Department of Veterans Affairs: The Honorable Daniel L. Cooper, Under Secretary for Benefits, U.S. Department of Veterans Affairs, accompanied by ? ? Mr. Richard A. Wannemacher, Jr., Acting Under Secretary for Memorial Affairs; and ? Mr. John H. Thompson, Deputy General Counsel

STATEMENT OF
DANIEL L. COOPER,
UNDER SECRETARY FOR BENEFITS,
DEPARTMENT OF VETERANS AFFAIRS,
BEFORE THE
SENATE COMMITTEE ON VETERANS' AFFAIRS

June 23, 2005

Mr. Chairman and members of the Committee, I appreciate this opportunity to testify today on several bills concerning important programs administered by the Department of Veterans Affairs (VA).
S. 151

S. 151, the ?Veterans Benefits Outreach Act of 2005,? would require the Secretary of Veterans Affairs to prepare each year a plan for VA outreach activities for the following year. This bill would require that each annual plan include VA's plans for efforts to identify veterans who are not enrolled or registered with VA for benefits or services, as well as VA's plans for informing veterans and their dependents of changes to VA benefit programs, including eligibility for medical and nursing care and services. The Secretary, in developing an annual plan, would also be required to consult with officials of recognized veterans service organizations, officials of State and local education and training programs, representatives of non-governmental organizations that carry out veterans outreach programs, representatives of State and local veterans employment organizations, businesses and professional organizations, and other individuals and organizations that assist veterans in adjusting to civilian life. Furthermore, S. 151 would require the Secretary to take into account lessons learned from implementation of prior annual plans. Finally, S. 151 would require the Secretary to incorporate the recommendations for improvement of veterans outreach and awareness activities included in the report submitted to Congress by the Secretary pursuant to section 805 of the Veterans Benefits Improvement Act of 2004.
VA supports enactment of S. 151. Some of the outreach VA performs would be more difficult to plan, because it is in reaction to changes in statute or regulation, Congressional or media interest, or other current events; we nevertheless support enactment of this bill. We believe that no one should be deprived of an available veterans benefit because he or she did not know that such a benefit was available. Costs would be negligible.
S. 423
S. 423 would amend section 1965 of title 38, United States Code, to make a stillborn child an insurable dependent for purposes of the Servicemembers' Group Life Insurance (SGLI) program. The term ?stillborn natural child? would not include any fetus or child extracted for purposes of an abortion.
VA supports enactment of S. 423. Insuring stillborn infants under SGLI would directly benefit

those servicemembers and their families who tragically experience a stillbirth, by providing financial assistance at a time of need. This benefit would help defray medical care and burial or cremation costs incurred by a servicemember because of a stillbirth. A funeral for such a child can cost as much as $3000.

Private insurers do not generally insure stillborn children. In fact, private insurance coverage for a child typically does not begin until the fourteenth day after a live birth. Nevertheless, VA supports departing from the general industry practice on this issue because SGLI coverage for stillbirths would support servicemembers and their families, ease their suffering and distress during a family crisis, and improve morale.

The total cost to the SGLI program for adding stillborn coverage would be $4 million annually based on an estimate of 400 stillbirths per year with a benefit of $10,000 per stillbirth. The SGLI program would absorb all costs associated with implementation of S. 423. There would be no new cost to the Government.

S. 551

Section 1(a) of S. 551 would require VA to establish a national cemetery in the Colorado Springs, Colorado, metropolitan area. Section 1(b) would require VA to consult with Federal, State, and local officials before selecting a site for the cemetery. Section 1(c) would authorize VA to accept the gift of an appropriate parcel of real property, over which VA would have administrative jurisdiction, to be used to establish the cemetery. The property would be considered as a gift to the United States for purposes of Federal income, estate, and gift taxes. Finally, section 1(d) would require VA to report to Congress on the establishment of the cemetery, including an establishment schedule and estimated costs.

VA does not support S. 551. VA has established a veteran population threshold of 170,000 within a 75-mile radius as appropriate for establishing new national cemeteries. Veterans who reside in Colorado Springs are considered served by Fort Logan National Cemetery, which is 65 miles away. Fort Logan National Cemetery will have casket and cremation burial space available until 2021.

As required by law, VA is in the process of establishing 11 new national cemeteries. The locations for these cemeteries were determined from demographic studies of the veteran population, which allow VA to focus its efforts on areas that will serve the greatest number of veterans. The most recent demographic study of the veteran population, which was completed in 2002, did not indicate a need for a new national cemetery in Colorado.

As part of a planned comprehensive evaluation of the burial benefits and services provided to veterans and their families, VA will assess how well the current 75-mile-radius standard serves veterans. We will begin the program evaluation this year and keep Congress informed throughout the process. VA will use the findings and data from the evaluation in VA's strategic planning to improve service delivery.

The VA State Cemetery Grants program, however, is an option for providing additional burial options for veterans in the Colorado Springs area. Through this program, VA may provide up to 100 percent of the costs for establishing a state veterans cemetery, including the cost of initial operating equipment. VA recently worked with Colorado officials to establish a state veterans cemetery in Grand Junction and would be pleased to assist the State in exploring this option for Colorado Springs.

Based on recent experience, the cost for establishing new national cemeteries ranges from $20 million to $35 million, and the average annual operating costs ranges from $1 million to $2 million.

S. 552

S. 552 would make a technical correction to section 2101 of title 38, United States Code, as amended by section 401 of the Veterans Benefits Improvement Act of 2004, Public Law 108-454, regarding eligibility for specially adapted housing benefits. VA favors enactment of S. 552.

Section 401 of Public Law 108-454 granted eligibility for the ?full? $50,000 Specially Adapted Housing grant to veterans with a total and permanent service-connected disability as a result of the loss or loss-of-use of both upper extremities at or above the elbow. Unfortunately, section 401 also contained a technical drafting error that had the effect of repealing a recently enacted benefit.

Public Law 108-183, enacted December 16, 2003, granted eligibility for Specially Adapted Housing benefits to members of the Armed Forces who were still serving on active duty and who incurred qualifying disabilities in line of duty. That provision enabled severely-injured servicemembers awaiting medical discharge to receive a VA grant to adapt their homes to meet their special needs without having to wait for their discharges to become final. In amending section 2101 of title 38, United States Code, section 401 of Public Law 108-454 inadvertently deleted the language added by Public Law 108-183. S. 552 would restore the language added to section 2101 in 2003 retroactive to the enactment of Public Law 108 454.

Enactment of S. 552 would have no significant cost impact.

S. 909

S. 909 would expand eligibility for government markers by changing the applicability date of VA's current authority to provide a marker for the private-cemetery grave of a veteran regardless of whether the grave has been marked at private expense.

Pursuant to 38 U.S.C. § 2306(d)(1), VA is authorized to furnish a Government marker for the grave of an individual who is buried in a private cemetery, even if the gravesite is already privately marked. However, this authority extends only to individuals who died on or after September 11, 2001. S. 909 would authorize VA to furnish such markers for the graves of individuals who died on or after November 1, 1990.

VA supports enactment of S. 909. Under current law, if a veteran died before September 11, 2001, VA is authorized to furnish a Government headstone or marker only if the veteran's grave is unmarked. Although the current law has allowed VA to begin to meet the needs of families who view the Government-furnished marker as a means of honoring and publicly recognizing a veteran's military service, VA is now in the difficult position of having to deny this recognition based solely on when a veteran died.

Furthermore, the law has never precluded the addition of a privately purchased headstone to a grave after placement of a Government-furnished marker, even though this practice results in double marking. In contrast, if a private marker is placed on a veteran's grave in the first instance, a Government marker may not be provided if the veteran died before September 11, 2001. In our view, this creates an arbitrary distinction disadvantaging families who promptly obtained a private marker.

For veterans who died during the period from October 18, 1979, until November 1, 1990, when the Omnibus Budget Reconciliation Act of 1990 was enacted, VA may pay a headstone or marker allowance to those families who purchased a private headstone or marker in lieu of a Government headstone or marker. Therefore, those families also had an opportunity to benefit from the VA-marker program. S. 909 would, for the first time, permit families who bought a private marker for veterans who died between November 1, 1990, and September 11, 2001, to participate in the VA-marker program as well.

VA estimates that enactment of S. 909 would cost $90,000 during FY 2006 and $225,000 over the ten-year period FYs 2006-2015. VA pays for headstones and markers with funds from the Compensation and Pension appropriation account.

S. 917

S. 917 would make the Native American Direct Loan program permanent. This program began as a pilot program in October 1992. VA has made over 450 loans under this program to Native American veterans. This program is currently set to expire December 31, 2008.

Discussion is ongoing within the executive branch regarding this bill. We will inform the Committee of our position as soon as possible.

S. 1234

Section 2 of S. 1234, the "Veterans' Compensation Cost-of-Living Adjustment Act of 2005," would direct the Secretary of Veterans Affairs to administratively increase the rates of disability compensation for veterans with service-connected disabilities, additional compensation for their dependents, the clothing allowance, and dependency and indemnity compensation for the survivors of veterans whose deaths are service related, effective December 1, 2005. As provided in the President's FY 2006 budget request, the rate of increase would be the same as the cost-of-living adjustment (COLA) that will be provided under current law to veterans' pension and Social Security recipients. We believe this proposed COLA is necessary and appropriate to protect the benefits of affected veterans and their survivors from the eroding effects of inflation. These worthy beneficiaries deserve no less.

We estimate that enactment of this bill would cost $399 million during FY 2006 and $5.5 billion over the period FYs 2006-2015. However, because the cost is already assumed in the Budget baseline, enactment of this provision would not result in any additional cost.

S. 1235

Section 2 of S. 1235, the "Veterans' Benefits Improvement Act of 2005," would, effective October 1, 2005, make several changes to the SGLI and Veterans' Group Life Insurance (VGLI) programs. Section 2(a) would require the Secretary of Defense to make a good-faith effort to notify a servicemember's spouse whenever the servicemember reduces the amount of his or her SGLI coverage or designates someone other than his or her spouse as a beneficiary. If a servicemember marries or remarries after making such an election, the Secretary of Defense would not be required to provide the notification. Only elections made after marriage or remarriage would be subject to the notice requirement. Failure of the Secretary of Defense to provide timely notification would not affect the validity of any election by the servicemember. Because this bill would not extend the current law that goes into effect September 1, 2005, but instead defines a new program that would start when the current program expires on September 30, 2005, there are some potentially difficult administrative challenges that would unnecessarily burden both servicemembers and the Government. For example, married members who named a beneficiary other than a spouse or child under current law and whose spouses consented would once again have to fill out the paperwork required to designate the beneficiary, and the Government would have to notify the spouse. The Administration would like to work with Congress to ensure that these issues are addressed.

We note as well that, under 38 U.S.C. § 1968(a)(1), SGLI coverage terminates 120 days after separation or release from active duty or active duty for training, unless the servicemember is totally disabled on that date, in which event SGLI coverage terminates one year after separation or release from active duty or active duty for training. Also, section 1977(d) of title 38, United States Code, states that "any designation of beneficiary or beneficiaries for [SGLI] filed with a

uniformed service until changed, shall be considered a designation of beneficiary or beneficiaries for [VGLI], but not for more than sixty days after the effective date of the insured's [VGLI]." It is unclear whether the notification provision of section 2, which refers to a "member" of a uniformed service, would apply to any change in beneficiary designation that a servicemember would make within the 120-day period after discharge but prior to cessation of SGLI coverage or that a VGLI insured would make within the 60-day period referenced in section 1977(d). Also, if section 2(a) were applicable to VGLI beneficiary designations, it would be difficult to implement because the Office of Servicemembers' Group Life Insurance does not maintain data regarding a VGLI insured's marital status. We recommend that, if section 2(a) is enacted, it explain whether it is applicable to any change in beneficiary during these two periods of time.

Section 2(a) and (c) would increase the maximum amount of SGLI and VGLI to $400,000. These provisions would extend the increase to $400,000 made by section 1012 of Pub. L. No. 109-13, which will terminate on September 30, 2005. Section 2(a) would also permit a servicemember to elect an amount of SGLI less than the maximum available provided the amount of coverage on the member is evenly divisible by $50,000, rather than $10,000, as currently provided by law.

VA supports enactment of these provisions because they provide the opportunity for servicemembers to increase insurance protection for their families. Permitting coverage in multiples of $50,000 would simplify the administration of the SGLI program and would align with the proposal by the Administration.

Section 2(b) would amend 38 U.S.C. § 1968(a)(1)(A) and (4) to extend from one year to two years the period in which a totally disabled SGLI insured can convert SGLI to VGLI. VA supports this provision because many totally disabled insureds cannot complete post-separation financial planning within one year due to the severity of their disabilities. Extending the SGLI post-service coverage period to two years would enable some totally disabled veterans who would be unable to obtain commercial life insurance to obtain VGLI. Extending the period would also allow VA to conduct additional outreach to totally disabled veterans and inform them about the opportunity to convert their SGLI to VGLI. There would be no cost to the Government; additional costs would be borne by the SGLI program.

Section 3 of S. 1235 contains a technical drafting error. As written, it would strike from section 3707(c)(4) of title 38, United States Code, language that does not appear in that provision. We believe section 3 was intended to amend section 3707A(c)(4) of title 38, United States Code, which pertains to Hybrid Adjustable Rate Mortgages (Hybrid ARMs).

Currently, section 3707A(c)(4) limits annual interest rate adjustments, after the first such adjustment, on Hybrid ARMs to one percentage point. Assuming that the amendment proposed by section 3 of the bill were made to section 3707A(c)(4) rather than section 3707(c)(4), the annual interest rate adjustment after the first adjustment on VA Hybrid ARMs could be for such percentage points as prescribed by the Secretary. VA favors such an amendment to section 3707A.

Most hybrid ARMs insured by the Department of Housing and Urban Development currently allow subsequent annual interest rate adjustments in excess of one percentage point. Because VA Hybrid ARMs are limited to one percentage point, the Government National Mortgage Association (also known as ?Ginnie Mae?) has not been willing to pool VA Hybrid ARMs. That has limited the availability of VA Hybrid ARMs. VA believes that veterans using their earned housing loan entitlement should have access to the same financing alternatives, such as Hybrid ARMs, that are available under Federal Housing Administration and conventional loan

programs.

S. 1138, S. 1252, S. 1259, S. 1271

Unfortunately, we did not receive the text of S. 1252, the ?Disabled Veterans Insurance Improvement Act,? S. 1259, the ?Veterans Employment and Transition Services Act,? or S. 1271, the ?Prisoner of War Benefits Act of 2005,? in time to be able to state our views on those bills. We will be happy to provide the Committee with official views and estimates once the necessary executive branch coordination has been completed. S. 1138, a bill to authorize placement in Arlington National Cemetery of a monument honoring veterans who fought in World War II as members of Army Ranger Battalions, was also recently added to the hearing agenda. We will provide our comments on this bill to the Committee after completing necessary executive branch coordination.