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STATEMENT OF
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DAV NATIONAL LEGISLATIVE DIRECTOR
BEFORE THE
COMMITTEE ON VETERANS' AFFAIRS
UNITED STATES SENATE
JUNE 5, 2014

Chairman Sanders and Members of the Committee:

On behalf of the DAV (Disabled American Veterans) and our 1.2 million members, all of whom were wounded, injured or made ill in military service, I am pleased to present our views on several of the legislative measures that are of particular interest to the Committee or to DAV and our members. I will only comment on those bills for which DAV has a resolution or concerns about the measure.

S. 1637

The United We Stand to Hire Veterans Act would require the Secretaries of Labor, in conjunction with the Secretaries of Defense and Veterans Affairs, to consolidate government internet portals on employment for current members of the armed forces and for veterans into one comprehensive portal for the purposes of connecting these individuals who are seeking employment opportunities. It authorizes the Secretaries, in order to expedite implementation of such a consolidated portal, to carry out pilot projects to evaluate the feasibility and advisability of various portal options by continuing or modifying existing programs.

Facilitating such a website would improve employment opportunities for current active duty service members who are transitioning out of the military and would allow veterans the opportunity to utilize this valuable resource as well. Veterans who have registered for any of the current employment portals could "opt-out" if they no longer desired to keep their information posted on this new consolidated website.

DAV supports enactment of such legislation consistent with our organization's statement of policy, DAV Resolution No. 001.

S. 1662

The Veterans Health Care Improvement Act of 2013 would require VA to report to Congress a plan to introduce "pay for performance" standards in any VA community-based outpatient clinic (CBOC) that is operated through a contract with VA. We believe about 150 or

more of VA's nearly 900 CBOCs are private facilities in a contractual relationship with VA. The bill would require VA to implement its plan in pay-for-performance within 60 days after submission of the required plan to Congress.

Historically, many of the approximately 150 contractors, which are mostly rural and remote, have expressed concerns that they are significantly underpaid for the work they are required to do for veterans under their variable contracts with VA Veterans Integrated Service Networks (VISN) and with individual VA medical centers.

We are concerned that the bill would force VA to implement untested concepts without proper research or preparation, which could be addressed if this were first tested as a pilot program in a few selected sites to determine whether its intent can be carried out appropriately to achieve the bill's goals as articulated in section 2 of the bill. Also, the bill does not take into account the existing VA contracts governing these CBOCs. The implementation nationwide of a bill such as this one would likely cause a considerable amount of administrative difficulty, if existing contract arrangements would need to be altered because of the bill's requirements.

As the Committee is aware, recent history has yielded some positive results in scientific research on models of pay-for-performance in health care delivery, yet there is a relative lack of evidence on the long-term effects of behaviors from this method of reimbursement.

While evidence is now emerging that carefully constructed pay-for-performance programs can lead to improvements in quality of care for appropriately incentivized activities, DAV is concerned about potential unintended consequences. As we have seen with VA's performance measures—a form of pay-for-performance—on timely access to VA care, financial incentives could lead to neglect of aspects of patient care that are not incentivized and could increase existing health inequalities.

Also, it should be noted that VA's contractual methods for obtaining CBOCs are not uniform throughout the VA system. The *Independent Budget* for Fiscal Year 2015, which DAV coauthored with our partners, discussed this contract variability and recommended the VISNs use a more uniform approach in addressing their contract CBOC relationships. On this basis, and since we have not had sufficient time to thoroughly examine the bill itself thoroughly prior to today's hearing to consider its full implications, we ask that the Committee defer further consideration on this proposal.

S. 1682

The Veterans Education Counseling Act of 2013 would modify provisions relating to educational and vocational counseling for veterans to provide a program of counseling services to be known as the Academic Counseling and Educational Information Service. The bill would require the Secretary of VA to make available to veterans information about the definitions, eligibility requirements, and services provided by such counseling and how such counseling services differ from those provided as part of rehabilitation and readjustment assistance programs for veterans. Also, it would require VA to maintain a website through which a veteran or another eligible person is able to request vocational or educational counseling services.

This bill would establish the primary goal of such counseling services to provide individuals with assistance in pursuing post-secondary education and training opportunities; obtaining information about and data on such opportunities; selecting a program of education or training; and, addressing other needs relating to education.

The Secretary of Veterans Affairs would be required to maintain a website that individuals could use to request such services. The information supplied on the website would be delineated from information relevant to services under section 3104(a)(2) of title 38, United States Code. The legislation also requires the website to offer related assistance to veterans accessing VA services, such as applications for benefits under Chapter 31 of title 38, United States Code.

The ultimate goal of the services established under this bill would be to provide career-related employment opportunities to those pursuing post-secondary education and training, and addressing other needs related to their education.

The revision to this section would also clarify who is entitled to services under section 3104(a)(2), title 38, United States Code, to distinguish between counseling services available to those within the Vocational Rehabilitation Chapter 31 program.

DAV has not received a resolution from our membership pertaining to the topic of this legislation. Thus, DAV takes no position on the bill. However, DAV is concerned that, without additional funding, these enhancements could erode services currently being provided to Vocational Rehabilitation & Employment (VR&E) beneficiaries.

DAV appreciates the intent of the bill, but unless additional dedicated funding is provided to VR&E to pay for these new services, the benefits of this legislation could come at the expense of wounded, ill or injured veterans already relying on existing VR&E programs. As we have seen in the past, unfunded mandates merely heighten expectations without allowing VA to meet those expectations unless other services are rationed.

S. 1717

The Servicemember Education Reform and Vocational Enhancement, the *SERVE Act of 2013*, would require that all educational and vocational courses approved by the Secretary of VA or a state approving agency (SAA) must be offered by an institution of higher education that has entered into and is complying with a program approved by the Secretary of Education. However, the bill would provide a set of conditions under which the VA Secretary or an SAA may make an exception and approve a course that does not lead to an associate or higher degree or is not so approved.

Of concern to DAV is this bill's impact on veterans and others receiving education benefits under Chapters 31 and 35, Vocational Rehabilitation and Dependents Educational Assistance, of title 38, United States Code. Within these programs, traditional educational paths may be unconducive to an eligible individual, given his or her unique set of circumstances. The

wounded, ill or injured veteran may need a non-traditional approach to obtain training and education that leads to employment, or to independent daily living. The nature of the veteran's service-connected disabilities may require approaches deemed necessary by a Vocational Rehabilitation Counselor, to achieve an intended goal. Therefore, the Secretary must retain a broad waiver authority to ensure veterans with disabilities receive the services they earned.

The bill would expand reporting requirements, with a focus on ensuring educational institutions are conducting their programs for veterans as intended by law. The bill would grant the Secretary authority to obtain relevant information from institutions providing courses to veterans. The Secretary would also be empowered to disapprove courses offered to veterans if a providing institution failed to comply with VA requests for information.

The bill would require each SAA to coordinate with the Secretary of Defense to ensure that information on educational assistance available under chapters 30 through 35 of title 38, United States Code, is made readily available as part of the Transition Assistance Program (TAP) of the Department of Defense (DOD) occurring in the state of the SAA, under standards prescribed in the bill.

DAV has no resolution from our membership pertaining to this issue; nevertheless, we are concerned that Chapter 31 and 35 participants may be adversely affected if their unique needs and individual circumstances are not accounted for or accommodated, should the bill in its current form be enacted.

S. 1740

The Department of Veterans Affairs Major Medical Facility Lease Authorization Act of 2013, would authorize the Secretary of VA to carry out specified major medical facility leases in New Mexico, New Jersey, South Carolina, Georgia, Hawaii, Kansas, Louisiana, Florida, Puerto Rico, Texas, California, Connecticut, Massachusetts, Missouri, Tennessee, Illinois, Nebraska, Arizona, and Oklahoma.

This bill, similar to H.R. 3521, passed by the House of Representatives earlier in the first session of this Congress, as well as in your omnibus bill, S. 1982, and in your new bill, S. 2413, being considered today as well. This bill would authorize 27 major VA medical facility leases, most of them to support VA's primary care mission in community-based outpatient clinics. The bill would also address and hopefully resolve an ongoing dispute between the Congressional Budget Office (CBO), VA, and the Office of Management and Budget (OMB), on budgetary treatment of such leases. Over the past 18 months during this dispute that these facilities were delayed, we have been very disturbed that care to over 300,000 veterans was withheld.

We support this bill on the strength of DAV's resolution calling for expanded access to convenient primary care for wounded, injured and ill veterans (Resolution No. 186), on DAV's resolution supporting improvements to VA's health care infrastructure (Resolution No. 188), and on DAV's resolution supporting the needs of rural veterans (Resolution No. 211). DAV again urges its passage at the earliest possible date. In addition, we urge this Committee to work with your colleagues in the Senate and the House, together with the Administration, to quickly and

permanently resolve the OMB-CBO disagreement on budget treatment for these and future VA capital leases.

S. 1751

S. 1751 would extend and expand VA's authority to enter into contracts with private physicians to conduct medical disability examinations as an important tool in processing the volume of pending and future claims for compensation. Under this legislation, VA's authority to contract for disability examinations would be extended until December 31, 2016; it is currently set to expire at the end of this year. The bill would also expand from 10 to 15 the number of VA regional offices (VARO) that could participate in this pilot program. Finally, the legislation would allow licensed physicians under VA contract who are performing disability examinations to conduct such examinations in any state without having to be licensed in that particular state, the same federal supremacy standard applied historically to VA-employed physicians.

Over the past decade, DAV National Service Officers (NSOs) have found that the quality and timeliness of compensation examinations conducted by contractors was generally as good as, and sometimes better than, disability examinations conducted by VA physicians, who are usually more focused on treating veterans rather than evaluating the degree of their disabilities. Moreover, with demand for VA medical care rising, it is important that VA's treating physicians, particularly specialists, remain focused on providing care to their patients. In addition, the more technologically advanced and user-friendly scheduling and IT systems used by some contractors have also contributed to higher satisfaction scores from veterans receiving contract examinations. For these reasons, we support extending the authorization for at least an additional two years to ensure that the Veterans Benefits Administration (VBA) continues to possess this tool to help reach timely claims decisions. We would even recommend that this Committee consider whether it might be more cost efficient to extend the authorization for more than two years if that would help to reduce the average annual cost and conserve precious budgetary resources.

For many of the reasons stated, DAV would also support expanding the pilot program to more than 15 VAROs; in fact we do not believe an arbitrary cap should be placed on the number of VAROs allowed to use contract examiners. The decision to use or not use contract examiners should be made solely by VBA and VAROs participating in the current pilot program based on workload, local capacity and available resources. If contract disability compensation examinations provide the same or better quality and timeliness, at the same or less cost per examination compared to the actual cost of using VA physicians, we find no compelling reason to limit their use to only 10, or even 15, VAROs. As such, we recommend that the Committee consider removing altogether the limitation on the number of participating VAROs, thereby allowing each individual VARO to determine when and if it uses contract examiners, and base its decisions solely on the best interests of veterans.

S. 1863

S. 1863 would require the VA to establish an internet-based, online continuing medical education program focused on increasing knowledge about veterans and their families among private practitioners, including physicians, nurses, physician assistants, psychologists,

psychiatrists, and others as determined by the Secretary. The program would be intended to improve their knowledge of the health care needs of veterans and provide familiarity of federal programs, including VA, that are available to meet veterans' needs. Under the bill, individual practitioners who participate would do so without charge. The Secretary would be required to gain accreditation of this program in as many states as practicable, consistent with existing rules and regulations of the states concerned.

DAV has no resolution dealing with this particular topic, but we have no objection to enactment of this bill. Advancing public knowledge of veterans and their needs, and federal programs designed to aid them, would help to increase understanding of veterans in the private health sector, and is consistent with VA's obligated outreach responsibilities to make efforts to inform veterans and their families of the benefits and services to which they are entitled.

S. 1892

S. 1892 would direct the VA Secretary to establish and maintain a registry to be known as the "Canadian Forces Base Gagetown Health Registry," a registry that would be intended to gather and archive the names and other information of every person who was stationed at, or underwent training at, Canadian Forces Base Gagetown, New Brunswick, Canada, from January 1, 1956 to December 31, 2006. The registry would also include American veterans who have applied for care or services from VA related to such service; filed a disability compensation claim associated with such service; died and were survived by a spouse, child, or parent who filed a claim for dependency and indemnity compensation on the basis of such service; requests a health examination from VA; or who received such examination and requested inclusion in the registry. The measure would require the VA Secretary to provide the examination, as well as consultation and counseling regarding examination results to the individual, and furnish counseling and consultation to family members of a deceased service member or veteran upon request.

Also, this bill would direct the Secretary to notify individuals in the registry of significant developments in research on the health consequences of potential exposure to a toxic substance or environmental hazard related to service at Gagetown; carry out appropriate outreach activities with respect to health examinations, consultation, and counseling; provide for a study by an independent entity, not affiliated with the VA, on the potential exposure of individuals to toxic substances or environmental hazards related to service at Gagetown; and, submit an annual report on the registry to the House and Senate Committees on Veterans' Affairs.

DAV has two resolutions that correspond to the intent of this bill: Resolution No. 044 calls for support of legislation to provide for service connection for disabling conditions resulting from toxic and environmental exposures. Resolution No. 190 calls on VA to improve the care and benefits for veterans exposed to military toxic and environmental hazards. In addition, this resolution calls for collaboration between the DOD and VA to share necessary deployment and known health and exposure data from military operations and deployments in order to address the subsequent health concerns of disabled veterans. Thus, we strongly support this bill.

The Committee should note that costs of establishing this registry are not dealt with in the bill. The VA's identifying these individuals, making notifications, providing outreach, funding an independent study, in addition to establishing and maintaining the registry itself, may be more than trivial in cost. We would also point out to the Committee that the government of Canada may, or should, bear some or even most of the responsibility for these exposures of our service members at Gagetown. As the Committee considers the merits of this bill, we ask that it also consider an effort to outreach to Canadian officials to determine whether this authority could become a nation-to-nation reimbursement of any new costs of VA disability compensation and care provided by VA to veterans based on their exposures at Gagetown.

DAV continues to believe that our government has a responsibility and liability to veterans and their families who may have been exposed to toxic substances on military bases here or abroad. We question, however, why this bill would task VA with such an unfunded mandate.

S. 2009

The Rural Veterans Improvement Act of 2014, would establish a new VA contracting authority covering rural veterans (including veterans who are members of Indian tribes) who are challenged by specific mental illnesses or any other health conditions that were incurred during active duty. Criteria for such contracting would be triggered by VA's limitations in providing direct care across a series of circumstances, including VA's inability to respond, the distance involved, or impracticality of serving this population. The bill would limit the cost of such contract services to the amount VA would have expended for similar care if a veteran were able to have received this care or services directly from VA.

Another provision of the bill would require VA to report to Congress on the effectiveness of its use of complementary and alternative medicine in treating veterans for any illnesses they incurred in military service.

The bill would also establish a VA grant program to provide rural and highly rural veterans transportation to VA CBOCs. These grants, limited to $100,000 each, would be awarded to state veterans agencies, VA-recognized veterans service organizations, and tribal organizations.

DAV has no resolution urging transportation grants be established along the lines of this bill, but offers no opposition to the proposal in this section of the bill. The Committee should note that DAV will neither apply for, nor accept, federal grants or money awards in any form, and we do not encourage DAV Departments or Chapters to apply for such programs.

This bill would also establish a five-year pilot program to provide tax-free housing allowances to VA health care providers (including those who would agree to become VA health care providers to gain the benefit of housing subsidy) who accept assignment to practice in rural and highly rural VA CBOCs. The bill would establish standards for participation and conditions on the payment of such housing allowances, as well as apply time limits and other criteria. The payments that would be authorized in this pilot program would be equivalent to housing

allowances paid under current law to active duty military service members who are eligible under title 10, United States Code.

The bill would require a series of reports to Congress on the effectiveness of the pilot program in encouraging providers to accept these assignments. Unless additional dedicated funding is provided the cost of the pilot program would be taken from the Medical Services appropriation and reduce the availability of resources for existing programs, thus creating an unfunded mandate that has the effect of increasing costs and forcing VA to ration other services.

The bill also would provide an incentive for military medical professionals leaving active duty to transition to employment in the Veterans Health Administration (VHA).

This bill would require the VA to periodically assess and to report to Congress the status of rural and highly rural CBOCs, to determine whether they require expansion or improvement, including topics related to space, broadband technology, parking, capacity and other factors affecting patient care. As part of this assessment, VA would be required to survey its health care providers in rural and highly rural CBOCs as to the strengths and weaknesses of the facilities, and any areas that may need improvement.

On the strength of DAV's resolution to support expanded access to care for wounded, injured and ill veterans (Resolution No. 186), and in conjunction with our resolution on access to VA health care for rural veterans (Resolution No. 211), we support the purposes of this bill. However, the bill assumes the Medical Services appropriation is sufficient to absorb the additional costs that would be incurred from these various expansions of care, a new grant program, and housing subsidies for physicians working in remote VA locations. Given VA's well-documented difficulties with access to care, we ask the Committee to consider amending the bill to provide a specific appropriations authorization to accompany this expansion of the cost of rural care.

The bill would require VA to report to Congress the advisability and feasibility of establishing rural VA polytrauma health care facilities, and would provide criteria to govern and guide this report. Based on DAV Resolution No. 209, supporting VA polytrauma centers, DAV supports the purposes of this report.

S. 2013

S. 2013, the *Department of Veterans Affairs Management Accountability Act of 2014*, would provide the Secretary with a new authority to remove or demote any individual from the Senior Executive Service whenever the Secretary determines the performance of the individual warrants such removal. The Secretary would be able to remove the individual completely from federal service or transfer the individual to a General Schedule position at any grade the Secretary determined appropriate.

DAV agrees that the Secretary must have the ability to hold all employees accountable for performing their duties in order to ensure that veterans receive all of the benefits and services they have earned. We have long advocated that VA must place accountability at the core of its

efforts to reform the claims processing system and end the backlog. Accountability must be applied effectively to ensure that the health care system furnishes timely, quality care to all enrolled veterans. While S. 2013 is intended to provide the Secretary a new tool to remove employees, former Secretary Shinseki recently testified that the VA already has sufficient tools to hold all VA employees fully accountable. DAV is unclear how this legislation would interact with VA's existing accountability and due-process statutes affecting all federal employees. DAV is also concerned about the potential for adverse impact of this legislation on VA's ability to hire and retain quality executives to administer VA programs.

S. 2091

S. 2091, the *21st Century Veterans Benefits Delivery Act*, would make a number of changes in how VBA processes and delivers benefits to veterans.

Section 101 of the bill would mandate that TAP be made available through the e-Benefits website to provide service members and their families with the option to participate online. Although this enhancement to TAP does not appear to compromise the requirements set forth under title 10, United States Code, section 1144, DAV would recommend the online option be offered when a service member is unable to attend the formal TAP class and not substitute for the requirement to attend in person.

Section 102 would require the Secretary to encourage the use of prescribed forms by each individual seeking to file a claim for a specific benefit, when such form exists. DAV understands the importance of using proper form(s) when filing claims with the VA and has adopted this standard as a basic business practice during our interactions with veterans. While we understand the need for veterans to use prescribed forms when making certain filings with the VA, there are some instances where a claimant may encounter difficulties using a standard form. In these cases, VA must continue to exercise flexibility when a claimant seeks entitlement to a benefit and his or her intentions can be reasonably construed.

Section 103 would require automated notification of resources available to a claimant when an e-Benefits account is established. These notices would provide relevant information pertaining to fully developed claims filing and the availability of organizations, such as accredited VSOs and others that provide assistance with such filings. Notice would be supplied to the claimant within the e-Benefits portal, and the claimant would also receive a second notification, which method would be selected by the claimant. The more information supplied to potential claimants regarding their options will allow them to make a more educated decision before undertaking any action before the VA. DAV appreciates the intent of this bill to ensure that claimants understand the advantage to claimants who work with organizations recognized by the Secretary to provide representation.

Section 104 would extend to September 30, 2020, VA's authority to issue retroactive awards up to one year for original claims filed under the Fully Developed Claim (FDC) program. This authority creates an incentive for claimants filing original claims to make their initial application using the FDC process, and provides them an effective date of up to one year prior to the date they filed their claim.

Section 105 would require that claims decisions explain the procedures for obtaining review of the decision and the benefits of filing for review of the decision within 180 days. Although filing an appeal more quickly can get an earlier docket date, there are many reasons why a veteran might choose to file an appeal in more than 180 days. For example, in some instances ensuring that the appeal is more complete, even if filed later, can get to a favorable resolution more quickly. Given the variety of circumstances facing veterans, it would be difficult to provide a clear and complete explanation of benefits and risks involved in how quickly an appeal is filed. We believe that this type of information is best provided by a trained and accredited service officer who can review the claims decision with the veteran.

Section 106 would require the Secretary to use VA form 21-0958, or such other form as the Secretary may require, for the purposes of filing notices of disagreement under section 7105(b) of title 38, United States Code. This would require potential appellants to use a standardized form, now the VAF 21-0958, when filing their Notice of Disagreements (NOD's.) Although we do not oppose the move to standardized forms, there are some additional issues that must be considered, which DAV noted in our comments to the Federal Register when the Department of Veterans Affairs proposed a rule change that would have required claimants to submit their NOD on a prescribed form. While we generally agreed with this concept as a means of gaining efficiencies through standardized filing practices, the proposed rule failed to safeguard those appellants that could run into difficulties meeting the stringent requirement. In instances where a claimant failed to use, or does not fully complete the prescribed form, there was a danger of losing their appellate rights. To assure claimants are not unintentionally harmed and lose out on their appellate rights in instances where the proper form has not been completed, or when the form cannot be accepted due to some defect, we suggested that claimants be sent the proper form to complete, or to complete the portions required to satisfy the requirement and given the remainder of the one-year appellate period to satisfy the request. In instances where there would be less than 60 days remaining in the appellate period, a claimant must be allowed additional time from the date VA notifies the claimant of the information required to satisfy to requirement.

Section 107 would allow the Board of Veterans' Appeals (BVA) to schedule video conference hearings as the default hearing for appeals, rather than in-person hearings, but would preserve the right of appellants to choose an in-person hearing either at the Board or Regional Office at a travel Board. Although DAV does not oppose giving BVA the ability to schedule video hearings, we would oppose any legislation that did not preserve the appellant's right to request the type of hearing best suited to their needs.

Section 201 would require the Comptroller General of the United States to complete an audit of the regional offices of the VBA. The audit would include such factors as consistency of decisions being made with respect to claims for benefits under laws administered by the Secretary of Veterans Affairs and identify ways in which the consistency of such decisions can be improved. The Comptroller General would identify factors and best practices, including management practices that distinguish higher performing regional offices from other regional offices and best practices employed by higher performing regional offices that distinguish the

performance of such offices from other regional offices. We would welcome the findings of such a report as it may be useful to improving the overall VA claims processing operations.

Section 202 would require the Secretary to complete a study on covered disabilities using historical data regarding service-connected disabilities. The study would be required of covered disabilities. These service-connected disabilities would be those the Secretary determines is of a type or class of disability or condition that the average impairment of earning capacity resulting from such disability or condition increases as the individual with such disability or condition ages. An analysis of historical statistics and information related to the progressive nature of covered disabilities would be compiled in terms of increased impairment of earning capacity caused by the disabilities would be included in the study. Recommendations for legislative and administrative action would be required that use statistics and information described to adjudicate more quickly claims for increased disability compensation. Additionally, recommendations to adjudicate more quickly disability compensation claims of veterans who had specific military occupation specialties when serving in the Armed Forces would be required.

DAV welcomes the findings of the report as it may be useful to improving the overall processing of claims, also the opportunity to make comments regarding any recommendations the Secretary may have based on the findings of this study.

Section 203 would extend and expand VA's authority to enter into contracts with private physicians to conduct medical disability examinations as an important tool in processing the volume of pending and future claims for disability compensation. Under this legislation, VA's authority to contract for disability examinations would be extended until December 31, 2016; it is currently set to expire at the end of this year. The bill would also expand from 10 to 15 the number of VA Regional Offices (VAROs) that could participate in this pilot program. We support these provisions and would also recommend that VA consider whether it might be more cost efficient to extend the authorization further than two years if that would help to reduce the average annual cost and conserve precious budgetary resources.

The legislation would also allow licensed physicians under a VA contract who are performing disability examinations for claims to conduct such examinations in any state without having to be licensed in that particular state. DAV does not have a resolution on allowing licensed physicians to conduct medical disability examinations across state lines and we have no position on that provision.

Section 204 would require the Secretary to develop and implement a plan to establish a uniform mail processing and scanning system throughout the regional offices of the VBA. This initiative is in fact underway at the present time and is envisioned as the centralized mail concept. This process intends to alleviate the responsibility at the RO level to process and direct correspondence received from, or on behalf of claimants. VBA expects full roll-out of the centralized mail concept process by sometime in late July 2014. These functions would be handled through approved scanning vendors at sites in Georgia and Wisconsin. Mail received at the Georgia and Wisconsin processing sites would be sorted and date stamped, then scanned and converted either into a PDF document. The information from these documents would then be

extracted and uploaded into VBMS and made available to RO personnel, thus available to anyone who works within the VBMS virtual claims processing environment. This entire process, from receipt at scanning facility to availability within VBMS, is expected to take no longer than five days.

We have several concerns regarding this new process, specifically, correspondence from VBA directing claimants to send their information directly to these processing sites, thus bypassing VSO review of this information at the RO level. Will these processing sites serve as true scanning facilities, thus scanning irrelevant information that would have otherwise been identified through the current process and in turn complicate the electronic adjudication process? What does VA plan to do with the paper documents they scanned? Will they be stored, returned to the claimant or destroyed? Continued VSO involvement in making these decisions is certainly required and any plan of the Secretary must include our input throughout the entirety of the process.

Section 205 would require the Inspector General (IG) of the VA to conduct a review of the practices of regional offices of the Department regarding the use of suspense dates during the disability claim assessment process. The intent of this legislation is unclear, but we presume that IG would be expected to report on whether VBA is following its own protocol for specific controls/suspense's established for claim processing. We would welcome the findings of the report as it may be useful to improving the overall processing of claims.

Section 206 would require the Secretary to submit a report to Congress semiannually on the progress of implementing the Veterans Benefits Management System (VBMS), until the IG of the VA certifies to Congress that VBMS is implemented and fully functional. We would recommend that any report not only contain the progress and its relevance to implementation, but also anticipated enhancements to this platform and its interoperability with other systems within the VA.

DAV has voiced concerns that there are other filing options, specifically, within the education business lines of the VA, and it could become confusing for some clients to understand which process requires electronic filings rather than paper filings. We have recommended that VBMS support the full range of benefits processing for education programs, such as those associated with Chapter 31 Vocational Rehabilitation and Employment services. Thus, before VBMS can be certified as "fully operational," DAV would suggest that it fully support all business functions within VBA.

Section 207 would require Secretary to submit to the Committees on Veterans' Affairs of the Senate and House a report on the capacity of the VBA to process claims for benefits during the next one-year period. This report would contain the number of claims for benefits that the Secretary expects to process, the number of full-time equivalent employees dedicated to processing such claims, an estimate of the number of claims a single full-time equivalent employee of the Administration can process in a year and an assessment of whether the Administration requires additional or fewer full-time equivalent employees to process such claims during the next 1-year, 5-year, and 10-year periods.

DAV recommends that any such report also include, in addition to the number of claims, the number of issues the Secretary expects to process, the number of issues granted or denied and the error rate per issue. We would welcome the findings of the report as it may be useful to improving the overall processing of claims. Further, as we have recommended in The Independent Budget over the past several years, VBA must develop a scientific model for estimating its manpower and staffing needs, and this report and information will help them towards that goal.

Section 208 would require the Secretary to include in each Monday Morning Workload Report the number of claims for benefits that have been received by a regional office of the VA and are pending a decision, disaggregated by various categories. We would suggest that any report along these lines also contain information regarding the number of issues requiring adjudication and other relevant measures of BVA's workload, quality and timeliness.

Section 209 would require the Secretary to supply reports of the VA entitled "Appeals Pending" and "Appeals Workload By Station" available to the public on an Internet website of the Department. We would suggest that any report along these lines also contain information regarding the number of issues requiring appellate review.

Section 301 would require the appointment of liaisons by the Secretaries of DOD, Social Security Administration and National Archives and Records Administration to work in coordination with the VA. The intent of this legislation seeks to enhance the flow of information from these agencies to the VA for better claims processing efficiencies. DAV supports this provision.

Section 302 would require the Secretaries of the VA and DOD to submit a report to Congress not later than one-year after enactment of this legislation, that outlines their plans for interoperability pertaining to electronic health record systems of each Department. This report and plan should include specific timelines and milestones VA must meet to achieve the goal of interoperability. DAV believes it is important that the transfer of health records from DOD to VA be accomplished seamlessly so that the transition of military members to civilian life be effortless and this supports this provision.

<u>S. 2095</u>

The Veterans Health Care Access Received Closer to Home Act of 2014, would express the sense of Congress in support of veteran-centric health care coordination between the VA and community providers, as well as cost-effective VA purchase of veterans' care from the private sector.

This bill would extend and expand an ongoing authorization for an existing four-network rural health care pilot program required in Public Law 110-387. , Although we understand the intent of the legislation, we have several concerns about this legislation and how it would affect the existing pilot program –

- We believe the authority should be limited to no more than an additional extension of three years, with a final report required to Congress significantly before the expiration of this extended authority, to give Congress (and advocates of veterans receiving care through the pilot) time to consider reauthorizing or otherwise amending it before expanding it. Although the original authorization required reports from VA to Congress about this pilot program, we are unaware that such reports were made or what they concluded or recommended.

- The bill would give a VA Secretary unlimited authority for three additional years, to expand the program nationally, without specifications or limitations to guide VA other than it is intended to be rural in nature. If the bill advances we believe the program should be restricted to the current operating sites.

- The bill would allow a veteran to self-select and then use the benefit of this program for up to 30 days before needing to be determined legally eligible for the VA-paid services it would provide, the order of which is the opposite of the original legislation (enroll first, then use the services is the current standard). We believe veterans should first be required to enroll in VA health care, and then, depending on the veteran's individual circumstances, be considered for placement in this program, similar to all other VA contract care authorizations, except for emergency life- or health-threatening admissions to community hospitals.

- The bill would provide veterans none of the protections that Patient Centered Community Care (PCCC) program, VA's ongoing effort to reform traditional and unmanaged fee-basis care, will provide for performance measures, safety, efficacy, and prevention, care coordination with VA, or electronic records and invoice management. We believe each of these elements should be addressed, to the extent practicable and similar to the way they are being addressed in PCCC.

If the above changes were made and concerns addressed, we could support the bill, based on DAV's resolution supporting rural veterans' access to VA care, Resolution No. 211.

S. 2145

S. 2145, the *Veteran Voting Support Act*, would require the Secretary of Veterans Affairs to permit facilities of the Department of Veterans Affairs to be designated as voter registration agencies and would provide greater voting opportunities for veterans utilizing VHA facilities. The VHA facilities would be designated as voter registration sites, and be required to provide the full complement of services to support voter activities.

While we agree with the intent of this bill, because DAV Resolution No. 068 encourages all disabled veterans to become registered voters and vote, we do offer some concerns. Facilitation of this requirement at VHA locations could interfere with the daily operations of these medical centers and clinics. If this would in fact cause a disruption in health care services, then proper safeguards must be considered and proper resources must be made available to the

Secretary to efficiently run the day-to-day operations at these medical facilities along with this new program that would enhance voting opportunities for veterans.

Furthermore, section 7 of this bill, "Annual Report on Compliance," should contain a requirement for the Secretary to report on the operational impact of supporting this new mandate. It should include, but not be limited to, the number of personnel required to administer these functions, the number of facilities utilized and whether any adverse effects occurred in VHA activities based on this requirement. We ask that these amendments be made to the bill.

Consistent with DAV Resolution No. 068, DAV supports the intent of this bill. DAV would recommend that the Committee solicit from the Secretary information regarding the viability of undertaking such an initiative and its potential impact upon the health care services provided to wounded, ill and injured veterans, prior to advancing the bill.

S. 2179

S. 2179 would amend title 38, United States Code, to waive the minimum period of continuous active duty in the Armed Forces for receipt of benefits for homeless veterans and authorize the Secretary of Veterans Affairs to furnish benefits for homeless veterans to homeless veterans with discharges or releases from service in the Armed Forces under other than honorable conditions.

The bill would amend title 38, United States Code, sections 5303A(b)(3) and 5303(d). It would create an exception for those veterans cited in 5303A(b)(3) that could receive services under Chapter 20 of this title. Furthermore, section 5303(d) would be amended and create an exception for veteran's that could receive services under Chapter 20.

Although we do not have a resolution calling for a more liberal approach towards providing homeless veteran services that fail to meet minimum active duty and character of discharge requirements, we would not oppose enactment of this type of legislation.

S. 2182

S. 2182, the *Suicide Prevention for American Veterans Act*, introduced by Senator Walsh, seeks to expand and improve care for veterans and members of the armed forces with post-deployment mental health issues or those who are at risk of suicide. The measure would extend eligibility for care in the VA health care system, from five years under current law, to 15 years, for veterans who served in a theater of combat operations. The bill would require training for VA and DOD providers on how to recognize individuals at risk of suicide, and disseminate best practices for identifying and providing care to those at risk. The bill would also require an independent review of existing VA and DOD suicide prevention programs and establish a pilot program that would help to repay educational loans for psychiatrists who agree to long-term VA employment.

The intent of S. 2182 reflects the intent of DAV's Resolution No. 193, which, in part, states that the DOD and VA share a unique obligation to meet the mental health care needs of

veterans who are suffering from readjustment difficulties as a result of wartime service, and that program improvements and enhanced resources are necessary to ensure suicide prevention is a key priority for both Departments. For these reasons we support this important legislation that seeks to make program improvements related to suicide prevention and enhancements to access to appropriate VA mental health services for all veterans who may need them.

S. 2243, Military and Veteran Caregiver Services Improvement Act of 2014

DAV National Resolution No. 201, calls on Congress to provide equal access to comprehensive support for family caregivers of wounded, injured and ill service-connected veterans of all service eras. Accordingly, we support this legislation as it would end the unequal access to VA comprehensive caregiver supports and services, and improve on current services to address needs our organization has identified and in reports issued by the Rand Corporation on Military Caregivers. The measure would also include recommendations DAV offered to the Committee to include periodic assessments and evaluations of both the VA program and the participants of the program to include the veterans and their caregivers.

S. 2258

S. 2258, the *Veterans' Compensation Cost-of-Living Adjustment Act of 2014*, would provide for an increase, with no "round down" requirement, effective December 1, 2014, in the rates of compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation (DIC) for the survivors of certain disabled veterans.

Mr. Chairman, DAV strongly supports this legislation, especially since it does not mandate that the cost-of-living adjustment (COLA) be rounded down to the next lowest whole dollar amount. DAV recognized this same accomplishment by this Committee last year when the COLA for 2013 was enacted and excluded the round-down provision.

Many disabled veterans and their families rely heavily or solely on VA disability compensation, or DIC payments, as their only means of financial support, and they have struggled during these difficult times. While the economy has faltered, their personal economic circumstances have been negatively affected by rising costs of many essential items, including food, medicines and gasoline. As inflation becomes a greater factor, it is imperative that veterans and their dependents receive a full COLA. On the strength of DAV Resolution No. 034, DAV supports enactment of this legislation.

S. 2296

The Veterans Appeals Improvement Act of 2014, would require the Secretary of Veterans Affairs to maintain no less than three Decision Review Officers (DRO) at each VA regional office. The bill also contains additional reporting and assessment requirements focused on maintaining this three-DRO requirement.

Although we understand that intent of this legislation, to strengthen the DRO program within regional offices, we are concerned that this particular approach may not fully address that

concern. The main problem is not that there are not enough DROs, but that DROs are being diverted away from the work intended: to provide de novo reviews of claims decisions. The major benefit of DROs is that they have the ability to make new decisions about claims that were denied, thus avoiding a long and costly appeal process. Establishing one national minimum for the number of DROs at every regional office, regardless of size and workload, could even have unintended negative consequences for the DRO program.

DAV strongly believes DROs must concentrate on DRO activities and the DRO program must be protected and strengthened to enable VA to resolve claims before they are sent to the Board, , where they often languish for years. We understand the intent of this legislation and would welcome the opportunity to work the bill's sponsor and the Committee to more effective approaches to strengthening the DRO program, including developing proper metrics staffing levels at all VA regional offices..

S. 2316

S. 2136 would require the Inspector General of the VA to submit a report on waiting times of veterans seeking medical appointments and treatment from the VA, and prohibit the closure of medical facilities in locations where veterans are waiting for appointments for VA medical care..

This measure would require the VA Inspector General to submit waiting time reports on affected veterans seeking VA care and determine whether such waiting has been prolonged by VA employees without valid medical or administrative reasons. This bill would also prohibit closure of any VA facilities or use of funds to prepare for such closures related to the aforementioned report until such time as the VA Secretary certifies certain conditions protecting veterans' timely access to care are met.

DAV has testified previously that delayed access to care in VA is a symptom of a larger problem in which demand exceeds resources and capacity. While this bill would describe the severity of such symptoms, we urge the Committee to consider amending the legislation to include provisions addressing resources and capacity, the true underlying cause of lack of access to VA health care.

DAV would also refer the Committee to the May 2003 report of the President's Task Force to Improve the Delivery of Health Care to our Nation's Veterans. At that time, the task force found that there was a wait list of 236,000 veterans waiting six months more for an opportunity to their Primary Care doctor. It was also noted, in Chapter 5, that there was a mismatch between demand and funding and that could adversely impact access to and the quality of VA health care. Unfortunately, eleven years after that Administration and Congress failed to take action on the recommendations, the concerns discussed in that report are now a reality.

S. 2362

S. 2362 would prohibit the payment of performance awards in fiscal year 2015 to employees in the Veterans Health Administration.

We have no resolution that addresses policy in performance bonuses paid to VA Senior Executive Service appointees, or on any VA human resources policy; thus, DAV takes no position on this bill. Nevertheless, as we have stated previously on a House companion bill, withholding bonuses from individuals who have failed to perform their jobs properly, such as those who may have permitted or promoted the use of false waiting times , is certainly appropriate. However, this bill would remove bonuses next year for all of VA's more than 400 SES members, regardless of their individual performance.

For highly qualified federal employees who may be competing for VA SES position vacancies now or in the future, such VA opportunities may not be seen as attractive as equivalent positions in other federal departments or agencies where performance bonuses continue. DAV is concerned that the existence of a law only affecting VA employees that forbids performance bonuses, without exception, and one that could easily be extended to 2016 or beyond, will make VA's recruitment efforts exceedingly challenging; particularly so if it is paired with legislation that would grant the VA Secretary unbridled powers to terminate members of the VA career SES for any reason.

Mr. Chairman, while we agree that reform of the VA SES system, particularly its performance bonus and accountability system is absolutely needed, we do not believe that this particular legislation is the best approach.

S. 2413

This omnibus bill would address a number of matters affecting VA's health care and benefits programs. The bill contains provisions from your earlier bill, S. 1982, but also includes numerous legislative proposals we have not seen before.

Mr. Chairman, having received this 376-page omnibus bill from your staff only days ago, DAV has not had sufficient time to thoroughly analyze the bill's numerous titles and almost 150 provisions. Therefore, DAV asks that the Committee permit us to provide written comments on this bill following this hearing, and we ask that you make our subsidiary testimony a part of the hearing record, as if given today.

Mr. Chairman and members of the Committee, this concludes my testimony on these measures. I am happy to answer any questions you may have.