

Carl Blake, National Legislative Director, Paralyzed Veterans of America

STATEMENT OF  
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BEFORE THE  
SENATE COMMITTEE ON VETERANS' AFFAIRS,  
CONCERNING  
PROPOSED BENEFITS LEGISLATION

MAY 9, 2007

Chairman Akaka, Ranking Member Craig, and members of the Committee, on behalf of Paralyzed Veterans of America (PVA) I would like to thank you for the opportunity to testify today on the proposed benefits legislation. The scope of benefits issues being considered here today is very broad. We appreciate the Committee taking the time to address these many issues, and we hope that out of this process meaningful legislation will be approved to best benefit veterans.

S. 117, the "Lane Evans Veterans Health and Benefits Improvement Act"

PVA supports the provisions of Section 104 of the bill which would require enhanced outreach to members of the National Guard and Reserves. We have testified many times in the past as to the importance of effective outreach. It is only appropriate that National Guard and Reserve service members be handled in the same way. The level of service being required of these men and women in current operations more than justifies the need to inform them of all of the health care and benefits services available.

Although PVA has no objection to the report requirements established under Title II of the legislation, we remain concerned that this wealth of information will go unused. Collecting this information without acting on any findings from that information would serve no real purpose. We would hope that the congressional committees will use this information to affect positive change within the VA, Department of Labor, and Department of Defense. However, we must emphasize that additional resources should be provided to allow the agencies involved to properly compile this information as we believe that this could be a monumental undertaking.

S. 168

PVA fully supports this legislation which authorizes the VA to establish a national cemetery in the Pikes Peak region of Colorado as long as there is a clearly demonstrated need. According to VA information, there are currently only two national cemeteries located in Colorado, neither of which is near this area. With the rate that veterans are dying today, particularly World War II veterans, it is imperative that the VA be able to provide a suitable burial location for these men and women. The Pikes Peak region would certainly provide an excellent cemetery location that is centrally located in the state.

## S. 225

During initial consideration of the traumatic injury insurance rider for Servicemembers' Group Life Insurance (SGLI), PVA expressed concerns about the proposal that eventually became law. The legislation was meant to help service members who incur a severe disability while serving this country to overcome the financial hardship placed on them and their families while they are undergoing medical treatment and rehabilitation. Our principal concern that service members should not have to pay a premium for this coverage remains. We believe that helping these severely injured men and women overcome the financial strain of their situation is an obligation of the federal government.

However, the traumatic injury insurance has proven beneficial for veterans who elected to have the coverage. We support the concept of this legislation as it addresses an additional concern that we had with the proposal in 2005. We believed then, as we do now, that a veteran who incurs a service-connected severe disability that qualifies them for this benefit should be able to receive the payment regardless of where that disability was incurred. A service member should not be denied this benefit simply because he or she was not injured while serving in Iraq or Afghanistan. We believe that this legislation corrects that particular inequity that exists in the current statute; therefore, we support this legislation on those grounds.

## S. 423, the "Veterans' Compensation Cost-of-Living Adjustment Act"

PVA supports S. 423, the "Veterans' Compensation Cost-of-Living Adjustment Act of 2006."

This bill would increase the rates of compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for widows of certain disabled veterans. As we have done in the past, we oppose again this year the provision rounding down the cost-of-living adjustment to the nearest whole dollar. Continuing to round down these benefits year after year only serves to erode the value of them. Furthermore, this provision forces veterans to bear some of the burden of cost-savings for the federal government.

## S. 526, the "Veterans Employment and Training (VET) Act"

PVA supports S. 526, the "Veterans Employment and Training Act of 2007." This will allow veterans to pursue education or training in the high technology career area for programs that are less than two years in duration. Many veterans may prefer an occupation that does not require a four year college degree. This will allow the veteran to use the funds, some of which they have contributed, for specific training in an occupational field of their choice. As Congress increases the training opportunities for veterans they must insure that new programs paid for with VA funds meet the approval of State Approving Agencies (SAA). SAAs operate through a state's department of education. They currently review and evaluate programs that are paid for with the Montgomery GI Bill.

## S. 643, the "Disabled Veterans Insurance Act"

PVA supports increasing the amount of supplemental insurance for the totally disabled veteran from \$20,000 to \$40,000. Several years ago when the amount of \$20,000 was designated as an appropriate insurance pay out, that pay out helped finalize outstanding loans or expenses accrued by the veteran. Today, \$20,000 has much less buying power. An increase to \$40,000 is not unreasonable. The cost of the current policy is more than some veterans are willing to pay. Congress should ensure that if the benefit of the policy doubles, that the payment does not

double. A large increase in payments to purchase the policy will render this insurance inaccessible for many veterans.

#### S. 698, the "Veterans' Survivors Education Enhancement Act"

PVA supports the "Veterans' Survivors Education Enhancement Act of 2007." The bill increases the amount for educational assistance for survivors from \$788 to \$1777 per month for 45 months, for a total of \$80,000. It extends the eligibility of dependents from twenty six years of age, to thirty years of age. The bill also increases the range of programs that the educational assistance can be used for. This reflects the fact that all programs to prepare for future employment do not require the standard four years of college.

#### S. 847

This bill would eliminate the current seven-year window that allows a veteran to claim service connectedness for multiple sclerosis (MS) and extend that service connectedness window indefinitely. At this time, there is no known cause of MS. PVA cannot support this proposed legislation that would increase the presumptive period for MS beyond the current seven years as long as new medical evidence has not been presented to substantiate this change. PVA does, however, encourage this Committee and Congress to promote more research in the area of multiple sclerosis and related neurological conditions. We are aware that there may be higher rates of MS in certain groups of veterans attributable to environmental or other factors, and VA should examine this as they did for exposures for veterans of Southeast Asia.

#### S. 848, the "Prisoner of War Benefits Act"

This legislation would repeal the requirement that a Prisoner of War (POW) be held captive for at least 30 days in order to receive a presumption of service-connection for the purposes of receiving benefits. This issue was first considered last year after American service personnel who were held captive by Iraq during the early stages of the war were released or rescued after less than 30 days of internment. These men and women had sustained severe injuries as a result of combat actions and their subsequent internment. It seems only fair that any POW, regardless of time in captivity, be recognized as being eligible for service-connected benefits. PVA supports this provision.

We likewise support the addition of the following diseases to the list of diseases presumed to be service-connected: Type II diabetes, and osteoporosis. We have no objections to the requirements placed on the Secretary of VA for adding or subtracting diseases to the presumptive service-connection list. We would only caution that veterans and former POWs should be given the benefit of the doubt before any consideration is given to removing a disease from the list.

#### S. 961, the "Belated Thank You to the Merchant Mariners of WWII Act"

Although we recognize the sacrifices that these brave men made in service to the nation during World War II and we support the intent of this legislation, we have some concerns with the proposals it makes. The importance of their sacrifices cannot be overstated. While suffering extremely high casualty rates during the war, they delivered troops, tanks, food, airplanes, fuel and other needed supplies to every theater of the war.

However, PVA believes that this bill would be very costly to the Department of Veterans Affairs (VA). We believe that the money needed to provide this new monthly benefit would reduce the

ability of the VA to continue to provide the wide-ranging scope of benefits that it already manages.

We also do not understand how the amount to be provided as a monthly benefit was determined. As it stands, if this legislation was enacted, a merchant mariner would be entitled to a payment equal to veterans who have a 70 percent compensable service-connected disability. Furthermore, the surviving spouses of these individuals would be entitled to a benefit nearly equal to the amount provided to the surviving spouses of veterans with service-connected disabilities. Although we do not dispute the idea that these individuals should receive some type of benefit, we do not believe that the recommendations of this legislation are equitable with similar programs. We are not certain that this legislation maintains the priority that the VA follows for providing compensation benefits.

S. 1096, the "Veterans' Housing Benefits Enhancement Act"

PVA supports S. 1096, the "Veterans' Housing Benefits Enhancement Act of 2007." This bill will allow the service member to plan and make necessary modifications to their residence to accommodate their medical condition before they are released from the service. This will be very beneficial for service members returning to their residence and who use a wheelchair as a result of their injury. In most situations doorways must be widened, ramps must be installed, and kitchens and bathrooms must be remodeled.

This bill also allows for specially adapted housing assistance for disabled veterans with severe burns. Severe burns are one of the signature wounds of the Iraq war. Living with this condition after being discharged from a hospital could require a precise temperature control system in a home, along with an air filtration system. A water purification system may also be required. All of these modifications take time and are very costly. This bill will give the service member financial assistance to allow them to make these critically needed modifications.

S. 1163, the "Blinded Veterans Paired Organ Act"

PVA supports S. 1163, the "Blinded Veterans Paired Organ Act of 2007." This bill would change eligibility requirements for benefits available to blinded veterans. If a veteran has lost sight in one eye and that loss is service-connected, and then loses sight in the other eye, but not as a result of service, the veteran shall receive benefits as if both eyes are service-connected. Currently service-connected blinded veterans receive up to \$10,000 to modify their home to accommodate their condition. This bill extends this benefit to all legally blind veterans. This small amount of financial assistance can help to make the blinded veteran more independent in his or her home.

S. 1261, the "Montgomery GI Bill for Life Act"

Although PVA has no specific objection to this legislation, we have some concern that it could change the underlying meaning of the MGIB. Education benefits, particularly the MGIB, are meant to be a readjustment benefit for service members immediately upon leaving the service or in the interim 10-year period. By eliminating this 10-year period, the benefit would then be opened up to a generation of veterans who may have long since passed the need for readjustment.

The one benefit that we do see to this legislation is it could allow a veteran to make a career change if he or she finds that their current career choice was not the right one. The availability of the MGIB benefit later in life would open many new doors. However, we do not want this change to open up the opportunity for veterans who may have retired from a career already to use the benefit simply to give them something to do. This could certainly occur.

#### The "Post-9/11 Veterans Educational Assistance Act"

PVA supports this bill that would enhance the current educational benefits for the men and women who have served on active duty since September 11, 2001. The dollar amount of educational assistance would be equal to the established charges of an approved institution. This would give the veteran a greater selection of institutions to pursue their education since they would not be restricted to less expensive institutions. An additional amount of funding would be paid for room and board, and a monthly stipend of \$1000 would be paid to the student for other expenses. Tutorial assistance would also be available, and would be paid for a period up to 12 months to help the student with difficult courses. This amount would not be taken from the student's entitlement. The bill allows the veteran up to 15 years to take advantage of these benefits. This is an important addition since many returning veterans may not be emotionally ready right away to start school. This educational package offers the veteran many incentives to encourage them to enroll in school or continue with their educational program.

#### The "Disabled Veterans Insurance Improvement Act"

PVA supports this proposed bill that provides for increases in the amount of insurance available for disabled veterans. Section 2 of the proposed legislation would increase the maximum coverage of Veterans' Mortgage Life Insurance from \$90,000 to \$200,000. This is a necessary increase in today's housing market. Section 3 of the legislation would increase the amount of term life insurance available to disabled veterans. The veteran can purchase insurance coverage amounts in increments of \$10,000 up to a maximum of \$50,000. These adjustments in the available insurance are important, particularly since disabled veterans generally have difficulty obtaining coverage.

#### Expanded Eligibility for Veterans' Mortgage Life Insurance

PVA supports this bill that would expand eligibility for Veterans' Mortgage Life Insurance. This bill would include members of the Armed Forces who have received housing modification grant assistance from VA for severely disabling conditions. Although military personnel may receive the VA housing grant to make modifications to a home to accommodate a medical condition, the Veterans' Mortgage Life Insurance program has not been available for the individual while they are still on active duty. This bill will correct this discrepancy. PVA supports the intention of this legislation, particularly if coupled with an increase in Veterans' Mortgage Life Insurance to reflect the value of homes of today. Often the amount the life insurance policy pays to a spouse when the veteran dies leaves the spouse with years of payments remaining.

#### The "Veterans Justice Assurance Act"

PVA opposes what we understand would essentially be life-time appointments for any newly nominated judge to the Veterans Court as outlined in Section 2 of this proposed legislation.

Recognizing the concern discussed in recent years about multiple judges retiring at the same time, we believe 15-year appointments, made on a staggered basis, adequately addresses this problem.

Furthermore, we believe that the periodic introduction of new judges of varying backgrounds and perspectives that occurs now through term limits is a significant value to the development of veteran's law jurisprudence. The difference between a 15-year term and a life-time appointment could conceivably be as much as 35-45 years. This time difference cuts multiple ways and could adversely affect the relationships among the judges, the bar and veterans in ways that are unknown at this time.

Realizing also that there is a perception that newly appointed judges are ineffective for a significant period of time, partly as a result of their learning process, and that a life-time appointment would result in the Veterans Court being populated with judges who are effective for longer periods of time, and even assuming that there is some truth to this perception, there are other ways in which Congress could address this issue. For example, Congress might take more care to encourage the nomination of judges who have some prior experience in Veterans Law. Congress could also ensure that the Court maintain an experienced and skilled central legal staff that would be in a position to assist newly appointed judges. Congress also may encourage the Court to look at creating a more active mentoring process, perhaps using retired judges, for newly appointed judges that-a practice that is used successfully in other Courts.

Ultimately, PVA believes that changing the term of a Veterans Court judge from a term of 15 years to a life time appointment is a significant departure from the current practice with many unknown consequences. This is not a direction that should be taken without a thorough understanding of what the change is intended to accomplish and without trying other less drastic alternatives.

PVA would also like to suggest a couple of changes to language included in the legislation. In Section 4, we would like to see the following language added: (d)(5)(B) "and other recognized bar associations." We would also like to see a new section "(E) The Veterans Pro Bono Consortium Program." These organizations would have valuable input and should not be excluded from the current list of organizations the chief judge might consult with. In Section 6, we would like to see the following language added: "(9) The number of appeals taken to the U.S. Court of Appeals for the Federal Circuit, to include the number of appeals taken by the Secretary."

PVA also has some concerns about the study proposed in Section 7 of the legislation. The study should also include the impact, if any, on PVA, (an entity that works with the Court and which currently leases space in the same commercial facility in which the Court is located) of establishing a dedicated Veterans Courthouse and Justice Center in the existing commercial facility. Currently, PVA leases space in the same commercial facility in which the Court is located. The study should consider whether additional provision should be required to ensure that PVA is not disadvantaged in any way vis-a-vis other entities that work with the Court and are not currently located in the same commercial facility as the Court.

## The "Veterans' Education and Vocational Benefits Enhancement Act"

The accelerated payment program was enacted in 2003 to address opportunities for veterans in the high tech industry. Intensive courses condensed into a few months offer an excellent opportunity for veterans to be certified in advanced levels of information technology knowledge. In less than the standard 36 months of normal classroom study, a student is ready to enter the work place. PVA supports this legislation. We likewise support the provision for accelerated payments for surviving spouses and dependents educational assistance.

PVA also supports Section 3 of the legislation that would enhance educational assistance for Reservists. However, we believe that more can be done in this area. The Independent Budget for FY 2008 includes some discussion about the concept for a Total Force Montgomery GI Bill to match the operational integration of active duty, National Guard, and Reserve service members. We call your attention to our recommendations and hope you will further address the educational needs of the men and women who are currently serving in harm's way.

## The "Comprehensive Veterans Benefits Improvement Act"

PVA generally supports the intentions of the proposed legislation. In fact, many of the provisions contained within this legislation are specifically addressed in recommendations of The Independent Budget for FY 2008. With this in mind, I will attempt to address each of the benefits provisions being considered today.

PVA supports Section 201 of the legislation as this is in accordance with the recommendations contained within The Independent Budget. It is time for Congress to enact legislation to totally repeal the inequitable requirement that military retirement pay, based on longevity, be offset by an amount equal to their earned VA disability compensation. Likewise, we support Section 202 which would increase the rates of compensation for service-connected veterans who are determined housebound or in need of regular aid and attendance. This is certainly an issue of prime concern for PVA as many of our members fall into this category.

PVA also supports the remaining Sections in Title II of the legislation in accordance with the recommendations of The Independent Budget. We would also recommend that the Committee consider legislation that would repeal the offset between dependency and indemnity compensation and the Survivor Benefit Plan.

PVA supports the provisions of Title IV regarding burial and memorial affairs as they also reflect the recommendations of The Independent Budget. We also appreciate the fact that the legislation includes automatic annual adjustments for these benefits. The only way to prevent the erosion of these benefits is to ensure that they keep pace with inflation.

Currently, the Department of Veterans Affairs (VA) has the authority to provide the Specially Adapted Housing (SAH) grant up to a maximum of \$50,000 to service-connected disabled veterans with severe disabilities. PVA fully supports Section 501 of this proposed legislation that would increase the amount of the grant from \$50,000 to \$60,000. PVA members are the highest users of this very important grant. This grant allows veterans with severe service-connected disabilities to realize the dream of owning their own home when they otherwise may not have

had the opportunity. PVA also supports the increase in the grant for veterans with service-connected blindness from \$10,000 to \$12,000.

In accordance with recommendations of The Independent Budget, we also support the provision that would require the VA Secretary to establish a residential home cost-of-construction index to be used to automatically adjust the amount of these grants each year. As the housing market has continued to boom, these grants have not kept pace. Without an annual adjustment to the grants, inflation will continue to erode their purchasing power.

Likewise, PVA supports Section 702 of the proposed legislation that would increase the adaptive automobile assistance grant. We are particularly pleased that the value of the grant is initially increased to a level commensurate with the original intent of this benefit.

Finally, with regards to this legislation, I would like to comment on the concept of Section 604 of the legislation. Although we have no problem with studying the claims process to determine measures to improve it, it is important to realize that this is no easy undertaking. Regardless of the findings and recommendations of any possible report, we believe that many of the problems in the Veterans Benefits Administration are centered on proper training and accountability. Without uniform training across all of VBA on the standards established in regulations, problems will continue to arise and the claims backlog will continue to grow. Furthermore, it is absolutely essential that VBA personnel at all levels be held accountable for their own actions and the actions of their subordinates. Although we continue to advocate for adequate resources and additional staff, these steps will not go far enough if training and accountability are not a major component. Similarly, we recognize that veterans' service organizations have a commensurate obligation to properly train and supervise their personnel.

In the meantime, it is important to realize that the disability evaluation process for the VA and the Department of Defense are meant to serve two entirely different purposes. Although recommendations may be made to expedite both processes, they do not operate together and they should not.

#### Permanent Authority to Furnish Government Headstones

P.L. 107-330 authorized the VA to provide government markers to veterans who have marked graves in private cemeteries. This legislation was meant to provide for recognition of those men and women who have served this Nation with honor. However, P.L. 107-330 only provided this benefit retroactively to veterans who died after September 11, 2001. It excluded veterans who died between November 1, 1990 and September 11, 2001. Prior to enactment of P.L. 107-330, the VA estimated that it denied more than 20,000 headstones or markers to these veterans. This legislation would make permanent this authority and correct this serious inequity. All veterans should be afforded the same recognition of their service following their death. PVA fully supports this proposed legislation.

#### The "Servicemembers' Cellular Phone Contract Fairness Act"

PVA fully supports the provisions of this proposed legislation. Just as we testified in 2003, when motor vehicle leases were added to the Servicemembers Civil Relief Act, it makes no sense to require a service member to maintain a cellular phone contract when they will have no opportunity to use it while on active duty and deployed. The inability of the service member to use the cellular phone service should preclude their requirement to pay for that service.



The "Veterans Outreach Improvement Act"

The "Veterans Outreach Improvement Act" is intended to improve outreach activities performed by the VA. It does so by creating a new budget line item for funding the outreach activities of the Veterans Health Administration (VHA), the Veterans Benefits Administration (VBA), and the National Cemetery Administration (NCA). This money is currently drawn from the budget line item for general operating expenses.

The bill also would create a structure within the VA to require the Office of the Secretary, the Office of Public Affairs, the VBA, the VHA, and the NCA to coordinate outreach activities. Coordinated activities could improve the efficiency of each office and make them more effective at providing for the needs of current veterans and new veterans who will be returning home from new conflicts. The legislation would also allow the VA to enter into cooperative agreements with State Departments of Veterans Affairs regarding outreach activities and would give the VA the authority to provide grants to these state departments. PVA supports the provisions this proposed legislation.

The "Veterans Mental Health Care and Advocacy Act"

PVA generally supports the provisions of the proposed legislation. If our interpretation of the statute and the proposed legislation is correct, Section 2 would allow veterans who experience Post-Traumatic Stress Disorder (PTSD) to receive medical care if that PTSD is the result of exposure to toxic agents or similar agents. We question how it was determined that this particular condition should be added to this part of the statute. The preceding sections in 1710(e) (1) designate veterans based on areas of service, not particular conditions incurred.

With respect to the pro bono legal assistance outlined in Section 3, PVA has no objection to this proposal. We would like to remind the Committee that PVA is currently a member of the Veterans Consortium Pro Bono Program. We would be glad to offer assistance to ensure that viable entities are chosen for these grants.

PVA appreciates the efforts of this Committee to address the broad range of benefits available to the men and women who have served and sacrificed so much for this country. We are particularly pleased that the Committee seems to have made improvements to educational assistance benefits a priority. We look forward to working with you to ensure that meaningful changes are made to best benefit veterans.

Thank you again for the opportunity to testify. I would be happy to answer any questions that you might have.