

IAN DePLANQUE, ASSISTANT DIRECTOR, VETERANS AFFAIRS AND
REHABILITATION COMMISSION, THE AMERICAN LEGION

STATEMENT OF
IAN DePLANQUE, ASSISTANT DIRECTOR
VETERANS AFFAIRS AND REHABILITATION COMMISSION
THE AMERICAN LEGION
BEFORE THE
COMMITTEE ON VETERANS' AFFAIRS
UNITED STATES SENATE
ON
NUMEROUS VETERANS' LEGISLATION

S. 263, S. 315, S. 347, S. 407, S. 475, S. 514, S. 691, S. 663, S. 728, S. 746, S. 820, S. 842, S.
847, AND DRAFT LEGISLATION

APRIL 29, 2009

Mr. Chairman and Members of the Committee:

Thank you for this opportunity for The American Legion to present its views on the broad list of veterans' legislation being considered by this Committee.

S. 263 Servicemembers Access to Justice Act of 2009

The purpose of this bill is to waive a state's sovereign immunity with respect to the enforcement of uniformed services members' employment or reemployment rights or benefits under the Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA).

The American Legion is deeply concerned with the protection of recently separated military veterans' employment and reemployment rights and believes the Federal government must demonstrate zero-tolerance of illegal and egregious hiring practices that ignore USERRA provisions. Furthermore, The American Legion supports the amendment and strengthening of USERRA to ensure that National Guard and Reservists receive the employment and reemployment rights afforded to them through their dedicated service to the country and as required under law.

The American Legion supports this bill which will strengthen veterans' employment and reemployment rights.

S. 315 Veterans Outreach Improvement Act of 2009

The purpose of this bill is to amend title 38, United States Code (U.S.C.), to improve the outreach activities of the Department of Veterans Affairs (VA), and for other purposes. The bill proposes to do so through the improvement of budgeting and funding of VA outreach activities

across the board in multiple aspects not limited to health care, public affairs, the National Cemetery Administration and other aspects.

The American Legion believes that proper and thorough outreach is essential to ensuring this nation's veterans and their dependents are fully informed and aware of all of the benefits to which they may be entitled to receive based on their honorable military service to our nation.

S. 347

The purpose of this bill to amend title 38, U.S.C., to allow the Secretary of VA to distinguish between the severity of a qualifying loss of a dominant hand and a qualifying loss of a non-dominant hand for the purposes of traumatic injury protection under Servicemember Group Life Insurance, and for other purposes.

The American Legion has no stated position on this bill, and continues to monitor the disposition of the legislation. The American Legion cites their specific concerns that no piece of legislation be made to reduce or curtail a benefit or benefits provided to veterans.

It is important to distinguish that the enactment of any legislation should not diminish the compensation due to veterans for such catastrophic injuries as the loss of a hand, dominant or non-dominant. The American Legion notes that this piece of legislation specifically appears to address the mechanisms of payment of benefits to eligible veterans before the period of enactment.

S. 407 Veterans' Compensation Cost of Living Adjustment Act of 2009

The purpose of this bill is to increase, effective as of December 1, 2009, 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. The amount of increase shall be 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, 2009.

The American Legion supports this annual cost-of-living adjustment in compensation benefits, including dependency and indemnity compensation (DIC) recipients. It is imperative that Congress annually considers the economic needs of disabled veterans and their survivors and provide an appropriate cost-of-living adjustment to their benefits, especially should the adjustment need to be higher than that provided to other Federal beneficiaries, such as recipients of Social Security.

S. 475 Military Spouses Residency Relief Act

The purpose of this bill is to amend the Servicemembers Civil Relief Act to guarantee the equity of spouses of military personnel with regard to matters of residency, and for other purposes. The legislation seeks to prevent any loss of beneficial status of residency for purposes such as taxes, voting and other matters, to spouses of service members who are required to relocate related to the service requirements of the service-member.

The American Legion recognizes the needs of family members of veterans in addition to the needs of those who serve. Much in the same manner as our previous support of measures which extended existing veterans' benefits to the family members, such as in the field of education, The American Legion is supportive of this type of legislation.

S. 514 Veterans Rehabilitation and Training Improvements Act of 2009

The purpose of this bill is to amend title 38, U.S.C., to enhance vocational rehabilitation benefits for veterans, and for other purposes.

The bill, in effect, normalizes subsistence payments to be in line with a national average of the housing allowance available to an E-5 enlisted servicemember. It further allows for reimbursements for veterans who complete rehabilitation programs consistent with existing vocational rehabilitation provisions, as well as repeals limitations on the numbers of veterans involved in independent living and assistance programs.

This constitutes upgrades in several areas of benefits offered to veterans through the vocational rehabilitation and training programs. The American Legion fully supports this bill.

S. 691

The purpose of this bill is to direct the VA Secretary to establish a National Cemetery for veterans in the Southern Colorado region, and for other purposes.

The American Legion supports the establishment of additional national and state veterans cemeteries and columbaria wherever a need for them is apparent and petitions Congress to provide required operations and construction funding to ensure VA burial in a national or state veterans cemetery is a realistic option for veterans and their eligible dependents.

S. 663 A Belated Thank You to the Merchant Mariners of World War II Act of 2009

The purpose of this bill is to amend title 38, U.S.C., to direct the VA Secretary to establish the Merchant Mariner Equity Compensation Fund, to provide benefits to certain individuals who served in the United States Merchant Marine (including the Army Transport Service and the Naval Transport Service) during World War II.

The American Legion has no standing position on this piece of legislation. However, it is the general policy of The American Legion to voice concerns about provisions which set up one class of veterans in an exclusionary manner to other groups or classes of veterans. It has long been The American Legion's position that a veteran is a veteran regardless of branch of service or occupational specialty. All of the men and women who have answered the call to serve their country are equal veterans and thus deserve equitable treatment under the law.

S. 728 Veterans Insurance and Benefits Act of 2009

The purpose of this bill is to provide enhancements to a broad variety of veterans' benefits. The benefits contained include improvements to benefits for veterans not only in insurance matters, but also to their compensation, pension and more.

The bill contains a long needed increase in the supplemental funds provided for funeral and burial expenses under the bill's Title III. The American Legion has long called for an increase in these funds, altered very little in the past since their inception in 1973, and therefore supports this bill.

S. 746

The purpose of this bill is to direct the VA Secretary to establish a National Cemetery in the Sarpy County region to serve veterans in the eastern Nebraska, western Iowa, and northwest Missouri regions.

The American Legion supports the establishment of additional national and state veterans cemeteries and columbaria wherever a need for them is apparent and petitions Congress to provide required operations and construction funding to ensure VA burial in a national or state veterans cemetery is a realistic option for veterans and their eligible dependents.

S. 820

The purpose of this bill is to amend title 38, U.S.C. to enhance the automobile assistance for veterans, and for other purposes. This bill is noted to be an enhancement of the existing benefit provided to eligible veterans.

The American Legion supports all existing benefits due to veterans. As this bill represents an increase to one of those existing benefits, The American Legion is supportive of this bill.

S. 842

The purpose of this bill is to repeal the sunset of certain enhancements of protections to service members relating to mortgages and mortgage foreclosures, to amend title 38, U.S.C., to authorize the VA Secretary to pay mortgage holders unpaid balances on housing loans guaranteed by the Department of Veterans Affairs, and for other purposes.

The American Legion supports this extension of benefits in line with the intents of H.R. 1106. Particularly in times of economic uncertainty The American Legion supports these efforts to assist the families of veterans in the protection of the housing benefits to which they are entitled.

S. 847

The purpose of this proposed legislation is to provide that utilization of survivors' and dependents' educational assistance shall not be subject to the 48-month limitation on the aggregate amount of assistance utilizable under multiple veterans and related educational assistance programs.

The American Legion has no standing resolution or specific position on this bill. However, The American Legion has been generally supportive of legislation and intends to enhance the benefits afforded to families and survivors of veterans.

Draft Legislation

Clarification of Characteristics of Combat Service Act of 2009

The purpose of this bill is to amend section 1154 of title 38, U.S.C., to clarify the additional requirements for consideration to be afforded time, place, and circumstances of service in determinations regarding service-connected disabilities.

The American Legion is seeking clarification of the portion of the legislation which reads, in part:

“(A) Additional provisions in effect requiring that in each case where a veteran is seeking service connection for any disability due consideration shall be given to the places, types, and circumstances of such veteran’s service as shown by such veteran’s service record, the official history of each organization in which such veteran served, such veteran’s medical records, and all pertinent medical and lay evidence.”

Such language would not be acceptable should it provide that greater consideration be granted on the basis of a service member’s Military Occupational Specialty/Air Force Specialty Code, or for any other reason to differentiate that one class of service be given greater priority over another class of service. The American Legion has long maintained a standard of recognizing the contributions of all service members who choose to defend the country of the United States.

The subsequent section, that which refers to the clarification of the definitions and provisions under section 1154(b), title 38, U.S.C. is apparently in keeping with the provisions supported by The American Legion in recent testimony before Veterans’ Affairs Subcommittee on Disability Assistance and Memorial Affairs on this topic. The American Legion is supportive, in recognition of the changing realities of modern warfare and war fighting, of the application of the provisions of that subsection to all veterans deemed to have service in a combat zone. This is a provision that has traditionally been afforded solely to the establishment of events in service which would lead to service-connection for a disability. Therefore, this is a provision which would apply to deserving veterans who can prove a valid diagnosis of a present condition and provide a medical nexus opinion linking that condition to the stated event.

Such events are noted to be consistent with previous interpretation of the statute to be consistent with the hardships and circumstances of service in a combat zone. The American Legion supports this provision of the legislation.

Conclusion

Thank you again, Mr. Chairman, for allowing The American Legion to present comments on these important measures. We will provide the Committee with further comments on the

mentioned piece of draft legislation from Senator Akaka, if necessary. Also, should any further clarification or questions arise, we would be happy to provide any answers the Committee may require. As always, The American Legion welcomes the opportunity to work closely with you and your colleagues on enactment of legislation in the best interest of America's veterans and their families.