

Mr. Rick Surratt, Deputy National Legislative Director, Disabled American Veterans

STATEMENT OF  
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BEFORE THE  
COMMITTEE ON VETERANS' AFFAIRS  
UNITED STATES SENATE  
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Mr. Chairman and Members of the Committee:

I am happy to have the opportunity to appear before you to present the views of the Disabled American Veterans (DAV) on the various bills under consideration in today's hearing. Under its congressional charter, the DAV's legislative mission is focused on benefits and services provided to veterans on account of their service-connected disabilities. We are therefore pleased to support the bills insofar as they fall within that scope, but we are also pleased to observe and acknowledge the other beneficial purposes of these bills, which address issues that transcend our organizational mission and legislative focus, but which are of importance to many veterans and some of our members nonetheless.

S. 1234

The Veterans' Compensation Cost-of-Living Adjustment Act of 2005 would increase the rates of disability compensation, dependency and indemnity compensation (DIC), and the annual clothing allowance by the percentage of increase in the cost of living as measured by the Consumer Price Index. The increase would be effective December 1, 2005.

Adjustment annually for increases in the cost of living are necessary to avoid loss in the buying power of these benefits for disabled veterans and their survivors. The DAV supports S. 1234.

S. 1235

The Veterans' Benefits Improvement Act of 2005 would retain as permanent amendments certain temporary provisions in the Servicemembers' Group Life Insurance (SGLI) and Veterans' Group Life Insurance (VGLI) programs. Principally, these provisions increase the maximum life insurance coverage for servicemembers and veterans. In current law, they are set to expire September 30, 2005. The Act would also extend from 1 year to 2 years the time for conversion of an SGLI policy to a VGLI policy. In addition, it would remove the fixed limitation on the range of the annual adjustment of the interest rate for hybrid adjustable rate mortgages.

Among other things, Public Law 109-13 increased the insurance coverage under SGLI for a servicemember from \$250,000 to a maximum of \$400,000, or such lesser amount as the member may elect in an amount evenly divisible by \$50,000. It made a corresponding increase in the

coverage under VGLI from \$250,000 to \$400,000. This law amended provisions for SGLI to require the Secretary of Defense to notify the spouse of a member's election to decline coverage or to be insured in an amount less than the maximum \$400,000 or notify a beneficiary or next of kin of such election in the case of an unmarried member. It added a requirement that a member with a spouse must obtain written consent of the spouse to elect no coverage or to be insured for less than the maximum amount. It added a requirement that a member who elects to insure a spouse for an amount less than \$100,000 must do so in an amount evenly divisible by \$10,000 and only with written consent of the spouse. It created entitlement to insurance of \$150,000 on the life of an uninsured member who dies as a result of wounds, injuries, or illnesses incurred in a combat operation or zone or who formerly served in such an operation or zone and whose death is determined to be the direct result of injury or illness incurred or aggravated while so serving. For such member who was insured under SGLI, the law created increased entitlement to a maximum of \$400,000. These amendments were to be effective the first day of the first month that begins more than 90 days after May 11, 2005, and are to expire September 30, 2005.

S. 1235 adds a new requirement that the Secretary of Defense must make a good faith effort to notify the spouse if a member elects to reduce coverage on an insured member or name a beneficiary other than a spouse. Under this new provision, failure to notify will not affect validity of election by a member. No notice under this provision would be required where the member marries or remarries after making an election to reduce coverage or to name another beneficiary. The bill would permanently extend the \$400,000 maximum coverage for the servicemember. It would retain provisions that require the servicemember to elect an amount evenly divisible by \$50,000 for himself if he or she chooses coverage less than the maximum and an amount evenly divisible by \$10,000 for a member who elects to insure a spouse for an amount less than \$100,000. S. 1235 would make the \$400,000 maximum coverage for VGLI permanent and would, as noted, allow 2 years, instead of 1, for conversion of a policy of SGLI to VGLI. This bill's provisions would become effective upon the expiration of the related temporary provisions added by Public Law 109?13.

The bill would also amend section 3707A(c)(4) of title 38, United States Code, to authorize a single annual interest rate adjustment in such percentage as the VA Secretary may prescribe for a hybrid adjustable rate mortgage. Existing provisions limit any such increase or decrease to 1 percentage point.

The DAV has no mandate from its membership on these matters, but we have no objection to enactment of S. 1235.

#### S. 552

This bill would make technical amendments to section 2101 of title 38, United States Code, to restore provisions that authorize specially adapted housing assistance for certain active duty members of the Armed Forces. In amending the law last year to extend eligibility for housing assistance to veterans suffering from loss, or loss of use, of both upper extremities at or above the elbow, Congress inadvertently deleted provisions that authorize housing assistance to active duty members who have service-connected disabilities qualifying for this assistance. This bill would add the omitted provisions and make conforming amendments.

Providing assistance to these most seriously disabled servicemembers who need special home adaptations to enable mobility within the home is an important part of assisting them with the transition from institutionalization to independent living in their own homes, in their own civilian communities. Congress should move promptly to correct this unintended repeal of authority to provide special adapted housing to separating servicemembers. Providing this benefit at the earliest possible time is advantageous while requiring these disabled veterans to wait until they have been discharged and attain veteran status to begin the process of obtaining suitable housing can be counterproductive.

#### S. 917

This bill would amend sections 3761 and 3762 of title 38, United States Code, to replace provisions for a temporary pilot program for direct housing loans to Native American veterans with authority for a permanent program.

Native American veterans face special impediments to obtaining conventional financing for the purchase or construction of homes because they do not own the land, and trust lands cannot be used to secure the loans. Though the DAV has no resolution calling for this legislation, we firmly believe Native Americans who have served in our Armed Forces should have equal opportunities to share in the American dream of home ownership, and we appreciate the necessity of special provisions to enable VA to provide them direct loans.

We have no objection to the passage of this meritorious legislation.

#### S. 1252

This bill would increase the amount of supplemental life insurance available to totally disabled veterans under the Service-Disabled Veterans' Insurance program (SDVI). Currently, totally disabled veterans may acquire additional coverage of up to \$20,000 to supplement the \$10,000 coverage of the base policy. Under S. 1252, these veterans could supplement the base SDVI policy with added coverage up to \$40,000.

The DAV supports S. 1252. This would be a modest step toward increasing life insurance coverage to an amount more in line with today's income replacement needs for qualifying totally disabled veterans. However, we hope Congress remains mindful of the inadequacy of the \$10,000 maximum coverage available under the base policy. All other service-disabled veterans are limited to a maximum \$10,000 policy. This maximum is the same as set in 1917 when Congress first provided life insurance to servicemembers, who would later be insured under the same policies as veterans.

We also hope Congress will remain mindful of the detrimental effect of excessive premiums now charged for SDVI. Congress created the SDVI program to make life insurance available and affordable to service-disabled veterans who would otherwise be uninsurable or who would have to pay higher than standard rates because of their service-connected disabilities. The rates for SDVI were to be comparable to the rates for healthy persons in the commercial life insurance

market. However, because the law has not been updated, today's premiums are still indexed to 1941 mortality tables. Congress needs to act promptly to modernize the SDVI program with more adequate life insurance coverage and more reasonable premiums.

#### S. 151

The Veterans Benefits Outreach Act of 2005 would require the Secretary of Veterans Affairs to prepare annual plans for VA outreach activities. These plans must include measures to identify veterans who are not enrolled or registered for benefits or services with the Department and to inform veterans and their dependents of modifications to benefits and services, including eligibility for medical and nursing care and services. In development of a plan, the Secretary must consult with veterans organizations recognized under section 5902 of title 38, United States Code, and others involved in programs or services utilized by or extended to veterans. In developing a plan, the Secretary must also take into account successes and failures of measures employed in previous plans and incorporate recommendations for the improvement of veterans outreach activities included in a report submitted to Congress by the Secretary pursuant to the Veterans Benefits Improvement Act of 2004.

The mission of VA would be incomplete and its programs would be ineffective if it only passively received applications from those who may by chance learn of benefits available to them. When veterans and their programs are brought together, utilization is optimized, economies of scale are attained, and program goals are achieved. Program outcomes are improved. An essential part of VA's mission is therefore to seek out and educate veterans about the special programs created for their benefit, and incidentally, the ultimate benefit of society. Thus, VA must maintain, and adjust based on experience, an active, ongoing, and systematic project to create awareness among potentially eligible veterans of the special benefits and services provided for them. This bill would reinforce the authority and congressional mandate for VA outreach and would benefit veterans suffering from service-related disabilities who may be unaware of the range of benefits and services available to them. The DAV supports the bill.

#### S. 423

This bill would include a stillborn child as an "insurable dependent" under an SGLI policy. The DAV has no objection to legislation for this purpose.

We note that the bill would expand the definition of "insurable dependent" in section 1965(10) of title 38, United States Code, by adding stillborn children to the list. We also note that the bill does not similarly amend section 1967(a)(3)(A) of title 38, United States Code, to add stillborn child and the corresponding amount of insurance to the list of insureds. However, that would apparently be unnecessary inasmuch as the term "child" in section 1967(a)(3)(A)(iii) would now include a stillborn child as a result of this bill's technical conforming amendment of section 101(4)(A) by expanding its cross reference to the definition in section 1965 to include a stillborn child. Nonetheless, the drafting seems somewhat circuitous with consequent superfluous provisions.

Under section 101(4)(A), the definition for "child" means essentially a child who is dependent upon the veteran, with a parenthetical exception for chapter 19 of title 38 (life insurance

programs). Within that parenthetical exception to the general definition of a child is another parenthetical—an exception to the exception—which makes a child for purposes of section 1965 a child within the meaning of the general definition of section 101(4), that is, a dependent child. The conforming amendment in S. 423 would amend the definition of child in section 101(4) to include a stillborn child for purposes of section 1965, but in so doing would essentially define a child as including a stillborn child who is unmarried and (i) who is under the age of eighteen years; (ii) who, before obtaining the age of eighteen years, became permanently incapable of self-support; or (iii) who, after attaining the age of eighteen years and until completion of education or training (but not after attaining the age of twenty-three years), is pursuing a course of instruction at an approved educational institution. Additionally, under section 1968(a)(5) of title 38, United States Code, life insurance coverage for a stillborn child would continue for 120 days after the termination of the dependent's status as an insurable dependent of the member. Perhaps the conforming amendments could be revised to improve upon the congruity of the various statutory provisions.

#### S. 551

This bill would require the Secretary of Veterans Affairs to establish a national veterans cemetery in the metropolitan area of Colorado Springs, Colorado, and would require the Secretary to consult with appropriate state and local officials in site selection, and with the Administrator of General Services or other appropriate Federal officials of the United States on the availability of Federal lands in that area suitable for those purposes. The bill would also provide authority for acceptance of donated land and directs the Secretary to report to Congress his timetable for construction and an estimate of the costs of establishing the cemetery.

The DAV's members have adopted no resolution on this issue, but we have no objection to the enactment of this legislation that would make burial space available for veterans in the service area of the new cemetery.

#### S. 909

This bill would amend effective date provisions for Government grave marker eligibility in the case of a veteran whose grave is marked by a privately acquired marker. Prior to amendments in 1990, VA could provide a grave marker for an "unmarked" grave, or in lieu of furnishing a grave marker for such grave, could reimburse for a grave marker acquired privately. The 1990 legislation removed authority for reimbursement of the cost of a non-Government marker. By section 502(a) of the Veterans Education and Benefits Expansion Act of 2001, Public Law 107-103, Congress authorized VA to provide a Government marker notwithstanding that the grave is marked by a headstone or marker furnished at private expense. Eligibility for a marker under this amendment was for individuals dying on or after the date of enactment of the law, which was December 27, 2001. Section 203(b) of the Veterans Benefits Act of 2002, Public Law 107-330, amended this effective date to apply to individuals dying on or after September 11, 2001. The current bill would further amend the effective date to extend eligibility to individuals who died on or after November 1, 1990. The bill would ensure that all veterans who died after November 1, 1990, receive a grave marker where one is desired.

While the DAV has no resolution on this issue, the bill would accomplish a beneficial purpose, and we certainly have no objection to its passage.

#### S. 1138

By amendment to section 2409 of title 38, United States Code, this bill would authorize the Secretary of the Army to place a monument in Arlington National Cemetery to honor veterans who fought in World War II as members of United States Army Ranger battalions. The bill would give the Army Secretary exclusive authority to approve the design of and site for the monument. The DAV has no opposition to enactment of this bill.

#### S. 1259

The Veterans' Employment and Transition Services Act would extend the period for reporting by the Secretary of Veterans Affairs on the disposition of cases recommended for equitable relief. The Act would also direct the Secretary of Defense and the Secretary of Homeland Security to carry out a program to facilitate participation of veterans service organizations and other organizations in pre-separation counseling and services regarding veterans benefits, employment and training assistance, other transitional assistance, and medical care through VA. The bill would require that this separation counseling and transition assistance be provided by personnel not responsible for encouraging servicemembers to reenlist.

The bill would ensure access by the DAV and other organizations to military facilities for the purpose of counseling and aiding servicemembers transitioning to civilian life. The DAV supports its passage.

#### S. 1271

The Prisoners of War Benefits Act of 2005 would repeal the existing requirement that a former prisoner of war (POW) must have been interned a minimum of 30 days to qualify for the presumption of service connection in the case of several diseases for which the presumption applies. It would add heart disease, stroke, type 2 diabetes, and osteoporosis to the list of conditions that may be presumed service connected in the case of a POW. It would add authority for the Secretary of Veterans Affairs to administratively add to the list of presumptive diseases through rulemaking where the Secretary determines such presumption is warranted by reason of a demonstrated positive association between the disease and the experience of being a prisoner of war. A positive association would be deemed demonstrated where credible evidence of an association is at least equal to credible evidence against an association. In making determinations regarding the addition of diseases to the list, the Secretary is to consider recommendations from the Advisory Committee on Former Prisoners of War and is to consider other acceptable medical and scientific evidence. The bill requires the Secretary to make such a determination within 60 days after a recommendation from the POW Advisory Committee and to issue a proposed rule within 60 days of a determination that a presumption of service connection is warranted. Not later than 60 days after a determination that a presumption is not warranted,

the Secretary would be required to publish a notice in the Federal Register of such determination with an explanation of the basis for the determination. The bill also prescribes procedures for removal of diseases from the list where warranted and would preserve service connection for purposes of compensation and DIC in the case of diseases removed from the list.

In testimony on similar provisions in bills last year, the VA witness acknowledged that the conditions of internment could likely be associated with the diseases this bill would add to the list subject to presumptive service connection.

This bill is consistent with the DAV's resolution calling for expansion of the diseases recognized for presumption of service connection as associated with the circumstances of the prisoner of war experience. The DAV supports this measure to improve and expand the benefits for veterans who are among our most deserving, former prisoners of war.

## CLOSING

The several bills before the Committee today would enhance, expand, or make beneficial adjustments to benefits and services for veterans. The DAV appreciates the ongoing efforts of this Committee to improve and strengthen veterans programs, as well as the efforts and continuing support of the sponsors of these bills.