noticed that you didn't make a comment or don't have a recommendation on Mr. Miller's reproductive assistance bill, and if you have an opinion, specifically on the bill?

Mr. LILLEY. Thank you, Congresswoman. We are very excited about the effort to try and make veterans with service-connected injuries whole again. We fully support parity between the authorized services offered to DoD active duty members and the veterans who have since left DoD with the exact same complications. We do have some concerns over the language that we believe would be easy to overcome, and we look forward to working with the congressional staff to work through these concerns.

Ms. BROWNLEY. Thank you. I yield back.

Mr. ABRAHAM. Thank you, Ms. Brownley.

If there are no further questions, this panel is excused.

I want to thank everybody for coming here today and sharing your views on these 11 bills. Ms. Davis, again, thank you and those

behind you for your journey. I wanted to tell you that my bill, co-sponsored by Ms. Titus, does have COLA increases for DIC benefits, so maybe a little ray of sunshine there.

I ask unanimous consent that written statement provided by the Vietnam Veterans of America be placed in the hearing record. Without objection, so ordered.

Finally, I ask unanimous consent that all members have five legislative days to revise and extend their remarks, and include extraneous material on any of these bills under consideration this afternoon. Without objection, so ordered.

This hearing is now adjourned.

[Whereupon, at 11:52 a.m., the Subcommittee was adjourned.]

A P P E N D I X

Prepared Statement of Corrine Brown, Ranking Member, Full Committee

Statement in Support of The Final Farewell Act and The Love Lives on Act

Thank you, Mr. Chairman for the opportunity to speak on behalf of the important bills under consideration today.

In particular I am pleased that we will be considering a bill H.R. 3715, The Final Farewell Act that is of great importance to my constituents.

While VA has the authority to provide weekend services to veterans and their families, they rarely do.

This has been a particular challenge for various religions and cultures who bury their loved ones on Saturdays.

Just two weeks ago I attended a funeral service on a Saturday then had to wait along with the family until Monday to bury the loved one because the cemetery would not bury the service member on Saturday.

This compounded stress, from losing a loved one and being forced to break with tradition, is unnecessary.

My legislation, The Final Farewell Act, will make it easier for families with religious and cultural traditions to bury their loved ones at a time that works for them.

Our veterans deserve to have this common sense convenience.

Thank you for your consideration H.R. 3715 and the support of this common sense change.

Another bill that I am very proud to have introduced, is The Love Lives on Act.

I had the opportunity to host our surviving spouses at a roundtable last November.

I heard them loud and clear, follow the United Kingdom's lead and eliminate the age restriction on remarriage!

What many may not know is that our current law is discouraging widowed spouses of our most valiant servicemembers from remarrying.

The U.K. noted that many of these spouses are in committed relationships but refrain from marriage to retain this income.

The right thing to do is clear and I hope to have my colleagues support.

Lastly, I would like to voice serious concern for the legislative proposal from Chairman Miller that would pay two lump sum payments of \$10,000 for those who lose their use of a creative organ.

This legislation is trying to address a health issue by offering cash instead of needed timely treatment and I strongly oppose it.

I believe a better alternative and compromise, is the language that has been agreed to in a bi-partisan manner, is the agreement struck by the Senate to provide these veterans with healthcare.

This language is very similar to language proposed last year by Chairman Miller and in concept I support that.

Being able to have a family is an important step toward healing our veterans and their families. I committed to working to find way to make that happen.

Prepared Statement of David McLenachen

Good afternoon, Mr. Chairman, Ranking Member Titus, and other Members of the Subcommittee. Thank you for the opportunity to be here today to discuss legislation pertaining to the Department of Veterans Affairs' (VA) programs, including the following: H.R. 3715, H.R. 3936, H.R. 4087, H.R. 4757, H.R. 4758, H.R. 4759, H.R. 4782, a draft bill "to pay special compensation to certain Veterans with the loss or loss of use of creative organs," a draft bill "to improve the consideration of evidence by the Board of Veterans' Appeals," and a draft bill entitled the "Love Lives on Act

of 2016.” There is also a draft bill under discussion today entitled “Medal of Honor Legacy Act,” which would affect programs or laws administered by the Secretary of the Army. Respectfully, we defer to the Secretary of the Army’s views on that draft bill. Accompanying me this afternoon is Mr. Matthew T. Sullivan, Deputy Under Secretary for Finance and Planning and Chief Financial Officer for the National Cemetery Administration.

H.R. 3715

H.R. 3715 would require VA to permit interments, funerals, memorial services, and ceremonies of deceased Veterans at national cemeteries during weekends, except weekends that include Federal holidays, if requested for religious or cultural reasons. The bill would also require that VA make any grant to a State to assist in establishing a Veterans’ cemetery conditioned upon the State permitting interments, funerals, memorial services, and ceremonies during weekends, except weekends that include Federal holidays, if requested for religious or cultural reasons. The bill would require VA to provide notice to anyone requesting burial of a decedent in a national cemetery that he/she may request, for religious or cultural reasons, that the interment, funeral, memorial service, and ceremony be conducted on a weekend, except a weekend that includes a Federal holiday.

Although VA appreciates the intent of the bill, VA does not support the bill because it could inadvertently disrupt VA’s flexibility to accommodate the very requests the bill is addressing. Across the national cemetery system, VA conducts committal services and interments on weekend days on a case-by-case basis to accommodate exceptional circumstances, including religious or cultural reasons. VA also provides weekend burials for Servicemembers who are killed in action. As a long-standing policy, VA will not go more than two days without offering national cemetery burial, so even when others may have a three-day Federal holiday weekend, VA cemeteries will conduct burials on at least one of those three days. VA is concerned that memorializing this in statute may be interpreted as allowing weekend burials for only religious and cultural reasons. VA believes that these operational decisions are best left to VA to decide on a case-by-case basis, as a matter of policy.

VA’s current policy is designed to minimize the number of interments during weekends to allow a peaceful time for families to visit the gravesites of loved ones without the disruption of cemetery burial and maintenance operations, or by special ceremonies that are held to honor Veterans and Servicemembers. However, VA has requested VA’s Advisory Committee on Cemeteries and Memorials to review the feasibility and resource requirement of offering weekend burials at VA national cemeteries. The Secretary of Veterans Affairs is authorized by Congress (38 U.S.C. § 2401) to “advise and consult” with the Advisory Committee on “administration of the cemeteries.” The Advisory Committee was charged with making recommendations regarding weekend burials, with its final recommendations to be presented at its spring 2016 meeting.

Additionally, VA does not support the requirement in H.R. 3715 that would mandate VA to condition a grant provided to a State under VA’s Veterans Cemetery Grants Program (VCGP) on the State’s agreement to permit weekend interments, funerals, memorial services, and ceremonies of deceased Veterans. This provision would significantly increase the supervision and control that VA has traditionally exercised over State Veterans cemeteries funded through the VCGP. The VCGP allows VA to partner with States and Tribal organizations to increase Veterans’ access to a burial option. The grants are not without conditions, but those conditions are generally designed to ensure that the burial option provided by the State or Tribal organization is of a quality consistent with that available to Veterans at the national cemeteries. The condition proposed in H.R. 3715 would involve VA in operational decisions that we have left to the States since the inception of the VCGP. VA codified this position in 38 C.F.R. § 39.11, which prohibits the Secretary or any employee of VA from exercising “any supervision or control over the administration, personnel, maintenance, or operation” of any Veterans cemetery operated by a State or Tribal organization that receives a grant. Requiring, by statute, the addition of weekend interments imposes a potentially serious resource burden on the States’ cemetery budgets, staffing, and resources. Making weekend burials a condition of receiving a cemetery grant may cause States to reconsider application for a grant, out of concern that they could not meet the condition without significant resources. This could have a negative impact on VA’s initiative to provide burial options in partnership with State cemeteries. These partnerships are a critical element of VA’s plans to ensure access to a burial option to the greatest number of Veterans. Imposing an operational requirement, such as weekend burials, may hinder States’ ability

or willingness to partner with VA to open new cemeteries, which would constrain access to underserved populations. We note, too, that the proposed provision applies only to cemeteries operated by States, not those operated by Tribal organizations. This could raise further concerns by the States about conditions being imposed on them, but not other VA grantees. VA would be happy to work with the Committee to address these issues.

An estimate of the costs that would be associated with enactment of this bill is not available at this time.

H.R. 3936

H.R. 3936 would direct VA to carry out a three-year pilot program of “Veterans Engagement Teams events.” During these events, VA would be required to initiate, develop, and finalize any claims for disability compensation and pension benefits received. The bill would require VA to allocate sufficient personnel, such as claims processors and medical personnel, to carry out this pilot program. During the first year of the pilot, VA would be required to have monthly events at ten regional offices. During the second and third years, VA would be required to carry out monthly events at a minimum of fifteen regional offices. The bill would not authorize additional funding to create or support these events.

VA does not support the proposed bill. VA is currently piloting a similar program (termed “VA claims clinics”) to the event-based team concept advocated in this bill. While VA has not completed its analysis of the claims clinic pilots, preliminary analysis of this program has found that it takes significantly more resources compared to VA’s current claims process to initiate, develop, and finalize a claim for benefits all in one event. These clinics, while successful for some of the individual Veterans who attend the clinics, have not resulted in an overall reduction in processing time for Veterans’ claims. The claims clinics have demonstrated that event-oriented processing is vastly more costly than VA’s traditional claims processing methods.

An estimate of the costs that would be associated with enactment of this bill is not available at this time.

H.R. 4087

H.R. 4087 would amend title 38, United States Code, to adjust the effective date of certain reductions and discontinuances of compensation, dependency and indemnity compensation, and pension under the laws administered by the Secretary of Veterans Affairs.

Section 2(a) of the bill would amend 38 U.S.C. § 5112(b)(1) by striking “last day of the month before” and inserting “last day of the month during which.” As a result, the statute would read, “The effective date of a reduction or discontinuance of compensation, dependency and indemnity compensation, or pension . . . by reason of marriage or remarriage, or death of a payee shall be the last day of the month during which such marriage, remarriage, or death occurs.”

VA opposes the proposed bill. VA was provided the opportunity to provide technical assistance on the proposed legislation earlier this year. At that time, we were informed that the purpose of the amendment is to prevent situations where families may be required to return VA benefits that have already been paid.

The amendment is ambiguous in that it would either prevent payment of a benefit to a Veteran’s surviving spouse under 38 U.S.C. § 5310(a) (“Payment of benefits for month of death”), or it would result in a double payment for the month of death—one payment to the surviving spouse under existing law and a second payment to the Veteran’s heirs under the amendment. Under section 5310, a Veteran’s surviving spouse is entitled to receive a benefit for the month of the Veteran’s death if the Veteran was receiving, or was entitled to receive, compensation or pension under chapter 11 or 15 of title 38, United States Code. The amount of the benefit to the surviving spouse is the amount the Veteran would have received for the month of the Veteran’s death had the Veteran not died. 38 U.S.C. § 5310(a)(2). Pursuant to the amendment, the Veteran would still receive payment for the month of death, and therefore the amendment would either override section 5310 or it would result in double payment.

Similar to the Social Security Administration, VA pays benefits one month in arrears. Therefore, the benefit that a beneficiary received on December 1, 2015, for example, was the benefit owed for the month of November 2015. If the Veteran passed away in December 2015, his entitlement would cease as of November 30, 2015, under current 38 U.S.C. § 5112(b)(1). VA would not recoup the benefits paid on December 1, because the Veteran was entitled to that payment for the month of November. The technical assistance request described a situation in which a surviving spouse received two payments in December 2015 - one dated December 1,

2015, for the month of November and one dated December 31, 2015, for the month of December (paid prior to January 1, 2016, due to the holiday). The surviving spouse was not owed a benefit for the month of December because she died during that month.

According to the technical assistance request, the bill is for the purpose of preventing situations where families may be required to return benefits that VA has already paid. The bill would not achieve that purpose. Although the bill would potentially allow for an additional month of benefits, current law ensures that survivors and other individuals receive the accrued benefits to which they are entitled. See 38 U.S.C. §§ 5121, 5121A, 5310(a). In the example described in the technical assistance request, VA might still be required to recoup the benefit paid to allow for proper determination of entitlement under 38 U.S.C. § 5121.

The bill would increase mandatory benefit expenditures resulting from the additional month of entitlement after a beneficiary's death. Currently, only a Veteran's surviving spouse is entitled to the Veteran's month-of-death benefit. See 38 U.S.C. § 5310(a). The bill would require VA to pay a Veteran's benefits for the month of death irrespective of whether there is a surviving spouse, and such payments could pass to an estate or other heirs, or might escheat to the State. Finally, the bill would significantly increase VA's accrued benefits caseload because the beneficiary's payment for the month of death could be an accrued benefit (benefit due to the beneficiary at the time of death).

This bill could also complicate VA and Treasury's efforts to meet the requirements of the Improper Payments Elimination and Recovery Improvement Act of 2012 (IPERIA). Pub. L. No. 112-248. The process under current law (payment for the preceding month) furthers the IPERIA requirement that VA prevent payments to individuals not entitled to the benefit, including those who are deceased.

An estimate of the costs that would be associated with enactment of this bill is not available at this time.

H.R. 4757

H.R. 4757 would amend 38 U.S.C. § 2306(d) to authorize VA to furnish, upon request, a headstone, marker, or medallion for recipients of the Medal of Honor (MOH) who are interred in private cemeteries. The bill also authorizes VA to replace, upon request, an existing government-furnished headstone, marker, or medallion for a decedent if the original headstone, marker, or medallion does not signify the decedent's status as an MOH recipient. These changes would apply to decedents who served in the Armed Forces on or after April 6, 1917; who are eligible for a Government-furnished headstone, marker, or medallion (or would have been eligible but for the date of death); and who received the MOH (including posthumously). The bill impliedly requires design of a new medallion for MOH recipients.

Currently, section 2306(d) allows VA to provide, upon request, a government-furnished headstone or marker for the gravesite of a Veteran in a private cemetery, even if that gravesite is marked with a privately purchased headstone or marker, or, in the alternative, to provide a medallion that may be affixed to the privately purchased headstone or marker. These provisions allow families who elect private cemetery burials and private memorialization to ensure that the gravesites of Veterans appropriately signify the burial location of someone who served our Nation. These "supplemental marker" benefits, however, are available only for the gravesites of Veterans who died on or after November 1, 1990. See Pub. L. 110-157, § 203(b), 121 Stat. 1831, 1833 (Dec. 26, 2007). VA is not authorized to provide a "supplemental" headstone or marker, or a medallion, for Veterans who died prior to November 1, 1990, who are interred in private cemeteries, and whose gravesites are marked with privately purchased headstones or markers, even if those Veterans were MOH recipients.

VA supports the general intent of H.R. 4757 to ensure that the gravesites of MOH recipients buried in private cemeteries are identifiable. However, the extraordinary and distinctive service that the award of the MOH represents should be permanently and distinctively memorialized for all MOH recipients, regardless of their date of death or burial location. H.R. 4757 would limit VA's authority to provide a MOH headstone or marker to those who died on or after April 6, 1917, and only for those who are buried in private cemeteries. The bill also fails to take into account concerns associated with replacing government-furnished headstones and markers that may have been provided decades ago and are therefore subject to historic preservation issues. Historic preservation concerns could also arise when considering affixing a medallion to a privately furnished headstone provided decades ago.

VA would strongly support an amendment to H.R. 4757 to authorize the provision of a separate and distinct MOH marker to be placed at any marked gravesite of any MOH recipient in any cemetery, without regard to the decedent's date of death. Allowing for marking MOH graves with a separate marker would avoid concerns with removal or alteration of an existing, and possibly historic, headstone that already marks the MOH recipient's grave. It also would ensure consistent marking of those MOH gravesites that were marked prior to VA's development and provision of the distinctive MOH headstone that VA has provided since 1976. Finally, it would eliminate the need to design a separate medallion for MOH recipients. We are happy to work with the Committee to address these issues and to ensure consistency in the manner in which VA honors and memorializes all MOH recipients.

We estimate mandatory benefit costs associated with enactment of this bill would be \$33 thousand in 2018, \$169 thousand over 5 years, and \$353 thousand over 10 years. While costs are identified, this would reflect an insignificant cost to the compensation and pension benefits account, as it does not meet the \$500,000 annual threshold established by OMB.

H.R. 4758

H.R. 4758 would amend 38 U.S.C. § 112(a) to authorize VA to furnish, upon request, a Presidential Memorial Certificate (PMC) for decedents who are eligible for burial in a VA national cemetery based on death while engaged in certain duty as members of the Reserve components of the Armed Forces and members of the Reserve Officers' Training Corps. These changes would apply to deaths occurring on or after date of enactment of this bill.

The PMC program confers no entitlement for other VA benefits or services but serves an honorary and ceremonial function for Veterans who were discharged under honorable conditions, and for persons who died while on active military, naval, or air service. H.R. 4758 would extend eligibility for a PMC to two additional categories of individuals and would align the categories of individuals eligible for a PMC with the categories of individuals eligible for burial in a VA national cemetery. First, H.R. 4758 would allow provision of a PMC to any member of the Reserve components of the Armed Forces, and members of the Army or Air National Guard, whose death, as defined in 38 U.S.C. § 2402(a)(2), occurred under honorable conditions while the member was hospitalized or undergoing treatment at the expense of the United States, for an injury or disease contracted or incurred under honorable conditions while performing active duty for training, inactive duty training, or while undergoing hospitalization or treatment at the expense of the United States. Second, by referencing section 2402(a)(3), H.R. 4758 would allow provision of a PMC for members of the Reserve Officers' Training Corps of the Army, Navy, or Air Force whose death occurs under honorable conditions while the member is attending an authorized training camp or on an authorized practice cruise, performing authorized travel to or from that camp or cruise, or hospitalized or undergoing treatment at the expense of the United States.

Although VA supports the general proposal in H.R. 4758 to expand eligibility for the PMC, we strongly recommend that the bill be amended to include another category of individuals who are eligible under 38 U.S.C. 2402 for burial in a national cemetery. Section 2402(a)(7) includes as eligible those individuals who, at the time of death, are entitled to retired pay under chapter 1223 of title 10 or those who would have been entitled to retired pay but who died before reaching the age of 60. VA would strongly support an amendment to H.R. 4758 to allow for provision of a PMC for these individuals who, like those noted in the current bill, are eligible for burial in a national cemetery. Such an amendment would ensure alignment of the categories of individuals who are eligible for the PMC and for burial based on their service and would allow VA to provide eligible recipients (next-of-kin, relatives, or friends) of Reservists and retirees with a meaningful symbol of remembrance of their loved one's honorable service and sacrifice.

Finally, VA disagrees with the provision in H.R. 4758 that limits availability of the PMC to recognize individuals in the newly added categories who die after the effective date of the bill. The PMC program issues certificates based on the military service, not the date of death, of the individual who served. To include an effective date based on the date of death would allow VA to provide a PMC to relatives or friends of a Reservist who died after the effective date of the provision, while denying a PMC to the family of a Reservist who died before the effective date—even if the two served together. We recommend that the provision be amended to allow issuance of the PMC regardless of the date of death of the individual honored by the PMC.

If H.R. 4758 were enacted, VA anticipates no significant increases in workload or cost to the Government given the low number of deaths that occur in these groups each year, including the additional group of individuals eligible for burial under section 2402(a)(7) noted above.

H.R. 4759

H.R. 4759 would extend the monetary allowance provision for transport of remains of eligible Veterans to a State or Tribal Veterans' cemetery. The current statutory provision provides the transportation allowance only for transportation of eligible Veterans' remains to a VA national cemetery. This bill would amend 38 U.S.C. § 2308 to allow payment of the monetary allowance for transport of eligible Veterans' remains to covered Veterans' cemeteries. The bill defines a covered Veterans' cemetery as a Veterans' cemetery owned by a State or Tribal organization in which a deceased Veteran is eligible to be buried. This bill increases the options of burial locations for eligible Veterans including (1) a Veteran who dies as a result of a service-connected disability; (2) a Veteran who dies while in receipt of disability compensation (or would have received disability compensation but for the receipt of retirement pay or pension); and (3) Veterans whose remains are unclaimed.

The Dignified Burial and Other Veterans' Benefits Improvement Act of 2012 expanded eligibility for the transportation allowance to ensure the dignified burial in a VA national cemetery of unclaimed remains of Veterans, who have no next of kin. This expansion was in recognition of the sad fact that many Veterans die homeless or, for a variety of reasons, do not have family or friends who are able or willing to claim their remains and make burial arrangements. VA regularly collaborates with organizations and volunteers who work to ensure these Veterans receive proper burials. H.R. 4759 provides support for these efforts by extending the allowance for transport of eligible Veterans remains to State and Tribal Veterans' cemeteries.

VA supports the concept contained in H.R. 4759, subject to the availability of funds. We especially support expanding the transportation allowance to State and Tribal cemeteries for the unclaimed remains of Veterans who die without next of kin, as there are no costs associated with this expansion and it would ensure the availability of a dignified burial option for these Veterans. VA has developed strong partnerships with State and Tribal organizations that operate cemeteries for Veterans and eligible dependents. We view the additional option that this bill would provide for the unclaimed remains of Veterans as another step toward ensuring the goal of granting all eligible Veterans a dignified and proper burial, whether it is at a national, State or Tribal Veterans cemetery.

The Department has determined that as drafted the legislation would have associated benefit costs. However, VA is still determining those costs at this time.

H.R. 4782

This bill would increase, effective December 1, 2016, the rates of compensation for Veterans with service-connected disabilities and the rates of dependency and indemnity compensation (DIC) for the survivors of certain disabled Veterans and for other purposes.

H.R. 4782 would amend, effective December 1, 2016, each of the dollar amounts under the following sections of title 38, United States Code, for a cost-of-living adjustment (COLA):

- Section 1114, Wartime Disability Compensation;
- Section 1115(1), Additional Compensation for Dependents;
- Section 1162, Clothing Allowance;
- Section 1311(a) through (d), Dependency and Indemnity Compensation to Surviving Spouse; and
- Sections 1313(a) and 1314, Dependency and Indemnity Compensation to Children.

This bill would provide that each dollar amount described above would be increased by the same percentage as the percentage by which benefit amounts payable under title II of the Social Security Act (42 U.S.C. § 401 et seq.) are increased effective December 1, 2016, as a result of a determination under section 215(i) of such Act (42 U.S.C. § 415(i)). Each dollar amount increased, if not a whole dollar amount, would be rounded to the next lower whole dollar amount. This would renew round-down provisions that had been allowed to expire at the end of fiscal year 2013.

Because VA compensation and DIC payments are not indexed, Congress generally enacts legislation on a yearly basis to adjust compensation and DIC benefits to reflect the percentage of change in the consumer price index relative to the prior year.

VA supports this bill because it would express, in a tangible way, this Nation's gratitude for the sacrifices made by our service-disabled Veterans and their surviving spouses and children and would ensure that the value of their benefits will keep pace with increases in consumer prices.

We estimate the cost of the COLA, effective December 1, 2016, would be \$490.8 million during the first year, \$3.0 billion for five years, and \$6.6 billion over ten years. The FY 2017 President's budget assumes annual COLA increases for disability compensation and DIC in its baseline budget estimate. Therefore, there would be no increases to costs above the current baseline budget associated with the COLA. There would be no additional administrative costs.

Draft Bill “to pay special monthly compensation to certain Veterans with the loss or loss of use of creative organs.”

This bill would provide that Veterans who receive special monthly compensation under 38 U.S.C. § 1114(k) (“SMC K”) for anatomical loss or loss of use of one or more creative organs would be entitled to receive two lump-sum payments, each in the amount of \$10,000, to be paid not less than one year apart. The lump-sum payments would be paid in addition to SMC K payments, except for the month in which the Veteran receives the lump-sum payments. The Veteran must submit a separate, specific application for each \$10,000 payment. This new expanded authority would be added to 38 U.S.C. § 1114 and would be placed in new subsection (u). This would apply only to Veterans who receive disability compensation on or after the date of the enactment of the bill.

VA cannot support this amendment. Expanding statutory authority to pay increased benefit payments for one particular group of disabled Veterans is inequitable. Moreover, administration of this benefit would add an undue level of complexity to the claims process.

While sympathetic to Veteran cases involving anatomical loss or loss of use of creative organs, VA is concerned that the creation of a new type of benefit, in the form of lump-sum payment, would be inequitable. First, it should be noted that the compensation program, to include the VA Schedule for Rating Disabilities (38 C.F.R. Part 4) and special monthly compensation provisions (contained in 38 C.F.R. Part 3), already provides additional compensation to Veterans based on impairment from certain significant losses, such as amputations and loss of use of creative organs. Further, it could be argued that other categories of service-disabled Veterans should also qualify for additional lump-sum payments based on similar factors as experienced by those with a loss of a creative organ. VA is amenable to working with Congress and the Veteran community to further explore the appropriateness of lump-sum payments and specifically the effects of a loss of a creative organ and the monetary value that should potentially be placed on this, as well as other types of losses.

In addition, VA is concerned about the increased complexity that would be created in the claims process and benefit systems if this bill were enacted. Lump-sum payments represent a departure from the longstanding monthly payment structure, and initiating and managing the required systemic changes for this single benefit would require significantly increased resources that otherwise could be used for providing faster and more efficient delivery of benefits and services to Veterans.

In summary, VA does not support the draft bill, as the creation of a lump-sum payment for this purpose would represent a departure from the current benefits payment structure, would be inequitable to Veterans, and would be complex to administer.

An estimate of the costs that would be associated with enactment of this bill is not available at this time.

Draft Bill “to improve consideration of evidence by the Board of Veterans’ Appeals”

This bill would allow the Board of Veterans’ Appeals (Board) to consider, in the first instance, evidence submitted or identified by appellants or their representatives during the period beginning when the agency of original jurisdiction (AOJ) receives a substantive appeal and ending on the date the case is certified to the Board. If evidence submitted or identified during said timeframe requires VA to gather additional evidence, this bill would also subject such evidence to initial review by the Board. Appellants or their representatives would be permitted to elect to have the AOJ review evidence in the first instance. In cases where such an election occurs, this bill would require the AOJ to review the evidence submitted or identified within 180 days after the evidence is received or identified, and to certify the case to the Board within 180 days of completing the review.

Although VA appreciates the intent of this bill to expedite processing of appeals, VA does not support the bill as written. Improvements to the timeliness of appeals processing should be achieved through comprehensive reform of the multi-step, open-record appeal process set in current law. However, this bill seeks to address a single step in the multi-step process, while ignoring significant defects in the overall statutory framework that currently preclude efficiency in the process as a whole.

Under current law, an appellant may submit or identify additional evidence at any point in the appeal process. Under its statutory duty to assist, VA is required to consider such evidence and obtain any additional evidence that may help the appellant substantiate the claim. See 38 U.S.C. § 5103A. This process is repeated each time the appellant submits or identifies additional information. Therefore, in many cases VA cannot control the time it takes for completion of a particular stage in the appeal process. Therefore, this proposed legislation would not be helpful without first reforming the overall statutory scheme that governs the process, as VA requested in the FY 2017 President's Budget.

It should be noted that Congress has already provided some legislative relief in this area by amending 38 U.S.C. § 7105 to allow the Board to consider evidence in the first instance when it is received with or after a VA Form 9, substantive appeal. See 38 U.S.C. § 7105(e)(1). Transferring jurisdiction to the Board to consider in the first instance evidence identified by appellants may provide some additional relief in this area. However, as stated, such an incremental measure as that proposed in this bill would fail to address the multitude of existing defects in the current statutory framework.

Finally, a few technical issues should be noted. First, this bill would establish a window - from the date the AOJ receives a substantive appeal to the date the AOJ certifies the appeal - for the submission of evidence that would be subject to review by the Board in the first instance. As written, the proposed legislation would lead to absurd results where evidence identified after certification to the Board would require initial review by the AOJ, but evidence received prior to certification would not. To avoid this result, the statutory language could be clarified to apply to all evidence submitted or identified at the time or after the AOJ receives a substantive appeal. In addition, the bill would require the AOJ, upon election by the appellant for initial review of new evidence by the AOJ, to review evidence within 180 days of either receiving or being notified of new evidence, and certify the case to the Board within 180 days of completing this review. However, these timeframes do not account for the time it may take the AOJ to obtain or attempt to obtain evidence in accordance with the duty to assist. To address this issue, the bill could be amended to state that the AOJ should review new evidence and certify cases to the Board within a certain timeframe of either receiving or gathering new evidence, or of "fulfilling its statutory duty under 38 U.S.C. § 5103A."

No mandatory costs would be associated with enactment of this bill. An estimate of discretionary costs is not available at this time.

Draft Bill "Love Lives on Act of 2016"

This bill would modify the definition of surviving spouse to permit entitlement to VA benefits when a surviving spouse of a Veteran remarries.

Currently, section 101(3) of title 38, United States Code, provides that to be considered a Veteran's surviving spouse, a person must not have remarried and must not have lived with another person and held him/herself out as the spouse of that other person. Other statutes provide exceptions. For example, a surviving spouse who remarries after age 57 may continue to receive DIC under 38 U.S.C. § 103(d) and, under 38 U.S.C. § 2402, a surviving spouse does not lose eligibility for interment in a national cemetery due to remarriage.

Section 2(a) of the draft bill would modify the definition of "surviving spouse" for all VA purposes to remove the requirement that a surviving spouse must not be remarried (or must not have lived with another person and held him/herself out as a spouse).

Section 2(b) of the draft bill would make conforming amendments to various provisions of title 38, including section 5120, which currently provides that a postal worker may not deliver a benefit check to a surviving spouse whom the postal worker believes has remarried. VA cannot support this bill because it is overly broad, would be very costly, and would overburden VA's survivor benefit programs. VA does not oppose amending or rescinding 38 U.S.C. § 5120 as it appears to be largely obsolete; VA benefits are now directly deposited into beneficiaries' bank accounts.

Removing the general requirement that surviving spouses must not be remarried would have a significant workload and cost impact on all VA survivor benefit programs (pension, DIC, Dependents Educational Assistance, loan guaranty). For ex-

ample, currently for survivors' pension to be payable, the surviving spouse must not be remarried, unless the marriage is voided or annulled. Because there is currently no provision allowing surviving spouses to remarry and maintain eligibility, the general definition at section 101(3) as well as the provision for voided or annulled marriages at section 103(d)(1) currently apply to such surviving spouses. Removing the requirement rendering ineligible surviving spouses who have remarried would result in significant increases in both mandatory and discretionary costs, and the increased workload would pose major program implementation challenges. There would be a similar impact on DIC workload and entitlements. Currently, under section 103(d)(2)(B), surviving spouses may remarry after age 57 and retain entitlement to DIC and ancillary benefits. Surviving spouses who have not yet attained age 57 may regain entitlement to DIC if the remarriage terminates by death or divorce. We believe that these existing provisions strike the appropriate balance between extending DIC benefits to survivors and maintaining program viability.

An estimate of the costs that would be associated with enactment of this bill is not available at this time.

Prepared Statement of Mr. Patrick K. Hallinan

INTRODUCTION

Chairman Abraham, Ranking Member Titus, and distinguished members of the Subcommittee, thank you for the opportunity to provide the Department of the Army's views on the Medal of Honor Legacy Act.

Arlington National Cemetery is a unique and iconic place devoted to those individuals who made a significant life commitment of service to the defense of our Nation in the armed services. Arlington National Cemetery was originally established as a National Cemetery for "Soldiers who die in the service of the country." Eligibility has changed through time but always honored individuals who made a significant life commitment of service. These heroes served in every war or conflict since the founding of our Nation. Arlington National Cemetery maintains the honor and dignity of each graveside service while hosting approximately 4 million guests annually. This duality of purpose brings the sacrifices of those buried at Arlington National Cemetery closer to the American people. On behalf of the cemetery and the Department of the Army, I express our appreciation for the support that Congress has provided over the years.

THE CEMETERY'S ELIGIBILITY HISTORY

In May 1864, Arlington National Cemetery was established as one of the first 12 National Cemeteries as a place to inter "Soldiers who die in the service of the country." Eligibility has significantly expanded over time to include all former members of the Armed Forces whose last service terminated honorably as well as their eligible dependents.

MEDAL HONOR OF LEGACY ACT

The proposed Medal of Honor Legacy Act legislation as drafted, would direct the Secretary of the Army to reserve a certain number of burial plots at Arlington National Cemetery for individuals who have been awarded the Medal of Honor, and for other purposes.

The Army understands that the intent of the proposed legislation is to honor the recipients of the Medal of Honor; however, the legislation as drafted does not address broader concerns of eligibility to preserve the life of the cemetery well into the future. This Bill will reestablish gravesite reservations that were eliminated by Congress in December 2010. Reservation of gravesites for one specific group will ultimately exclude persons who also went above and beyond in their service to our Nation, including those who pay the ultimate sacrifice and die in the defense of our nation.

Currently there are a total of 3,497 Medal of Honor recipients from all conflicts, 77 of those are living recipients. At present, there are 406 Medal of Honor recipients interred throughout the more than 70 sections of Arlington National Cemetery. Burial decisions are ultimately the personal preferences of the deceased and their family; we should not assume they will all choose interment at Arlington National Cemetery. Based on past history, we are confident that if asked, most living recipients would prefer to be buried among comrades with whom they served.

The present rate of interment and inurnment coupled with the current inventory of available gravesites and niches (which includes the nearly complete Millennium project but does not include the unfunded Southern Expansion project) indicates that Arlington National Cemetery will run out of space for first interments or inurnments in the mid-2030s. The impact of this legislation may result in unavailability of gravesites for future servicemembers killed in action.

CONCLUSION

The Army understands the general intent of the legislation, however, the bill does not address the broader question of how long does our Nation want Arlington National Cemetery to remain an open and active cemetery. The ability to redefine eligibility, with the possibility of extending beyond our current borders to gain more contiguous space, will allow the Army to ensure the cemetery remains available for first interments for our Nations heroes well into the future. We must take a holistic approach to solve this issue, which will require extensive coordination with the Military Services, Veterans Service Organizations, Advisory Committee on Arlington National Cemetery, and Congress.

Chairman Abraham and Ranking Member Titus, this concludes my testimony. I will gladly respond to any questions that you or the subcommittee members may have.

Prepared Statement of Carl Blake

Chairman Abraham, Ranking Member Titus, and members of the Subcommittee, Paralyzed Veterans of America (PVA) would like to thank you for the opportunity to provide our views on pending legislation before the Subcommittee.

Draft Bill: Special Compensation for Veterans with the Loss or Loss of Use of Creative Organs

PVA supports the draft bill "To amend title 38, United States Code, to pay special compensation to certain veterans with the loss or loss of use of creative organs." This bill would provide eligible veterans with two lump-sum payments of \$10,000. To be eligible a veteran must already be in receipt special monthly compensation (SMC) subsection (k). These payments would not be paid during the same fiscal year.

When a veteran has a loss of reproductive ability due to a service-connected injury, they must bear the total cost for any procedures they attempt to have children. It is often the case that they cannot afford family building services. For many veterans procreative services have been secured in the private sector at great financial and personal cost. For those wishing to adopt, or who may only have this option to start a family, the prohibitive costs serve as further reminder that the gravity of what was sacrificed in service is neither understood by Congress nor truly compensated.

From 2001 to 2013, 1,367 service members suffered a genitourinary injury.¹ Thousands more suffered traumatic brain injuries (TBI) or spinal cord injuries (SCI/D) that have compromised or ended the ability to conceive children naturally. The Department of Veterans Affairs (VA) is limited, and in some cases prohibited, from providing health and financial services that fully meet the needs of these veterans.²

We believe this bill will ease a veteran's financial burden and make possible the use of assisted reproductive technologies (ART), gestational surrogacy, and adoption. Veterans should have the option to build a family by whatever means is right for them. A compensation payment of \$20,000 will be especially beneficial to veterans utilizing ART.³ For many veterans ART is not an option, be it for medical reasons or religious objections. Those building their families through adoption or surrogacy will feel partial financial relief. It is important to note that the average cost of a domestic single child adoption is \$15,000-\$40,000.⁴ Additionally, the cost of gesta-

¹Dismounted Complex Injury Task Force, "Dismounted Complex Blast Injury: Report of the Army Dismounted Complex Injury Task Force," I (June 18, 2011), pg 16, <http://armymedicine.mil/Documents/DCBI-Task-Force-Report-Redacted-Final.pdf>

²<https://www.gpo.gov/fdsys/pkg/STATUTE-106/pdf/STATUTE-106-Pg4943.pdf>

³American Society for Reproductive Medicine, www.asrm.org/detail.aspx?id=3023

⁴Child Welfare Information Gateway. (2011). "Costs of adopting." Washington, DC. U.S. Department of Health and Human Services, Children's Bureau.

tional surrogacy can range from \$60,000-\$120,000.⁵ Clearly, this legislation will not offset this high cost, but it is a meaningful step forward.

PVA has long advocated that procreative services be included in the medical benefits package of VA. If a veteran has a loss or loss of use of reproductive organs due to service they ought to be restored to the fullest extent possible. While the argument is made that the (k) award covers this loss, it does not meet the underlying intent to make veterans whole who have experienced this catastrophic injury. Veterans with a reproductive injury occupy uncertain space at VA. Their quality of life is not restored like a prosthetic leg for an amputee, or a service dog for the blind. Their loss is, in part, identity. For most young, newly injured veterans, the reality of compromised or limited sexual health is a life changing loss.⁶ Years later, rehabilitated and adjusted to a civilian life, veterans may desire for themselves that which they served to protect for us-family.

PVA thanks the Subcommittee for considering this draft bill. We appreciate the Subcommittee staff continuing to pursue solutions for veterans who wish to start a family, but who are currently denied options by law. This bill is a desperately needed step in addressing the needs of veterans with reproductive injuries.

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

PVA supports H.R. 3715, the “Final Farewell Act of 2015.” This legislation would provide the ability to hold interment or funeral services on weekends for religious or cultural reasons in national cemeteries or State veteran cemeteries receiving federal grants. This bill seems perfectly reasonable and should receive swift consideration and approval.

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

PVA supports the pilot program proposed by H.R. 3936, the “Veteran Engagement Teams (VET) Act.” Bringing veterans face-to-face with VA employees and knowledgeable Veteran Service Organization (VSO) representatives will better equip claimants with the knowledge and information needed to submit accurate claims. Veterans often attempt to navigate the claims process with little or no guidance. This unfortunately leads many times to increased processing times and hold-ups due to avoidable errors in the claim submission. Giving the claimant the opportunity to engage with VA employees and determine what exactly is preventing a final decision will greatly expedite resolution. Additionally, events such as these held in the community tend to capture veterans who otherwise might not realize they have a potential claim or claims, such as homeless veterans. Recognizing that not all claims can be resolved on the spot at a community event, this program would at least help alleviate one of the biggest frustrations claimants have by giving them an explanation of what he or she needs to do next in order to resolve the claim.

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

PVA supports H.R. 4087, the “Fair Treatment for Families of Veterans Act.” This bill provides for changes to the effective date of reductions and discontinuances of certain compensation. Current law requires that compensation, dependency and indemnity compensation, or pension benefits cease on the last day of the month before the recipient marries, remarries, or dies. In the case of a recipient’s death, this circumstance creates a particular hardship for the next of kin. When a payee passes away, the distribution for that month must be paid back to VA. In most cases, that money has already been spent on monthly bills, leaving the families scrambling to produce the cash owed when VA sends the bill. This proposal would change the effective date of a reduction or discontinuance of benefits to the last day of the month during which the event occurs. Alleviating this unjust hardship for families who recently lost a loved one is a positive change.

⁵ ConceiveAbilities surrogacy agency, www.conceiveabilities.com/parents/surrogacy-cost. U.S. News & World Report, <http://money.usnews.com/money/blogs/my-money/2013/10/21/surrogacy-financing-how-to-afford-that-60k-price-tag>

⁶ Grady, D. (2015, December). The New York Times. <http://www.nytimes.com/2015/12/07/health/penis-transplants-being-planned-to-heal-troops-hidden-wounds.html>

H.R. 4757, Eligibility for Headstones, Markers, and Medallions for Deceased Individuals Awarded the Medal of Honor and Buried in Private Cemeteries”

This bill requires the Secretary upon request to signify the deceased’s status as a Medal of Honor recipient when furnishing a headstone, marker or medallion. This notation on the gravestone is appropriate for those who receive our country’s highest honor and will undoubtedly be meaningful to the veteran’s family and legacy. PVA strongly supports this legislation and sees this as an appropriate honor and recognition for those who have distinguished themselves with such gallantry in combat.

H.R. 4758, Award of the Presidential Memorial Certificate to Certain Deceased Members of the Reserve Components of the Armed Forces and the Reserve Officers’ Training Corps”

This proposal brings parity to all those eligible for internment in our national cemeteries with regard to receiving a Presidential Memorial Certificate. We see no reason why a person should be afforded the honor of being buried in one of our national cemeteries and not receive this corresponding symbol of our country’s thanks. PVA supports this legislation.

H.R. 4759, Transportation Costs for Certain Deceased Veterans to Veterans’ Cemeteries Owned by a State or Tribal Organization.”

H.R. 4759 proposes to expand the payment for transportation of a deceased veteran’s remains to not only include national cemeteries, but also cemeteries owned by States or tribal organizations. PVA fully supports the intent of this bill; however, we feel the way it is structured may inadvertently limit the original benefit for transport to a national cemetery.

The proposed amended language limits payment to the cost associated with transporting a veteran to the closest cemetery to the deceased’s last place of residence, whether that be a State, Tribal, or national cemetery. If a State or Tribal cemetery is closer than the national cemetery for a particular veteran, he or she is no longer compensated for the transport to a national cemetery. The scenario becomes more problematic if the closest cemetery is owned by a Tribal organization, and the veteran is in no way affiliated with such Tribe. The optimal solution would be to remove Section 1(a)(2)(B) and leave the original payment provision in 38 U.S.C. 2308(a) untouched.

H.R. 4782, the “Veterans’ Compensation Cost-of-Living Adjustment Act of 2016”

PVA fully supports H.R. 4782, the “Veterans’ Compensation Cost-of-Living Adjustment Act of 2016,” that would increase, effective as of December 1, 2016, the rates of compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation (DIC) for the survivors of certain disabled veterans. This would include increases in wartime disability compensation, additional compensation for dependents, clothing allowance, and dependency and indemnity compensation for children.

However, consistent with our position in the past, PVA cannot support the rounding down of increases in compensation. While our economy has begun to improve, many veterans continue to struggle, their personal finances affected by rising costs of essential necessities to live from day to day and maintain a certain standard of living. Many veterans and their families depend on their compensation. While this may be a small amount, any reduction can have a critical impact, especially when compounded over time, on low-income veterans.

Draft Bill: To Improve Consideration of Evidence by the Board of Veterans’ Appeals

We support this proposed legislation. Current law allows a claimant to submit new evidence after submitting a substantive appeal. Unless the claimant submits a request in writing to have the Agency of Original Jurisdiction (AOJ) review it, the Board of Veterans’ Appeals (Board) reviews it in the first instance. The effect of this legislation would be to eliminate this choice after the appeal has been certified to the Board. This change would help to prevent unnecessary delays that result from claimants removing their claim from the Board and returning it to the AOJ for further review.

We also support the 180-day turn around requirement for AOJ review of the new evidence proposed in subsection (e)(2)(A). Ensuring that when a veteran submits

new evidence the claim does not languish ad infinitum is important. We do offer, however, two modifications that we believe would be helpful. With regard to the time frame discussed in subsection (e)(2)(B), we propose that it be shortened to 60 days. Given that the AOJ would have just completed a full review of the claim, it is unreasonable to suggest that another 180 days is necessary to complete certification. An additional provision should also be included in this subsection indicating that the appeal need not be certified if the issue on appeal is resolved by a favorable decision.

Draft Bill: The “Medal of Honor Legacy Act”

As burial space in Arlington National Cemetery grows thin, this bill would preserve an allocation of plots for Medal of Honor recipients. PVA supports this legislation. We believe there are no more deserving veterans to have dedicated space on the hallowed ground that is Arlington than those who have been awarded the nation's highest award for valor.

Draft Bill: The “Love Lives On Act of 2016”

PVA fully supports this legislation, as we have consistently stated that no eligible survivors should be penalized for remarriage. At the very least, equity with beneficiaries of other federal programs should govern Congressional action for this deserving group. This proposed legislation eliminates completely the inequitable repercussions that survivors endure when they choose to remarry. We also support the bill's attempt to apply a consistent definition of surviving spouse throughout Title 38 which does not contemplate the surviving spouse's subsequent marital status.

This concludes PVA's statement for the record. We would be happy to answer any questions for the record that the Committee may have.

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 2016

Department of Veterans Affairs, Office of National Veterans Sports Programs & Special Events - Grant to support rehabilitation sports activities - \$200,000.

Fiscal Year 2015

Department of Veterans Affairs, Office of National Veterans Sports Programs & Special Events - Grant to support rehabilitation sports activities - \$425,000.

Fiscal Year 2014

No federal grants or contracts received.

Disclosure of Foreign Payments

Paralyzed Veterans of America is largely supported by donations from the general public. However, in some very rare cases we receive direct donations from foreign nationals. In addition, we receive funding from corporations and foundations which in some cases are U.S. subsidiaries of non-U.S. companies.

Prepared Statement of Aleks Morosky

WITH RESPECT TO

**H.R. 3715, H.R. 3936, H.R. 4087, H.R. 4757, H.R. 4758, H.R. 4759, H.R. 4782,
and Draft Legislation**

MR. CHAIRMAN AND MEMBERS OF THE SUBCOMMITTEE:

On behalf of the men and women of the Veterans of Foreign Wars of the United States (VFW) and our Auxiliaries, thank you for the opportunity to offer our thoughts on today's pending legislation.

H.R. 3715, Final Farewell Act of 2015

The VFW supports this legislation, which would allow the Department of Veterans Affairs (VA) to permit weekend burials at National Veterans Cemeteries, when requested by the veteran's family for religious or cultural reasons. Additionally, any grant to assist a state in establishing a veterans' cemetery would require the same. We believe this is a perfectly reasonable accommodation, and note that National Veterans Cemeteries already permit weekend burials on weeks when a federal holiday falls on a Monday or a Friday.

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

The VFW supports this legislation to establish a three year pilot program to carry out Veteran Engagement Team events at ten locations nationwide. At these events, VA would supply sufficient staff to initiate, update, and finalize the completion and adjudication of disability claims at locations that are at least 50 miles from VA facilities. If the evidence is insufficient to complete the claim, the veteran will be informed of what additional information is necessary.

We are aware that similar "claims clinics" are already being held in select locations, including Winston-Salem, North Carolina. Our VFW service officers at the Winston-Salem Regional Office report that these events have been greatly successful. They find that having VA staff explain veterans' claims to them in person helps them gain a better understanding of the process, leading to higher customer satisfaction. Often, claims can be granted on the spot. In one extreme case of how valuable these events can be, a homeless female veteran from Winston-Salem whose claim was stalled in the local appeal process was able to produce the piece of evidence needed to grant, resulting in a retroactive payment of over \$100,000.

Our service officers were pleased to see that this bill provides Veteran Service Organizations access to the events, as the assistance we provide is critical to ensuring veterans understand what evidence is needed for favorable decisions. Our only suggestion would be to hold the events on weekends as well as normal business hours, as many veterans who work full time would likely be unable to attend during the work week. With this change, we believe this bill would significantly improve VA customer service.

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

The VFW supports this legislation which would change the effective date of a reduction or discontinuance of compensation or pension for reason of marriage, remarriage, or death of a payee from the last day of the month prior to when the event occurred to the last day of the month in which the event occurred. Quite simply, it would offer an extra month of benefits, and remove the possibility of unforeseen overpayments in those cases. We believe this is the right thing to do, so as not to burden grieving families with unnecessary debt.

H.R. 4757, To amend title 38, U.S.C., to expand the eligibility for headstones, markers, and medallions furnished by the Secretary of Veterans Affairs for deceased individuals who were awarded the Medal of Honor and are buried in private cemeteries.

This legislation would require VA to furnish upon request to the survivors of any deceased Medal of Honor recipient a headstone, marker, or medallion signifying that veteran's status as a Medal of Honor recipient. The VFW fully supports this legislation, as final resting places of those who receive our nation's highest award for valor should be granted special recognition.

H.R. 4758, To amend title 38, United States Code, to authorize the award of the Presidential Memorial Certificate to certain deceased members of the reserve components of the Armed Forces and certain deceased members of the Reserve Officers' Training Corps.

In 1962, President John F. Kennedy initiated the Presidential Memorial Certificate to commemorate the memory of deceased veterans who were honorably discharged. The certificates are engraved on paper and signed by the president before they are made available by the Department of Veterans Affairs for the families and loved ones of deceased veterans. It has long been viewed as a sign of gratitude for those who served their nation. Since President Kennedy began the tradition, every President of the United States has continued it. These certificates act as a simple form of recognition to provide comfort for those who were close to them while acknowledging the sacrifices made by veterans who have passed. It symbolizes a gracious appreciation of the veteran by not only the president, but America as a whole. Currently this certificate is only awarded to deceased veterans who served on active duty and were discharged under honorable conditions.

The National Cemetery Administration permits Guard and Reserve service members as well as Reserve Officers Training Corps candidates who die in the line of duty, eligibility for burial at a national cemetery. However, these Guard, Reserve and ROTC members are not eligible for the Presidential Memorial Certificate. This legislation would extend the honor of this certificate to these service members. The VFW supports this legislation and believes Guard, Reserve and ROTC members must also be properly recognized by our nation's president.

H.R. 4759, To amend title 38, U.S.C., to authorize the Secretary of Veterans Affairs to pay costs relating to the transportation of certain deceased veterans to veterans' cemeteries owned by a State or tribal organization.

The VFW supports this legislation, which expands burial benefits to veterans interred in a State or tribal cemetery.

For more than 150 years, our nation has purchased and maintained cemeteries to offer our veterans a final resting place that honors their brave military service. Currently, VA maintains 133 national cemeteries; only 75 of them, however, are able to accept new interments. To ensure veterans have burial options within 75 miles to their home, VA uses agreements and grants with states, United States territories and federally recognized tribal organizations to establish, expand, or improve veterans' cemeteries in areas where the National Cemetery Administration has no plans to build or maintain a national cemetery.

While VA covers all the transportation expenses for veterans who are interred in the nearest national cemetery, VA is not authorized to reimburse the next of kin of a veteran who is interred in a State or tribal cemetery because the nearest VA national cemetery is not accepting new interments or the veteran does not have a national cemetery near their home. This bill rightfully expands VA's authority to cover the cost of transporting a veteran's remain to their final resting place in a State or tribal cemetery.

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

The VFW supports this legislation which will increase VA compensation for veterans and survivors, and adjust other benefits by providing a cost-of-living adjustment (COLA) beginning December 1, 2016.

Disabled veterans, along with their surviving spouses and children, depend on their disability compensation plus dependency and indemnity compensation to bridge the gap of lost earnings caused by the veteran's disability. Each year, veterans wait anxiously to find out if they will receive a cost-of-living adjustment. There is no automatic trigger that increases these forms of compensation for veterans and their dependents. Annually, veterans wait for a separate Act of Congress to provide the same adjustment that is automatically granted to Social Security beneficiaries.

The VFW continues to oppose the "rounding down" of the COLA increase. This is nothing more than a money-saving device that comes at the expense of veterans and their survivors.

Draft legislation, To pay special compensation to certain veterans with loss or loss of use of creative organs.

The VFW supports this legislation, which would expand the monthly special disability compensation benefits VA provides veterans who have lost or lost the use of their reproductive organs as a result of their military service.

Due to the widespread use of improvised explosive devices during the wars in Iraq and Afghanistan, both female and male service members have suffered from spinal cord, reproductive, and urinary tract injuries. Many of these veterans hope to one day start families, but their injuries prevent them from conceiving.

Recognizing the significant impact the loss or loss of use of reproductive organs has on veterans, Congress established a special monthly compensation to provide additional financial compensation for these veterans and for other special circumstances. Currently, veterans who have lost or lost the use of their reproductive organs receive an additional \$103.23 in monthly disability compensation. This legislation would increase the amount of financial compensation veterans receive for losing the use of their reproductive organs due to their military service.

However, the VFW does not believe financial compensation should be offered in lieu of reproductive treatment. VA is currently prohibited from providing certain fertility treatments. The VFW strongly supports ending the VA ban on the use of assisted reproductive technologies, including In Vitro Fertilization. Simply giving veterans compensation for reproductive assistance is inadequate on its own to ensure they have the care and supportive services they need to successfully achieve their dreams of starting a family.

Additionally, the VFW believes that VA must have the authority to provide veterans the fertility treatment options that are best suited for their particular circumstances. For that reason, the VFW strongly supports H.R., 2257 and H.R. 3365, which expands VA fertility treatment options for veterans who have lost the use of reproductive organs as a result of their military service.

Draft legislation, To amend title 38, United States Code, to improve the consideration of Evidence by the Board of Veterans' Appeals.

The VFW supports this legislation. Currently, when a veteran files an appeal, but submits additional evidence before that appeal is certified to the Board, the Agency of Original Jurisdiction (AOJ) must review the evidence and, if still unable to grant in full, issue a Supplemental Statement of the Case (SSOC) before the appeal can be certified. While issues are sometimes granted during this sequence, continued denials can add many months to the total time a veteran must wait to receive a decision from the Board.

Under this bill, additional evidence received after submission of the Form 9 would be subject to initial review by the Board by default. Veterans may still elect to have that evidence reviewed by the AOJ. This is important, as some veterans may feel confident that the additional evidence they are submitting will allow the AOJ to grant their claims in full, without the need to wait years for their appeals to reach the Board. If no election is made, however, the additional evidence would be reviewed by the Board in the first instance.

The VFW further supports the provision of the bill that would require additional evidence to be reviewed by the AOJ within 180 days when the veteran makes that election. We also support the intent of requiring the AOJ to certify the appeal within 180 days after the review is completed, but would suggest that timeframe be shortened to 60 days. In our view, one of the logjams in the appeals process is that the AOJs take far too long to certify appeals once their work is completed. We believe that two months is a reasonable amount of time for the AOJ to certify an appeal once it is ready.

Lastly, we would suggest a minor technical change to subsection (a)(2)(B) of section 1, by inserting at the beginning, "if such review does not result in a fully favorable decision."

Draft legislation, To reserve a certain number of burial plots at Arlington National Cemetery for individuals who have been awarded the Medal of Honor.

Medal of Honor recipients are held in the highest regard by the veterans' and military community, and have certainly earned the opportunity to be buried in our nation's most hallowed burial grounds—Arlington National Cemetery. Despite the current expansion of 30,000 interment slots as part of the Millennium Project and the recent acquisition of additional land for burial space, the Arlington National Cemetery will eventually reach maximum capacity.

If that day comes, we must ensure those who are awarded our nation's highest award for valor in action against an enemy force are reserved a final resting place that honors their service to our nation. This legislation rightfully ensures the 77 living Medal of Honor recipients and the brave service members that may receive this prestigious award in the future are offered that opportunity by setting aside 1,000 plots specifically for them. The VFW fully supports this legislation.

Draft Legislation, the Love Lives on Act of 2016

The Love Lives on Act will redefine the definition of "surviving spouse" for the purposes of benefits administered by the Secretary of Veterans Affairs. In short this bill will eliminate the current provisions in law that preclude surviving spouses of military service members who remarry from receiving benefits through the Department of Veterans Affairs. Currently, a surviving spouse must remain unmarried until the age of 57 to qualify for the benefits that were granted to them through the death of the service member.

Surviving spouses, many of whom are young, should not have to endure a life of loneliness just so they can continue to receive the benefits granted to them through the death of their spouse. The VFW supports this legislation.

Information Required by Rule XI2(g)(4) of the House of Representatives

Pursuant to Rule XI2(g)(4) of the House of Representatives, the VFW has not received any federal grants in Fiscal Year 2016, nor has it received any federal grants in the two previous Fiscal Years.

The VFW has not received payments or contracts from any foreign governments in the current year or preceding two calendar years.

Prepared Statement of Paul R. Varela

Mr. Chairman and Members of the Subcommittee:

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

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

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

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

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

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

This bill would require the Secretary Affairs to carry out a three-year pilot program facilitating “VET” events in order to complete onsite processing of claims for disability compensation and pension. Each month during the first year, these VET events would be held within the jurisdiction of 10 Department of Veterans Affairs (VA) regional offices (VARO). During the second and third years, the VET events would be expanded to 15 VAROs each month. These events would also be scheduled during normal business hours and take place at least 50 miles away from designated VAROs, thus providing that veterans who live in rural areas, who might not otherwise be able to access the VARO, can be served.

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

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

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

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

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

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

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

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

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

H. R. 4757

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

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

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

H. R. 4758

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

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

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

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

H. R. 4759

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

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

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

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

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

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

While it has become customary for Congress to determine a cost-of-living adjustment (COLA) in parity with Social Security recipients, it is important to note there have been several years in which Social Security recipients did not receive a COLA

as was the case for 2016. Likewise, beneficiaries in receipt of VA compensation and survivor benefits did not receive a COLA.

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

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

Draft Bill - The Medal of Honor Legacy Act

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

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

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

Discussion Draft - Special Monthly Compensation (u)

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

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

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

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

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

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

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

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

Discussion Draft - Evidence Development

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

The amendment to subsection (e), of section 7105 of title 38, United States Code, would make several fundamental changes to evidence submitted or disclosed to VA,

upon receipt of a substantive appeal and after an appeal has been deemed certified as ready for review by the Board.

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

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

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

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

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

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

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

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

Draft Bill - the Love Lives On Act of 2016

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

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

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

Prepared Statement of Elizabeth Davis

I'd like to take a moment and thank Chairman Abraham and Ranking Member Titus for this opportunity to testify on behalf of the Love Lives On Act for our military surviving spouse community. With me in attendance today are several of the widows of our nation's heroes. Although I will only be speaking about my own per-

sonal experience, each one of these individuals has a heartbreaking story of sacrifice for our nation.

My name is Elizabeth Davis. I'm a 29 year old mother, nurse, and widow to my Marine. My husband, 1STLT Matthew Davis, was killed on 7 November, 2014. While Matt was serving as the officer of the day on regimental duty he was struck and killed by a fellow 2/5 Marine who was drunk driving and evading the police. Matt was a selfless, gregarious, giant of a man with a sense of humor as big as he was. Nothing will ever change my feelings for him, even though I know he will never be coming back. The night I found out he was killed I actually had a heart attack when our best friend showed up in his dress blues to deliver the news in the early hours of the morning. I quite literally will bear the scars on my heart from this news for the rest of my life. After recovering from the shock of being widowed I decided I was going to honor my husband by devoting my time and energy into making this rough journey easier in any way possible for other military widows. I started looking for ways to help widows provide for themselves and their families when I moved back to Virginia.

The first step was to ensure that Virginia accepted the DoD's definition of Gold Star spouse, making sure that we honored the sacrifices of those killed in the line of duty as well as those killed in action. With the help of my Delegate, HB98 was introduced and passed through the Virginia House of Delegates and Senate. Recently, I was granted the opportunity to discuss how the culture of alcohol in the Marine Corps impacted my family at a town hall with the Commandant of the Marine Corps, General Neller. I've also remained active on the Stafford County Armed Services Memorial Committee. My long term goal is to ensure that our widowed community, which already has given so much for this great nation, faces no additional or unnecessary hardship.

The next step, which I pray you will support, is to improve the lives of this very small but important community. We are seeking repeal and amendment of the age stipulation through the Love Lives On Act. Currently, as the widow/widower of a fallen service member, you may remarry and retain your benefits after the age of 57. With the vast majority of our heroes being young and leaving behind spouses who are equally young, it is unreasonable to expect the surviving spouse not to seek out happiness and love again well before he or she is 57. As it currently stands, I and the other survivors in this room have no incentive to move on with our lives and rebuild our families. Rather, we are strongly bound to remain single parents with incomplete families in order to retain the benefits that our husbands earned by dying for our country.

The full impact of the current limitations is felt not only by the surviving spouse, but also the children of our fallen. These benefits that have been earned at the cost of loss of life for country are necessary in maintaining the needs of the spouse and all surviving children. This program is vital because it provides the ability to have a safe home and food on the plate for the families who are left behind. In almost every case of a widow or widower, our nation puts the draconian decision of choosing to seek love again or being pragmatic with our finances. This choice is ultimately made for us, hindering the very freedoms our spouses gave their lives for, under the current guidelines.

Why would anyone in this room choose to remarry when we could receive these benefits but date a new person in perpetuity? Amending the statute would cement the belief in our service members that the United States cares what happens to them as individuals. Not only is the sacrifice and commitment that they made in dying for our country forever, but so too is the commitment of the United States to their families should they perish. The risks and lifestyle associated with our nation's military can be unpredictable, but providing benefits for those left behind should not be. We should not be punished for seeking out the love and happiness that our spouses would want us to have. As the spouse we deserve to try to heal and be happy, and for the children left behind they deserve a stable loving home where their parents are legally recognized as a family unit, without repercussion of the loss of necessary income.

Through your vote you can make a positive change for the families of our fallen heroes. By continuing to provide benefits to surviving spouses, families will heal and produce children that will grow up knowing that service has meaning. For us, as widows, life truly is too short. We fully grasp that concept often in our twenties and thirties, when our peers won't have to face these kinds of hardships for decades. Please enable us to have a choice in marriage before the age of 57. The widows and children of the fallen were handed a folded flag on behalf of a grateful nation. In that short moment upon handing the flag over- there is no "if" or "but" when it comes to the commitment our husbands showed this great nation. I have the utmost

faith that the men and women in this room will do their best to honor that oath paid for in blood, well before we are 57.

Prepared Statement of Edward G. Lilley

Chairman Abraham, Ranking Member Titus, and distinguished members of the Subcommittee on Disability and Memorial Affairs (DAMA), on behalf of National Commander Dale Barnett and The American Legion; the country's largest patriotic wartime service organization for veterans, comprising over 2 million members and serving every man and woman who has worn the uniform for this country; we thank you for the opportunity to testify regarding The American Legion's position on the pending veterans' legislation.

H.R. 3715: Final Farewell Act of 2015

To amend title 38, United States Code, to direct the Secretary of Veterans Affairs to permit interments, funerals, memorial services, and ceremonies of deceased veterans at national cemeteries and State cemeteries receiving grants from the Department of Veterans Affairs during certain weekends if requested for religious reasons.

Since World War I, the United States has been providing burial benefits to eligible veterans and servicemembers who are on active duty. This was created as a final tribute to those who have served their country honorably. Today, many veterans' families are faced with extreme hardship in meeting the requirements of a Monday to Friday burial in a national cemetery. By expanding the days of interment for veterans and their spouses in national cemeteries, the inconvenience of added time and funding should be with the Government that drafted the services of these veterans rather than to inconvenience the next-of-kin of veterans' families by delaying interment on weekends.

H.R. 3715 would direct the Department of Veterans Affairs to allow for the interment, funeral, memorial service, or ceremony of a deceased veteran at a national cemetery during weekends, other than federal holiday weekends, upon the request of the veteran's next-of-kin made for religious or cultural reasons. The American Legion believes that the National Cemetery Administration expand its interment schedule to better accommodate the needs of deceased veterans' families.¹

The American Legion supports H.R. 3715.

H.R. 3936: The Veterans Engagement Teams Act

To direct the Secretary of Veterans Affairs to carry out a pilot program under which the Secretary carries out Veteran Engagement Team events where veterans can complete claims for disability compensation and pension under the laws administered by the Secretary, and for other purposes.

H.R. 3936 would dramatically help veterans receive the benefits they have earned by addressing the barriers between the Department of Veterans Affairs (VA) and the veterans they serve within the community by sending VA employees into the field to assist with their claims processing. This bill, much like The American Legion's Veterans Benefits Centers (VBC's) established as a result of the VA health care crisis in Phoenix, Arizona would allow VA to provide one-on-one assistance to veterans and their families at community events.

During the VBC's, The American Legion assisted more than 3,000 veterans. Services included resolving problems such as veteran homelessness, long-wait times for VA health care, and aiding veterans who were not able to receive their earned benefits in a timely manner. The American Legion urges VA to address all claims, to include its growing inventory of appeals in an expeditious and accurate manner.²

The American Legion supports H.R. 3936.

H.R. 4087: Fair Treatment for Families of Veterans Act

To amend title 38, United States Code, to adjust the effective date of certain reductions and discontinuances of compensation, dependency and indemnity compensation, and pension under the laws administered by the Secretary of Veterans Affairs.

¹American Legion Resolution No. 21 (2001): Expand The Interment Capability Of The National Cemetery Administration

²American Legion Resolution No. 28 (2015): Department of Veterans Affairs Appeals Process

H.R. 4087 would change a federal law that requires a veteran's family to repay benefits dispensed during the month upon a veterans' death, remarriage, or marriage. Currently, veterans' benefits cease on the last day of the month before a veterans death. This bill would extend the veterans benefits to the last day of the month during which a veteran dies. This bill addresses a slight change in language with respect to the discontinuance of VA benefits for veterans. The proposed language adjustment would favor the recipient of VA benefits.

The American Legion urges the Department of Veterans Affairs (VA) to address all claims, to include its growing inventory of appeals in an expeditious and accurate manner.³

The American Legion supports H.R. 4087.

H.R. 4757

To amend title 38, United States Code, to expand the eligibility for headstones, markers, and medallions furnished by the Secretary of Veterans Affairs for deceased individuals who were awarded the Medal of Honor and are buried in private cemeteries.

The Medal of Honor (MOH) is the United States of America's highest military honor, awarded for personal acts of valor above and beyond the call of duty. H.R. 4757 directs the Department of Veterans Affairs (VA) to furnish at a private cemetery, and upon request, a headstone, marker, or medallion that signifies the status of an eligible veteran who served in the Armed Forces on or after April 6, 1917, as a Medal of Honor recipient.

If the VA furnished a headstone, marker, or medallion for a deceased veteran that does not signify his or her status as a Medal of Honor recipient, the VA shall upon request replace that headstone, marker, or medallion with one that signifies the deceased's status as a Medal of Honor recipient. The American Legion fully appreciates the service of those awarded the Medal of Honor and supports any legislation that would expand the benefits to Medal of Honor recipients.⁴

The American Legion supports H.R. 4757.

H.R. 4758

To amend title 38, United States Code, to authorize the award of the Presidential Memorial Certificate to certain deceased members of the reserve components of the Armed Forces and certain deceased members of the Reserve Officers' Training Corps.

In March 1962, President John F. Kennedy began administering Presidential Memorial Certificates (PMC's) and this program has been continued by all subsequent Presidents. The PMC is a gold-embossed paper certificate bearing the official signature of the President of the United States. It honors the memory of a deceased honorably discharged veteran and expresses the country's grateful recognition of his or her service in the Armed Forces.

H.R. 4758 would amend Title 38, United States Code, Section 112 (a) entitled Presidential Memorial Certificate Program by including any member of a Reserve component of the Armed Forces, and any member of the Army or Air National Guard, whose death occurs under honorable conditions while such member is hospitalized or undergoing treatment and the expense of the United States, for injury or disease contracted or incurred under while such member is performing active duty training.⁵

The American Legion urges Congress and the Department of Defense to extend allowances and privileges to the National Guard and Reserves involved in homeland security and other missions so as to more closely approximate those of the active force.⁶

The American Legion supports H.R. 4758.

³American Legion Resolution No. 28: (2015): Department of Veterans Affairs Appeals Process

⁴American Legion Resolution No. 17 (2015): Honoring Those Who Have Earned the Medal of Honor

⁵38 U.S. Code § 2402 - Persons eligible for interment in national cemeteries

⁶American Legion Resolution No. 182 (2014): Support for Military Quality of Life Standards

H.R. 4759

To amend title 38, United States Code, to authorize the Secretary of Veterans Affairs to pay costs relating to the transportation of certain deceased veterans to veterans' cemeteries owned by a State or tribal organization.

Currently, the Secretary may pay, in addition to any amount paid pursuant to Title 38, U.S.C., Section 2302 or 2307, the cost of transportation of the deceased veteran described in subsection (b) for burial in a national cemetery. Such payment shall not exceed the cost of transportation to the national cemetery nearest the veteran's last place of residence in which burial space is available.⁷ Nevertheless, this statute limits the payment to the transportation of veterans to those being buried in National Cemeteries and The American Legion supports action to provide, when an eligible veteran dies in a state veterans hospital or nursing home, the Secretary of Veterans Affairs shall pay for the cost of transporting the remains to the place of burial determined by the family.⁸ This legislation expands payment to those eligible veterans who are buried in State or tribal cemeteries.

The American Legion supports H.R. 4759.

H.R. 4782: The Veterans' Compensation Cost-of-Living Adjustment Act of 2016

To increase, effective as of December 1, 2016, the rates of compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for the survivors of certain disabled veterans, and for other purposes.

H.R. 4782 will provide a Cost of Living Allowance (COLA) effective December 1, 2016. Disability compensation and pension benefits awarded by the Department of Veterans Affairs (VA) are designed to compensate veterans for medical conditions due to service or who earn below an income threshold. With annual increases to costs of living, it is only appropriate that veterans' benefits increase commensurate with those increases.

For nearly 100 years, The American Legion has advocated on behalf of our nation's veterans, to include the awarding of disability benefits associated with chronic medical conditions that manifest related to selfless service to this nation. Annually, veterans and their family members are subjects in the debate regarding the annual cost of living adjustment (COLA) for these disability benefits. For these veterans and their family members, COLA is not simply an acronym or a minor adjustment in benefits; instead, it is a tangible benefit that meets the needs of the increasing costs of living in a nation that they bravely defended.

H.R. 4782 is designed to allow for a COLA for VA disability benefits. During The American Legion's National Convention in August 2014, The American Legion adopted Resolution No. 18. Within this resolution, The American Legion supports legislation "to provide a periodic cost-of-living adjustment increase and to increase the monthly rates of disability compensation."⁹

Within Section 2 of the bill, it is noted that "each dollar amount increased under paragraph (1), if not a whole dollar amount, shall be rounded to the next lower whole dollar amount." The American Legion does not support the rounding down of any benefit; through rounding down the benefit, the veterans' benefits are diluted.

In order for The American Legion to support H.R. 4782, The American Legion asks for Congress to remove Section 2 of the bill and allow for veterans to receive the full benefits awarded due to their service.

Discussion Draft: Medal of Honor Legacy Act

To direct the Secretary of the Army to reserve a certain number of burial plots at Arlington National Cemetery for individuals who have been awarded the Medal of Honor, and for other purposes.

The Medal of Honor (MOH) is the highest award for valor in action against an enemy force which can be bestowed upon an individual serving in the Armed Services of the United States. Generally presented to its recipient by the President of the United States of America in the name of Congress. The MOH was created as a Navy version in 1861 named the "Medal of Valor", and an Army version of the

⁷38 U.S. Code § 2308 - Transportation of deceased veteran to a national cemetery

⁸American Legion Resolution No. 22 (2014): National Cemetery Administration

⁹American Legion Resolution No. 18 (2014): Department of Veterans Affairs Disability Compensation

medal named the “Medal of Honor” was established in 1862 to give recognition to men who distinguished themselves “conspicuously by gallantry and intrepidity” in combat with an enemy of the United States. Since then there have been 3,497 recipients of the MOH.

Arlington National Cemetery is the country’s most sacred shrine representing an embodiment of the ultimate sacrifices that were made to uphold our nation’s ideals and freedoms. It is the final resting place for more than 400,000 active duty servicemembers, veterans, and their families.

The Medal of Honor Legacy Act, would hold 1,000 of the remaining 60,000 burial plots to be exclusively assigned to MOH recipients. This would allow those who have received the highest military honor to continue to have a place at the nation’s most hallowed burial place.

The American Legion urges Congress to codify eligibility criteria for burial at Arlington National Cemetery and that such burial be restricted to our most decorated veterans.¹⁰

The American Legion supports the Medal of Honor Legacy Act.

Discussion Draft: Love Lives On Act of 2016

To amend title 38, United States Code, to modify the definition of “surviving spouse” for purposes of the laws administered by the Secretary of Veterans Affairs, and for other purposes.

Dependency and Indemnity Compensation (DIC) is a tax free benefit that is paid monthly to eligible survivors of military servicemembers who died in the line of duty or eligible survivors of veterans whose death resulted from a service-related injury or disease. Currently, the law discourages widow spouses of servicemembers from remarrying. The Love Lives on Act of 2016 focuses on allowing the spouse to continue on with their lives by removing the disincentive to marriage. This draft bill directly applies to modifying statutory language that governs spousal benefits. The language in question intends to no longer disqualify surviving spouses in the event of remarriage. Currently, as the law stands, a surviving spouse is disqualified from DIC and various other benefits if they remarry.

The American Legion supports the Love Lives On Act of 2016.

Discussion Draft

To amend title 38, United States Code, to improve the consideration of evidence by Board of Veterans’ Appeals.

This draft bill intends to expedite the processing of claims in the event of newly submitted evidence, by imposing a statutory deadline for the agency of original jurisdiction (Regional Office) of not more than 180 days. There is no current time limit upon which new evidence submitted in an appealed case must be reviewed by the Agency of Original Jurisdiction (AOJ). The lack of any time limit, contributes to the already arduous and prolonged appeal life cycle. The establishing of time limits will directly address appealed claims languishing at the AOJ, and will expedite the processing overall. The American Legion urges the VA to address all claims, to include its growing inventory of appeals in an expeditious and accurate manner.¹¹

The American Legion supports the discussion draft.

Conclusion

As always, The American Legion thanks this subcommittee for the opportunity to explain the position of the over 2 million veteran members of this organization. Questions concerning this testimony can be directed to Warren J. Goldstein in The American Legion’s Legislative Division at (202) 861-2700 or wgoldstein@legion.org.

EXECUTIVE SUMMARY OF EDWARD G. LILLEY, TEAM LEADER FOR
HEALTH POLICY

H.R 3715: Final Farewell Act of 2015:

The American Legion Supports

H.R. 3936: The Veterans Engagement Team Act:

¹⁰ American Legion Resolution No. 164 (2014): Codify Burial Eligibility for Arlington National Cemetery

¹¹ American Legion Resolution No. 28 (2015): Department of Veterans Affairs Appeals Process

The American Legion Supports

H.R. 4087: Fair Treatment for Families of Veterans Act:

The American Legion Supports

H.R. 4757: To amend title 38, United States Code, to expand the eligibility for headstones, markers, and medallions furnished by the Secretary of Veterans Affairs for deceased individuals who were awarded the Medal of Honor and are buried in private cemeteries.

The American Legion Supports

H.R. 4758:

To amend title 38, United States Code, to authorize the award of the Presidential Memorial Certificate to certain deceased members of the reserve components of the Armed Forces and certain deceased members of the Reserve Officers' Training Corps.

The American Legion Supports

H.R. 4759

To amend title 38, United States Code, to authorize the Secretary of Veterans Affairs to pay costs relating to the transportation of certain deceased veterans to veterans' cemeteries owned by a State or tribal organization.

The American Legion Supports

H.R. 4782: The Veterans' Compensation Cost-of-Living Adjustment Act of 2016

To increase, effective as of December 1, 2016, the rates of compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for the survivors of certain disabled veterans, and for other purposes.

In order for The American Legion to support H.R. 4782, The American Legion asks for Congress to remove Section 2 of the bill and allow for veterans to receive the full benefits awarded due to their service.

Discussion Draft: Medal of Honor Legacy Act

To direct the Secretary of the Army to reserve a certain number of burial plots at Arlington National Cemetery for individuals who have been awarded the Medal of Honor, and for other purposes.

The American Legion supports the Medal of Honor Legacy Act.

Discussion Draft: Love Lives on Act of 2016

To amend title 38, United States Code, to modify the definition of "surviving spouse" for purposes of the laws administered by the Secretary of Veterans Affairs, and for other purposes.

The American Legion supports the Love Lives On Act of 2016.

Discussion Draft

To amend title 38, United States Code, to improve the consideration of evidence by Board of Veterans' Appeals.

The American Legion supports the discussion draft.

