

JEFF STEELE, ASSISTANT DIRECTOR, NATIONAL LEGISLATIVE COMMISSION, THE AMERICAN LEGION

STATEMENT OF
JEFF STEELE, ASSISTANT DIRECTOR
NATIONAL LEGISLATIVE COMMISSION
THE AMERICAN LEGION
BEFORE THE
COMMITTEE ON VETERANS' AFFAIRS
UNITED STATES SENATE
ON
PENDING LEGISLATION

JUNE 8, 2011

Chairman Murray, Ranking Member Burr, Members of the Senate Veterans Affairs Committee, thank you for this opportunity for The American Legion to present its views on the following pieces of pending legislation.

S. 277: Caring for Camp Lejeune Veterans Act of 2011

The purpose of this bill is to amend title 38, U.S.C., and to furnish hospital care, medical services, and nursing home care to veterans currently suffering from adverse health effects who were stationed at Camp Lejeune, North Carolina, during the time the water was contaminated by known human carcinogens and probable human carcinogens.

The Camp Lejeune water contamination problem occurred at Marine Corps Base Camp Lejeune from 1957 to 1987. During that time, United States Marine Corps (USMC) service members and their families living at the base apparently bathed in and ingested tap water contaminated with harmful chemicals. An undetermined number of former base residents later developed cancer or other ailments, which many blame on the contaminated drinking water. Victims claim that USMC leaders concealed knowledge of the problem and did not act properly in trying to resolve it or notify former base residents that their health might be at risk.

The American Legion favorably acknowledges an April 2011 letter sent to the Navy wherein five members of Congress, including Senators Bill Nelson of Florida, Kay Hagan and Richard Burr and Representatives Brad Miller of North Carolina, and John Dingell of Michigan, criticize the service's continued behavior regarding the water contamination issue. In the letter, the members accused the Navy of continuing to mischaracterize a 2009 report by the National Academy of the Sciences' National Research Council, which concluded there was no concrete link between the chemicals trichloroethylene and tetrachloroethylene and a host of ailments suffered by veterans and family. The Navy states the report also assessed benzene exposure, which is false, according to the letter. Also, the letter criticized the Navy for not agreeing to a communications protocol with the Agency for Toxic Substances and Disease Registry (ATSDR) to allow that agency to review all Navy public relations material related to the contamination issue. The letter pointed

out that the Marine website with information on the contamination did not contain direct links to the ATSDR website documenting their study of the issue.

The American Legion supports this bill and the conducting of further scientific studies of the residents who were affected by those contaminants in order to finally resolve this long-standing issue.

S. 396: Meeting the Inpatient Health Care Needs of Far South Texas Veterans Act of 2011

This bill directs the Secretary of Veterans Affairs (VA) to: (1) ensure that the South Texas Veterans Affairs Health Care Center in Harlingen, Texas, includes a full-service VA inpatient health care facility; and (2) if needed, modify the existing facility to meet this requirement.

While The American Legion generally takes no position on the specific placement of VA healthcare facilities, we are strongly committed to seeing that veterans should not be forced to travel long distances to access quality health care because of where they choose to live. All veterans deserve convenient access to proper medical attention. Earlier this year, VA did open a new \$40 million Health Center in Harlingen to accommodate the needs of South Texans. The Health Center, which offers only outpatient care, can be seen as a first step toward full-service health care to the region. Previously, the closest VA facility was in San Antonio – a laborious trip for many patients suffering from chronic conditions. VA has therefore recognized the need for an expansion of veterans' health care services in Deep South Texas.

We remained concerned, however, that VA's Major and Minor Construction Programs continue to be targeted for reductions. Acknowledging this nation's present fiscal difficulties does not entail that we as a nation are unable to meet the obligations to our veterans. The American Legion understands VA is facing increasing issues with regards to providing care and benefits to our returning service members, and the veterans of previous conflicts. But with more veterans coming home from Iraq and Afghanistan, the costs of providing care and benefits are going to have to continue to increase.

The American Legion recommends the President's budget request for \$590 million for Major Construction and \$550 million for Minor Construction in FY 2012 be increased to \$1.2 billion for Major Construction projects and \$800 million for Minor Construction projects to provide for additional facilities.

S. 411: Helping Our Homeless Veterans Act of 2011

This bill would improve outreach to rural and underserved urban veterans by authorizing and encouraging VA to partner with eligible state and local governments, tribes, and community-based service providers to ensure homeless veterans have access to the existing HUD-Veterans Affairs Supportive Housing (HUD-VASH) program that provides chronically homeless veterans with housing vouchers and case management services, such as assistance accessing counseling and job training.

The President and VA Secretary are committed to eliminating veteran's homelessness. The HUD-VASH program is a prominent part of the five year plan developed to do so. VA has acknowledged in previous congressional testimony it can't achieve this goal on its own. It "will need the collaboration of Federal and State and community partners and, of course, Congress," a VA representative said.

By allowing VA to collaborate with states and nonprofits on case management service provision, the bill would help ensure distribution of rental assistance and other services to veterans in rural areas and underserved urban veterans where case management services are otherwise not available. It should be noted the bill does not require additional funding.

The American Legion supports this bill.

S. 423

A bill to amend title 38, United States Code, to provide authority for retroactive effective date for awards of disability compensation in connection with applications that are fully-developed at submittal, and for other purposes.

One of many initiatives the Department of Veterans Affairs (VA) has launched to help address the claims backlog has been the Fully Developed Claims (FDC) Program. VA successfully piloted the program at ten VA regional offices through which VA expedited FDC claims. Last year, VA expanded the FDC process to all VA regional offices. This legislation is designed to encourage the use of this program by providing an incentive for veterans to file these fully-developed claims by compensating them for a period up to one year prior to the date the claim was filed.

Although VA already allows for the locking in of an earlier effective date with an informal claim if a veteran needs time to gather evidence for their FDC claim, not all who avail themselves of the FDC claims process will know of or use an informal claim, thus losing the benefit of an earlier effective date. This legislation would provide a safety net for those veterans.

The American Legion supports this bill.

S. 486: Protecting Servicemembers from Mortgage Abuses Act of 2011

This bill encourages compliance with the Servicemembers Civil Relief Act (SCRA) by doubling the maximum criminal penalties for violations of its foreclosure and eviction protections. It would also double civil penalties in cases where the Attorney General has commenced a civil action. In addition, the bill will give service members the time they need after returning from deployment to regain solid financial footing, by extending the period of foreclosure protection coverage from 9 to 24 months after military service has ended.

Earlier this year, when reports that one of America's largest banks had been overcharging about 4,000 servicemembers on their home loans, and had improperly foreclosed on the homes of 14 military families, we wholeheartedly joined the chorus of justifiable outrage about this shocking situation and called upon all financial institutions that handle mortgages for military families to review policies and practices, to make sure they are obeying federal law.

While the bank involved has issued a mea culpa and made efforts to reassure the men and women of our military their commitment to make this right, the episode makes it clear that further strengthening of the SCRA is called for. It is a national security imperative that servicemembers be able to fight the nation's wars without having to worry about their rights being trampled at home. The tragic stories of those who have been adversely affected by the failure of our financial institutions to play by the rules further highlight the necessity of enhancing the effectiveness of the legal and regulatory protections for our service members and veterans.

The American Legion supports this bill.

S. 490

This bill would expand eligibility requirements for children who receive health care under the Civilian Health and Medical Program of the Veterans Affairs Department (CHAMPVA).

The aim of this bill is to give CHAMPVA the same benefits now available to other Americans

established by the Patient Protection and Affordable Care Act (P.L. 111-148) signed into law last year. Prior to passage of this legislation, concerns were raised that provisions extending health insurance coverage to dependent children until age 26 did not extend either to TRICARE or CHAMPVA beneficiaries. The fiscal 2011 National Defense Authorization Act enacted earlier this year gave the Defense Department the authority it needed to extend TRICARE coverage to young adults. This leaves only CHAMPVA beneficiaries without this extended eligibility. It is only fair to afford children who are CHAMPVA beneficiaries the same eligibility. Surely coverage for veterans' family members in need should meet this new national standard.

The American Legion supports this bill.

S.666: Veterans Traumatic Brain Injury Care Improvement Act of 2011

This bill directs the Secretary of Veterans Affairs to report to Congress on the feasibility and advisability of establishing a Polytrauma Rehabilitation Center or Polytrauma Network Site for the Department of Veterans Affairs (VA) in the northern Rockies or the Dakotas. It further requires the Fort Harrison Department of Veterans Affairs Hospital in Lewis and Clark County, Montana, to be evaluated as a potential location for such a Center or Site.

Again, The American Legion generally takes no position on the specific placement of VA healthcare facilities, but we are strongly committed to seeing that veterans should not be forced to travel long distances to access quality health care because of where they choose to live. Therefore, we support the establishment of additional Polytrauma Rehabilitation Centers or Polytrauma Network Sites wherever a need for them is apparent and petitions Congress to provide required operations and construction funding to ensure proper healthcare is a realistic option for veterans.

S. 696

A bill to amend title 38, United States Code, to treat Vet Centers as Department of Veterans Affairs facilities for purposes of payments or allowances for beneficiary travel to Department facilities, and for other purposes.

Readjustment Counseling Centers, also known as Vet Centers, assist veterans through such services as individual, group or family counseling to help overcome psychological problems. Trips to a Vet Center are as important as trips to a VA clinic. But the latter earns the patient mileage reimbursement, while a visit to the former does not. This legislation corrects that inequity by treating Vet Centers the same as other VA facilities for the purpose of reimbursements for travel.

The American Legion supports this bill.

S. 745

This bill modifies one aspect of the major revision to the Post-9/11 GI Bill signed into law earlier this year, i.e., the Post-9/11 Veterans Education Assistance Improvement Act. In an attempt to simplify the new GI Bill program, the new law creates a less complex method for deciding tuition and fee reimbursement for private institutions. Instead of setting a reimbursement cap for each state, based on the highest in-state rates for tuition and fees charged by a four-year public college or university, the bill would create a flat-rate cap for the entire U.S. of \$17,500/yr for tuition and fees. Unfortunately, that cap could result in a drop in benefits for people using the GI Bill in six to 10 states when the relevant provisions of the law go into effect this fall. Over the past two years, however, many students chose a particular school with the expectation the GI Bill

program they began with would still be there when they completed their degree. S. 745 would hold harmless current private school students from potential drops in tuition and fee payments. However, there are additional issues The American Legion would like to see addressed in any legislation to further modify the new GI Bill program. Three changes in particular are a priority. One involves grandfathering those who attend out-of-state public universities who also fall under the same \$17,500 cap. A second change is aimed at a cost-cutting measure in the law that severely restricts payment of living stipends between school terms. Starting this fall, payments between terms will be made only if there is a natural disaster or other unexpected disruption in the term. Otherwise, living stipends cease at the end of the term and don't begin again until the start of the next term. However, these interval payments are important to full-time students who do not have jobs and who may not have other sources of income. Finally, the new law reduces the current role of the state approving agencies by deeming certain educational programs and courses as constructively approved when such courses are approved by other federal entities for programs under their jurisdiction. State approving agencies will now assume a compliance and oversight role. This committee should reconsider the advisability of this change.

S. 769: Veterans Equal Treatment for Service Dogs Act of 2011

This bill will permanently close a loophole in VA policy that has created hurdles to care for certain disabled veterans. Under current VA policy, only seeing-eye and guide dogs are offered unrestricted access to VA health care facilities. Veterans who utilize service dogs as VA-sanctioned prosthetic devices for other physical or mental injuries can still be denied access at the discretion of each VA medical center director. While VA recently made an effort to close this loophole through a directive on service dog access, a legislative solution will offer the permanent equality in access that veterans deserve and save VA the trouble of having to reissue the directive at future intervals.

The American Legion supports this bill.

S. 780: Veterans Pensions Protection Act of 2011

This bill would exclude from annual income, for purposes of eligibility for pensions for veterans and their surviving spouses and children, reimbursements resulting from: (1) any accident; (2) any theft or loss; (3) any casualty loss; (4) medical expenses resulting from any such accident, theft, or loss; and (5) pain and suffering (including insurance settlement payments and general damages awarded by a court) related to such accident, theft, or loss.

Currently, any money received from an insurance claim, court judgment, or injury settlement counts toward a veteran's income when the VA determines pension eligibility. This means low-income veterans who are compensated even for small settlements risk losing their pensions. The bill seeks to change the rules surrounding the income eligibility rules. Veterans should not have to worry about losing their pensions because they became victims by some other person's actions.

The American Legion supports this bill.

S. 815: Sanctity of Eternal Rest for Veterans Act of 2011

This bill would create a zone of protection around military funerals by limiting any protests within 300 feet of such a funeral for 120 minutes preceding or following a service at any cemetery in the country. Additionally, this bill would extend that zone to 500 feet for any

memorial services at cemeteries under control of the National Cemetery Administration and Arlington National Cemetery.

The American Legion supports the freedom of speech protected by the First Amendment to the U.S. Constitution which all of our members swore to protect and uphold. However, “[e]ven protected speech is not equally permissible in all places and at all times.” *Frisby v. Schultz*, 487 U. S. 474, 479. The choice of where and when to conduct picketing is not beyond the Government’s regulatory reach—it is “subject to reasonable time, place, or manner restrictions.” *Clark v. Community for Creative Non-Violence*, 468 U. S. 288, 293.

We embrace fully a world where groups espousing varied and unpopular political messages have the ability to voice those concerns in proper venues; however, in so doing it is not necessary to harm the grieving families of our heroes. This legislation will protect the families of our fallen soldiers and help preserve the dignity of military funerals from those who wish to disrupt and cause pain and suffering while respecting the intent of the First Amendment to our Constitution. The American Legion supports this bill.

S. 873

A bill to amend title 38, United States Code, to provide benefits for children with spina bifida of veterans exposed to herbicides while serving in the Armed Forces during the Vietnam era outside Vietnam, and for other purposes.

Under title 38, United States Code, Chapter 18, benefits are currently payable to children of veterans that served in the Republic of Vietnam during the period January 9, 1962, to May 7, 1975, and who suffer from the birth defect spina bifida. Recent legislation has extended the spina bifida benefits to include the children of veterans who served in or near the Korean Demilitarized Zone during the period of September 1, 1967, and August 31, 1971, and determined by the Secretary of Veterans Affairs to have been exposed to herbicides during such service. However, the children of veterans who served in locations other than Vietnam and Korea who were possibly exposed to Agent Orange would be denied entitlement to compensation for spina bifida under the current statute and regulations. This inequity would be corrected by this legislation. The American Legion supports this bill.

S. 894: Veterans Cost-of-Living Adjustment Act of 2011

The purpose of this bill is to increase, effective as of December 1, 2011, 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, 2011.

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. 935

A bill to require the Secretary of Veterans Affairs to carry out a program of outreach to veterans, and for other purposes.

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. 951: Hiring Heroes Act of 2011

This critical legislation will combat rising unemployment among our nation's veterans by requiring transition assistance for all service members returning home, modifying federal hiring practices to encourage the hiring of separating service members and create new programs aimed at improving the transition from service member to civilian.

In 2010, more than one in four veterans aged 20-24 were unemployed. Even as the civilian unemployment rate begins to decline, we continue to see the new veteran unemployment rate rise month to month in 2011. With less than half a percent of Americans fighting in the current wars and only 8 percent of Americans having ever served in the military, it is critical that we bridge the widening gap between the civilian workforce and our nation's veterans and this legislation has the potential to help tackle this unacceptable problem.

The American Legion supports this bill.

S. 957: Veterans' Traumatic Brain Injury Rehabilitative Services' Improvement Act of 2011

This important piece of legislation will close gaps in both the duration and types of services provided to our wounded service members who have sustained what are often profoundly debilitating traumatic brain injuries. Specifically, the bill would clarify that VA may not prematurely cut off needed rehabilitation services, and that these veterans can get the support they need – whether health-services or non-medical assistance -- to achieve maximum independence and quality of life.

Traumatic brain injury (TBI) represents one of the most complex and potentially severe injuries incurred by service members of the OEF/OIF conflicts. Each traumatic brain injury is unique. Those with severe TBI may have such profound cognitive and neurological impairment that they require long years of caretaking and specialized rehabilitation. While many VA facilities have dedicated rehabilitation-medicine staff, the scope of services actually provided to veterans with TBI can be limited, both in duration and in the range of services VA will provide or authorize. We must guarantee that our veterans are supported not only in the acute phase of their recovery while they continue to make rehabilitative and medical gains, but that they are supported in the long term so that those gains are not lost.

Independent living and community reintegration are of the utmost importance to this young generation of warriors. Yet the VA's rehabilitation focus relies almost exclusively on a medical model that doesn't necessarily provide the range of support a young person needs to achieve the fullest possible life in the community. In contrast, other models of rehabilitative care meet those needs through such services as life-skills coaching, supported employment, and community reintegration therapy. But these services are seldom made available to veterans. Congress must close the gap to ensure veterans receive the full range of services needed to live meaningful and independent lives in their communities.

The American Legion supports this bill.

S. 1017

This bill would extend permanently VA's authority to provide to eligible severely service-connected disabled veterans Temporary Residence Adaptation (TRA) Grants when those veterans do not intend to permanently reside in a residence owned by a family member; increase the maximum grant from \$14,000 to \$28,000 for eligible veterans who have a permanent and

total service-connected disability as a result of loss or loss of use of both lower extremities; increase the maximum assistance from \$2,000 to \$5,000 for eligible veterans who have a permanent and total service-connected disability rating due to blindness in both eyes with 5/200 visual acuity or less; due to the anatomical loss or use of both hands; or due to severe burn injury. In addition, the legislation provides an annual adjustment based on the residential home cost-of-construction index for the preceding calendar year. Further, the proposed legislation would expand eligibility for Special Adaptive Housing Assistance for veterans with vision impairment to those veterans having a central visual acuity of 20/200 or less in the better eye with the use of a standard correcting lens which is consistent with other central visual acuity requirements elsewhere in title 38, United States Code. Finally, the bill would assure the TRA grant would no longer be counted against the Special Adaptive Housing Assistance maximum grant.

Military personnel in Iraq and Afghanistan are surviving wounds in numbers far greater than previous wars. Largely due to advances in body armor and combat medicine as well as the rapidity of evacuation, survival rates are close to ninety percent. However many wounded service members are surviving severe injuries which will require sophisticated, comprehensive, and often lifelong care. Blasts, especially those generated by IEDs are the cause of 65 percent of OEF/OIF casualties. Explosive devices produce a characteristic pattern of injuries: TBI, blindness, spinal cord injuries, burns, and damage to the limbs resulting in amputation. Many military personnel are sustaining more than one of these wounds.

Many of these wounded warriors will require constant care from a family caregiver for years after they leave service. During this time, they frequently reside in a home that is not their own and not a permanent residence where they may live on their own after recovery. Adaptations, like ramps and elevators, must often be made to their permanent home and that of their caregiver while they are recovering from their injuries. While the VA does provide grants for adaptive housing, the benefit is largely based on the assumption that wounded warriors are living in their permanent home. Section 2102A of Title 38 allows the VA to issue a separate grant to adapt the temporary homes of recovering veterans; however, it is set to expire at the end of this year. By extending this program permanently, Congress can show their strong support for those veterans who have made extreme sacrifices for our freedom. The other upgrades in the bill would also constitute a necessary recognition by Congress of the evolving needs of these wounded warriors. The American Legion supports this bill.

S. 1060: Honoring All Veterans Act of 2011

Senator Blumenthal is certainly to be praised for the priority he is placing on this nation's veterans by having the first piece of legislation he is introducing since becoming a member of the Senate be a veteran's bill.

We are particularly pleased that the legislation addresses a number of Legion priorities, including helping unemployed veterans find successful careers, assisting homeless veterans, meeting the behavioral health needs of veterans and military families, and enhancing DOD/VA collaboration to better institutionalize a truly seamless transition for returning service members.

The seamless transition from active service to civilian life is a pressing concern for The American Legion. Every day in combat zones our service members face grueling obstacles and challenges; they should not face these challenges as they return home and reintegrate into society after defending their country. Because this legislation takes needful steps toward making sure

military skills and training are translatable into the civilian sector, attending to the needs of veterans living with Traumatic Brain Injury and/or Post Traumatic Stress Disorder, and increasing the number of veterans who may participate in VA's Vocational Rehabilitation and Employment Independent Living Program, we find there is much we can approve of in it.

The American Legion supports this bill

S. 1104: Transition Assistance Program Audit Act of 2011

This bill calls for an independent third party audit of the Department of Labor's Transition Assistance Program (TAP) every three years to ensure that it is providing services that are up-to-date and useful to service members and their spouses making the initial transition from military service to the civilian workplace.

While acknowledging the current efforts underway to reform the TAP program, the fact remains that it should not have taken the Department of Labor nearly two decades to modernize this program and it should welcome the assistance which would come from an independent audit with recommendations for improving the effectiveness of the program at regular intervals.

The American Legion supports this bill.

S. : Alaska Hero's Card Act of 2011

This bill establishes a pilot program under which veterans in the State of Alaska may receive health care benefits from VA at non-VA medical facilities.

While The American Legion generally takes no position on state specific issues, we are concerned at the precedence this act may have upon the overall quality of care for veterans. While Alaskans certainly must wrestle with the challenges of rural health delivery as much if not more so than the veterans of other states, even within Alaska, shared resources with the Department of Defense, telemedicine and other unique delivery models are being pioneered. Moreover, this program can already be accomplished through the VA fee-basis program.

Allowing Alaskan veterans to access almost any medical facility through use of a "hero card" negates the powerful resources of electronic medical records, case management, and VA oversight that can be offered through careful patient management. Furthermore, implementation of this program in Alaska would provide an unparalleled benefit to one category of veterans not available to others in rural areas of the western United States and elsewhere. Finally, it detracts from the need of the VA to provide the necessary resources and facilities, or access to these, to every veteran no matter where they live.

The American Legion opposes this bill.

As always, The American Legion thanks this Committee for the opportunity to testify and represent the position of the over 2.4 million veteran members of this organization. I would be happy to answer any questions you may have.