



# Congressional Testimony: Pending Benefits Legislation

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STATEMENT OF

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VETERANS OF FOREIGN WARS OF THE UNITED STATES

BEFORE THE

VETERANS' AFFAIRS COMMITTEE

UNITED STATES SENATE

WITH RESPECT TO

**Hearing: Pending Benefits Legislation**

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MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE:

On behalf of the men and women of the Veterans of Foreign Wars of the United States (VFW) and our Auxiliaries, I would like to thank you for the opportunity to testify on today's pending legislation. As the wars wind down and the military plans to shrink the active duty force, VA anticipates that more than one million veterans will seek to access their earned benefits within the next few years. The VFW applauds this committee's work to address benefit-access and transitional issues during the last Congress and we are encouraged to see that the committee continues to take this situation seriously.

The VFW is honored to share our thoughts on today's bills in an effort to ensure our veterans have the opportunities they have earned to succeed after leaving military service. Specifically, our testimony will focus on nine veterans' economic opportunity bills: S. 257, S. 262, S. 492, S. 495, S. 514, S. 863, S. 894, S. 922 and S. 944. We will also offer VFW's brief thoughts on the other bills pending before the committee.

**S. 257, GI Bill Tuition Fairness Act of 2013:**

The Post-9/11 GI Bill was intended to offer a free, public education and a modest living stipend to eligible veterans, allowing them to treat college as a full-time job without worrying about financial stability. Unfortunately, Student Veterans of America reports that only one out of every five veterans attending a public school is eligible to attend at the in-state rate.

Current law only allows VA to reimburse veterans attending public schools for the cost of an in-state education, meaning veterans who cannot qualify for in-state tuition will only receive

meager reimbursement for college. This oversight forces veterans to either drop out or find other ways to pay for college through federal financial aid programs, full time employment or amassing student loan debt even when they make a good faith effort to legally reside in a state and attend a public school.

Specifically, recently-separated veterans may be legal residents of a particular state, but if their military duty has taken them to an installation in another state, they will not qualify as residents when they seek to attend a public college or university because they have not been physically present in the state long enough to qualify as a resident for tuition purposes. Furthermore, once a veteran matriculates to the public school of their choice, many states restrict them from establishing residency because of their status as a full-time student. The VFW believes that Congress must allow Post-9/11 GI Bill-eligible veterans to attend at the in-state rate, which is why we proudly support S. 257.

Critics have said that S. 257 sets a dangerous precedent for other non-resident students utilizing federal aid programs. The VFW vehemently disagrees with this notion. Military service members and military veterans are the only cohort of Americans who cannot reasonably satisfy residency requirements for in-state tuition because of circumstances beyond their control. Recognizing these unique circumstances, service members are already offered this reasonable accommodation when using military Tuition Assistance at public schools through the Higher Education Authorization Act. However, once a service member leaves the military, this protection goes away.

Eleven states already offer in-state tuition to veterans, eight states offer conditional waivers for veterans in certain circumstances, and 16 states have legislation pending. Of the states that have passed in-state tuition initiatives for veterans, both Republican and Democrat state leaders have all agreed that the financial benefits for the state far outweigh the illusory financial burdens that some in higher education believe would be detrimental to institutional budgets – particularly since graduates of public colleges and universities traditionally pursue careers close to their alma mater.

When Ohio passed its in-state tuition waiver in 2009, then- Gov. Ted Strickland said of in-state tuition, “It delivers real support to veterans while helping strengthen Ohio's strategic plan for higher education, which calls for attracting and keeping talent in the state. Who better to have as part of Ohio's colleges and universities, workforce and communities than

the veterans who have served, led, and protected our country?”

When Virginia passed its law in 2011, Gov. Bob McDonnell said “These men and women have served our country; it is essential that we continue to work to better serve them. Veterans are the kind of citizens we want in the Commonwealth and that we want as part of our workforce.”

When Louisiana passed its law in 2012, Gov. Bobby Jindal said, “This new law encourages members of the U.S. military – who are the best trained professionals in the world – to pursue an education in our state, which will be an economic boost, but most importantly, it’s yet another means for us to thank these brave men and women for their service.”

The Post-9/11 GI Bill is a federal program designed to help our nation’s heroes acquire the skills necessary to build a successful career after military service. Our veterans served the nation; not a particular state. They should not be penalized for their honorable service when they cannot satisfy strict residency requirements for tuition purposes. The VFW regularly hears from student-veterans who confirm that financial uncertainty is the most significant roadblock to persistence and graduation. To combat this, it only makes sense to allow our student-veterans to attend college at a reasonable rate when seeking to use their earned Post-9/11 GI Bill benefits, and we hope the committee moves quickly to pass this legislation.

### **S. 262, Veterans Education Equity Act of 2013:**

The VFW understands that the goal of this bill is similar to that of S. 257. We thank Senator Durbin for taking this issue seriously and introducing legislation that seeks to offer more equitable reimbursement for student-veterans attending public schools. The VFW supported this initiative in the last Congress, but we must explain why we have withdrawn support this term.

This session, we believe we have better identified the problem. The problem is that recently-separated veterans cannot meet stringent residency requirements for in-state tuition

because of their military service, and once enrolled, they cannot legally establish residency because of their status as full-time students. S. 262 seeks to increase the compensation veterans attending a public school as non-residents can receive, but the VFW believes that throwing money at this problem does not solve it.

In the last few weeks, the VFW has learned that many interest groups representing higher education – particularly public colleges and universities – have rallied in support of S. 262 in lieu of offering in-state tuition to recently-separated veterans attending public colleges on the Post-9/11 GI Bill. To the VFW, these groups only see our veterans as dollar signs in uniform. We believe it would be irresponsible to put VA and the American taxpayers on the hook for more money when we know these schools can and should deliver a quality education at the in-state rate.

In the last session, this bill was a good stop-gap measure that would have lessened the financial burden on student-veterans attending public schools at the out-of-state rate. Unfortunately, this bill does not solve the problem. While we cannot support S. 262, we sincerely appreciate Senator Durbin's interest in this issue and we look forward to working with all stakeholders on a fair solution for our student-veterans.

**S. 492, a bill to amend title 38, United States Code, to require States to recognize the military experience of veterans when issuing licenses and credentials to veterans, and for other purposes:**

The VFW supports S. 492, and we thank Ranking Member Burr for his continued support to closing the civilian/military licensing and credentialing gap. This bill's language is also included as a part of S. 495, but we support this initiative as a stand-alone bill as well.

This bill is a reasonable way to ensure that states will allow experienced military professionals to sit for licensing exams, while still ensuring states have the autonomy to issue professional licenses as they see fit. States will not have to relax their standards for professionals operating within their borders, but experienced veterans will not be unnecessarily burdened with satisfying duplicative training requirements.

### **S. 495, Careers for Veterans Act:**

The VFW supports S. 495, which is the latest iteration of Ranking Member Burr's veterans' jobs legislation from the end of last Congress. The VFW continues to believe that this bill leverages existing resources in an effort to ensure our veterans have access to a variety of job opportunities within the federal government, and that private industry has quality incentives to hire and retain veterans.

This bill also extends additional protections for surviving spouses of veteran entrepreneurs by offering more time for survivors to continue the business as if it remained veteran-owned. The VFW has called on Congress to offer these kinds of protections for survivors and we encourage the Senate to take swift action on this.

### **S. 514, a bill to amend title 38, United States Code, to provide additional educational assistance under the Post-9/11 Educational Assistance to veterans pursuing a degrees in science, technology, engineering, math or an area that leads to employment in a high-demand occupation, and for other purposes:**

The VFW supports S. 514, which seeks to provide additional educational assistance under the Post-9/11 GI Bill to better assist veterans pursuing a degree in science, technology, engineering, math or an area that leads to employment in a high-demand occupation. Currently, there is high demand for jobs in these areas and our service members stand to significantly contribute to these sectors through innovation and ingenuity. Unfortunately, degrees in these kinds of programs can often cost more or last longer than other programs of education, which is why we support giving the Secretary the discretion to allocate additional funds for students participating in such programs as deemed appropriate.

### **S. 863, Veterans Back to School Act of 2013:**

The VFW supports Senator Blumenthal's proposal to reinstate the Veterans Education Outreach Program (VEOP). However, we do not support changing the delimiting dates on the Montgomery GI Bill, and cannot support this bill as drafted.

The VFW believes that extending Montgomery GI Bill eligibility to ten years after first use is not a sound policy for veterans. Unlike other veterans' benefits, Montgomery GI Bill beneficiaries signed a contract upon enlistment outlining the specific terms of their GI Bill benefits. While the VFW understands that veterans have paid into the program and that the nature of our economy has changed significantly since the Montgomery GI Bill was signed into law, we believe this sets a bad precedent for beneficiaries and creates unreasonable bureaucratic hurdles and unsustainable financial burdens for those who administer the benefit.

The VFW believes a more responsible solution to close the skills gap for veterans who are no longer entitled to VA education benefits is to extend eligibility for the Veterans Retraining Assistance Program (VRAP), which offers up to 12 months of Montgomery GI Bill-style benefits to unemployed veterans who are ineligible for other VA education programs.

The VFW would support stand-alone legislation to reinstate VEOP, which served as a critical resource for student-veterans transitioning into college life. While VA does offer some support to veterans on college campuses through VetSuccess on Campus, resources for this program are extremely limited and the scope of services provided are narrow. VEOP would ensure the anticipated 1 million veterans entering academic life the in the next few years would have all of the resources necessary to succeed on campus.

**S. 894, a bill to amend title 38, United States Code, to extend expiring authority for work-study allowances for individuals who are pursuing programs of rehabilitation, education, or training under laws administered by the Secretary of Veterans Affairs, to expand such authority to certain outreach services provided through congressional offices, and for other purposes:**

This bill is an extension and expansion of VA's authority to offer work-study allowances for student-veterans. The VFW has long supported the VA work-study program and we would proudly support this initiative to extend the program. The VFW also appreciates Chairman

Sanders' effort to extend the program for the offices of members of Congress. However, we believe that the draft bill should extend the authority to June 30, 2018, to match the extension offered in H.R. 1453.

### **S. 922, Veterans Equipped for Success Act of 2013:**

The VFW understands Chairman Sanders' goal with this legislation, but we have concerns over establishing two new government subsidy programs to hire and train veterans. First, the VFW believes that a new pilot program for on-the-job training (OJT) administered by Department of Labor is duplicative to VA's OJT program – particularly for the cohort of veterans 18-30 outlined in this legislation.

Veterans in this age demographic are already eligible to participate in VA OJT using their earned GI Bill benefits. Such OJT programs already have minimal bureaucratic hurdles for businesses to meet, and even officials involved in veterans' education admit that OJT is underutilized. Creating a new pilot program will only create confusion and additional bureaucratic hurdles for both businesses and veterans that wish to participate.

Next, the VFW is worried that government subsidies to hire young veterans and veterans near retirement age sets a bad precedent for the veterans' community. The VFW understands that these two groups of veterans have faced significant disadvantages in a down economy. However, we also believe that government subsidies will exacerbate misconceptions that such veterans are "charity cases" in need of a government hand-out for the opportunity to work. Instead, the VFW has leaned heavily on resources that make the business case for hiring veterans by demonstrating how veterans can succeed in the workplace, such as recent reports from the Syracuse University Institute on Veterans and Military Families and the Center for a New American Security.

The VFW understands that these proposals are simply pilot programs, but we believe such new programs would create further confusion for veterans seeking to navigate the complex system of more than 18 federal programs focusing on career readiness for service members, veterans and dependents, as reported by the Government Accountability Office in 2012.



The VFW believes that the best way to ensure veterans find meaningful careers is to focus on professional development and credentialing while in uniform, bolstering transition services through the military Transition Assistance Program, fostering information-sharing across relevant federal and state agencies when service members separate, improving access to existing veterans' employment and training resources, and demonstrating to employers how veterans will contribute to their workforce.

The VFW understands that Chairman Sanders is very concerned about the high unemployment numbers facing our veterans. We thank the Chairman for his leadership on this issue, and we look forward to helping move initiatives through this committee that will make our most at-risk unemployed veterans marketable in the civilian workplace.

### **S. 944, Veterans' Educational Transition Act of 2013:**

The VFW thanks Chairman Sanders and Ranking Member Burr for their attention to this serious issue and for introducing legislation that seeks to address this major financial burden for many of our recently-separated student-veterans. However, the VFW prefers that S. 257, which has a companion bill that has cleared committee in the House, serve as the vehicle through which we offer our veterans reasonable in-state tuition protections while using their Post-9/11 GI Bill benefits.

The VFW applauds this bill for including protections for military dependents using transferred Post-9/11 GI Bill benefits, since the transience of military life often also precludes them from establishing residency for tuition purposes. We also support limiting the scope of the bill to cover students receiving GI Bill benefits. By adding this caveat, we ensure that schools can reasonably comply with the in-state tuition policy, since they can easily identify enrolled beneficiaries. We hope to see these provisions in any in-state tuition package that advances.

However, as drafted, this bill raises several major issues for the VFW. First, the VFW opposes any proposition that would give the Secretary of Veterans Affairs the discretion to waive compliance with the in-state tuition protection. School systems will have two years to come into compliance with the policy, meaning every state legislature will have an

opportunity to address any state-specific issues caused by the change. The VFW believes that among the states that currently say they cannot comply, many will simply wait out the two-year compliance period and insist on an exemption from the Secretary. While the VFW believes that noncompliance would create a public affairs nightmare for these university systems, we can easily avoid this by insisting that public university systems who receive GI Bill compensation must comply with this reasonable protection for their student-veterans, as we outlined in our testimony in support of S. 257.

Next, the VFW is concerned that much of the language in S. 944 could be subject to broad interpretation by states that would allow them to quickly charge veterans as out-of-state students after the first semester. Specifically, Section 2(a)(3) allows schools to require veterans to “demonstrate an intent to establish residency in the State in which the institution is located.” While this seems like a reasonable accommodation, the VFW recognizes that many states preclude students living in campus-owned properties from taking steps to demonstrate residency because their housing is considered temporary. In states where this is a factor, students are precluded from establishing domicile, registering to vote, or even changing their driver’s license. The VFW can easily see a scenario where student-veterans who are forced to live in campus housing would only receive one semester of in-state tuition before the university deems them ineligible for failing to demonstrate intent to establish residency. The VFW suggests either striking this section or clarifying that a “letter of intent” would prove sufficient for student-veterans who cannot take other legal steps to establish residency.

Next, the VFW worries that language limiting service to 180 continuous days of active duty and two years post-separation excludes many veterans eligible for and currently using Post-9/11 GI Bill benefits. We recommend changing the date to 90 days to cover all Chapter 33-eligible veterans and changing the delimiting date to cover all years of eligibility for both Chapter 30 and Chapter 33 programs. The VFW understands that the goal of the two-year delimiting date is to offer reasonable accommodation to transitioning service members who cannot satisfy residency requirements due to military service. However, the VFW is also concerned that veterans who currently attend under Chapter 33 will not be covered by the two-year limit, and veterans who experience any lapse in enrollment or who enroll part time will lose their status as in-state for tuition purposes.

We understand that the Chairman and Ranking Member have put significant effort into a comprehensive bill that will protect student-veterans, but not place an unnecessary burden on school systems that seek to serve them. However, the VFW is worried that this legislation

as drafted would still leave many student-veterans in a gray area, offering too much flexibility to school systems with no intention to comply.

We thank Chairman Sanders and Ranking Member Burr for their leadership on this issue, and we look forward to working with all stakeholders to ensure we can pass reasonable in-state tuition protections for currently-enrolled GI Bill beneficiaries and future student-veterans.

### **Additional Bills Under Consideration:**

#### **S. 6, Putting Our Veterans Back to Work Act of 2013:**

The VFW supports this bill, which offers additional employment incentives and opportunities for recently-separated veterans like extension of VRAP and additional protections for veterans from employers who knowingly violate the Uniformed Servicemembers Employment and Reemployment Rights Act (USERRA).

#### **S. 200, a bill to amend title 38, United States Code, to authorize the interment in national cemeteries under the control of the National Cemetery Administration of individuals who served in combat supports of the Armed forces in the Kingdom of Laos between February 28, 1961 and May 15, 1975, and for other purposes:**

The VFW has no official position on this legislation.

#### **S. 294, Ruth Moore Act of 2013:**

The VFW strongly supports this legislation and believes that it is long overdue. S. 294 would relax evidentiary standards for tying mental health conditions to an assault, making it easier for Military Sexual Assault (MST) survivors to receive VA benefits.

Current regulations put a disproportionate burden on the veteran to produce evidence of MST – often years after the event and in an environment which is often unfriendly - in order to prove service-connection for mental health disorders.

With the extraordinarily high incidence of sexual trauma in the military and the failure of many victims to report the trauma to medical or police authorities, it is time Congress amends this restrictive standard.

This legislation does that by providing equity to those suffering from post-traumatic stress disorder, anxiety, depression and other mental health diagnoses that are often related to MST. It puts MST in line with VA's standard of proof provided to combat veterans who suffer from PTSD.

This bill will allow those who have suffered from sexual violence in the military to get the care and benefits they deserve. The VFW urges Congress to pass this legislation quickly, but we are also disappointed to see the House companion bill, H.R. 671, amended to only "direct" VA to improve its policies on Military Sexual Trauma (MST), weakening the original intent of the bill.

### **S. 373, Charlie Morgan Military Spouses Equal Treatment Act of 2013:**

The VFW has no official position on this legislation.

### **S. 430, Veterans Small Business Opportunity and Protection Act of 2013:**

The VFW support S. 430 and the similar language included as part of Ranking Member Burr's S. 495. Survivors of veteran entrepreneurs must have reasonable protections to continue doing business as if the entity remained veteran-owned. The VFW has called on Congress to offer these kinds of protections for survivors and we encourage the Senate to take swift action on this either as stand-alone legislation or through S. 495.

**S. 515, a bill to amend title 38, United States Code, to extend the Yellow Ribbon G.I. Education Enhancement Program to cover recipients of Marine Gunnery Sergeant John David Fry scholarship, and for other purposes:**

A current statutory loophole excludes eligible dependents of a service member killed in action from enhanced tuition reimbursement available through the Yellow Ribbon Program. This simple legislative fix will provide Fry Scholarship recipients with the same benefits as other Chapter 33-eligible beneficiaries. The VFW proudly supports this bill and we encourage the Senate to quickly pass this legislation.

**S. 572, Veterans Second Amendment Protection Act:**

The VFW supports S. 572, which would provide a layer of protection for veterans who might be seeking or undergoing mental health care for service-related psychological disorders from losing their Second Amendment right. Adding a provision that will require a finding through the legal system that the veteran's condition causes a danger to him or herself or others will prevent a veteran's name from being automatically added to federal no-sell lists.

**S. 629, Honor America's Guard-Reserve Retirees Act of 2013:**

The VFW strongly supports this legislation, which would give the men and women who chose to serve our nation in the Reserve component the recognition that their service demands. Many who serve in the Guard and Reserve are in positions that support the deployments of their active duty comrades to make sure the unit is fully prepared when called upon. Unfortunately, some of these men and women serve at least 20 years and are

entitled to retirement pay, TRICARE, and other benefits, but are not considered a veteran according to the letter of the law. Passing this bill into law will grant Guard and Reserve retirees the recognition their service to our country deserves.

Critics are concerned that this bill will allow Guard and Reserve retirees to legitimize claims for other veterans' benefits like health care or education moving forward. The VFW disagrees because such retirees are already eligible to participate in military health care programs after age 65; they are still entitled to file a disability claim for injuries sustained during military duty; and they already have access to VA education programs like the Montgomery GI Bill Reserve Select or even the Post-9/11 GI Bill contingent on the nature of their military service.

#### **S. 674, Accountability for Veterans Act of 2013:**

The VFW supports this bill, which will require other federal agencies to promptly respond to a Secretary of Veterans Affairs request for information that will assist in adjudicating a VA claim for benefits. VA is held under focused scrutiny for the slow processing of claims for benefits. This bill will require agencies to provide VA with requested information within 30 days or provide a rationale and an estimated time of delivery. In passing this legislation, other agencies can be held accountable for any delays that are caused by their slow response for information required to adjudicate a claim.

#### **S. 690, Filipino Veterans Act of 2013:**

The VFW has no official position on this legislation.

#### **S. 695, Veterans Paralympic Act of 2013:**

The VFW believes that rehabilitation through sports fosters healthy living, physical fitness, and a competitive spirit for our disabled veterans, many of whom have suffered catastrophic

injuries in the line of duty. VFW Posts and Departments around the country consistently support rehabilitative sports in their communities, which is why we are proud to support extending VA's collaboration with United States Paralympics, Inc. through 2018.

By supporting responsible rehabilitative sports initiatives like those provided by the U.S. Paralympic Team, the VFW believes that combat-wounded veterans will not simply overcome their injuries, but also discover new personal strengths and abilities.

### **S. 705, War Memorial Protection Act of 2013:**

The VFW has no official position on this legislation.

### **S. 735, Survivor Benefits Improvement Act of 2013:**

The VFW is happy to support Chairman Sander's bill to expand federal assistance to the nearly 350,000 surviving spouses and children receiving benefits from VA. Extending supplemental Disability Indemnity Compensation (DIC) payments to survivors with children from two years to five years gives survivors reasonable time to adjust to what is often a very difficult financial period in their lives.

By allowing those who remarry after age 55 to retain DIC, healthcare, housing and educational assistance, this bill fulfills a longstanding VFW goal to level the playing field for survivors of fallen service members and other survivors who receive federal benefits. Current law cancels benefits if a surviving spouse remarries before age 57.

The VFW also supports expanding spina bifida care to children whose parents served during the Vietnam era, but would recommend striking "exposure to herbicide agents" and replacing it with "service in Thailand" as the qualifier for benefits. We believe making this small change will lessen the burden of proof and offer timely access to health care, compensation and supportive services for affected children.

Finally, the VFW supports creation of a pilot program to provide grief counseling in retreat settings for surviving spouses. The retreat setting offers a unique and therapeutic environment for peer-to-peer support while helping to provide participants with the necessary tools to manage grief and begin the healing process. VFW has heard positive stories from a similar pilot program involving women veterans, and we are happy to support the same goals for those who lost a loved one on active duty.

### **S. 748, Veterans Pension Protection Act:**

The VFW supports the passage of S. 748. Current law allows VA pension claimants to transfer assets to lower their net worth prior to applying for pension benefits. Other means-tested assistance programs have a “look-back” period that prevents a claimant from disposing of assets below fair market value.

Because there is disparity between the programs, veterans who are seeking pension benefits from VA can put themselves into a “penalty period,” precluding them from receiving assistance from programs like Medicaid for up to three years when applying for other assistance programs. Since VA lacks a “look-back,” veterans are being solicited by financial institutions that state they can shelter assets and assist in successfully claiming VA pension. In many cases, these institutions are charging large service fees and in some cases placing the veteran’s assets into annuities that cannot be accessed during their expected lifetime without withdrawal fees.

GAO released a report in June of 2012, outlining the need for VA to adopt a “look-back” period when determining eligibility for VA’s need-based pension. This bill would provide for a three-year look back and penalty period that could not exceed 36 months. In passing this legislation, VA will protect veterans from falling victim to aggressive marketing that can diminish their assets and prevent them from receiving other financial assistance when they need it most.

### **S. 778, a bill to authorize the Secretary of Veterans Affairs to issue cards to**



## **veterans that identify them as veterans, and for other purposes:**

The VFW opposes the passage of S. 778, a bill to authorize the Secretary of VA to issue ID card to any veteran for use as validation of veteran status. The VFW believes that states are better suited to provide veterans with identification that verifies veteran status. Forty-three states already provide or are in the process of providing a “veteran” designation on state-issued driver’s licenses or state issued non-driver’s license ID cards. The infrastructure already exists within each state’s Department of Motor Vehicles to provide picture identification to its citizens, whereas the VA would have to expand its capability to accommodate the increase in veteran requests for an ID card. The VFW encourages the remaining seven states to pass legislation to provide for veterans status on their existing state-issued driver’s licenses and ID cards.

## **S. 819, Veterans Mental Health Treatment First Act of 2013:**

The VFW does not support this legislation which would create a program of mental health care and rehabilitation for veterans who are diagnosed by a VA physician with service-related PTSD, depression or anxiety. Those who comply with the treatment regimen of the program would be paid a stipend during participation, not to exceed a total of \$11,000. Although the VFW appreciates the effort to offer a new approach to solving the difficult problem of mental health rehabilitation, we feel that this legislation contains serious flaws.

The VFW does not support the idea of asking veterans not to submit applications for disability compensation while participating in the program. Even with the payments for treatment that this bill would provide, we cannot support legislation that will require veterans to temporarily forgo any benefits to which they may be entitled. This is especially true in the case of a veteran who would ultimately receive a high rating for a mental health disorder, even after completing the program. The total monetary value of the wellness stipend could potentially be far less than that of an award of service-connected disability compensation, harming the veteran financially.

## **S. 868, Filipino Veterans Promise Act:**

The VFW has no official position on this legislation.

### **S. 889, Servicemembers' Choice in Transition Act of 2013:**

The VFW recently testified in support of the House companion, H.R. 631, and we are proud to support Senator Boozman's bill. S. 889 reflects the changes recently passed by the House Veterans Affairs Committee, clarifying that Department of Defense (DoD) must deliver the education component of the military Transition Assistance Program (TAP) to all interested transitioning service members.

The VFW has long served as a vocal advocate for student-veterans, and we believe that TAP plays a critical role in ensuring that transitioning service members are academically and financially prepared for college. The VFW has been generally satisfied with the newly-developed education curriculum for TAP, but we are concerned that the military had no plans to adequately deliver the training to those who need it, since participation in individualized tracked curricula will neither be mandatory, nor will sufficient staff be provided.

DoD has instead decided that service members will need to meet "career readiness standards" in the track of their choice, including education. To the VFW, this does not satisfy the VOW to Hire Heroes Act mandate to deliver "assistance in identifying employment and training opportunities, help in obtaining such employment and training..." in accordance with title 10, U.S.C., § 1144 (a), since the goal of veterans' education benefits is to train veterans to enter the job market.

DoD insists that it is building a life cycle model for military professional development that will include education goals, but the VFW remains concerned that the new model will still fail to adequately prepare service members for civilian life. We prefer the model set forth in S. 889, which acknowledges the finite time frame services can dedicate to preparing separating service members for civilian life, but also ensures potential student-veterans can make knowledgeable college choices.

### **S. 893, Veterans' Compensation Cost-of-Living Adjustment Act of 2013:**

Disabled veterans, their surviving spouses and children depend on their disability and dependency and indemnity compensation to bridge the gap of lost earnings and savings that the veteran's disability has caused. Each year, veterans wait anxiously to find out if they will receive a cost-of-living adjustment. There is no automatic trigger that increases these forms of compensation for veterans and their dependents. Annually, veterans wait for a separate Act of Congress to provide the same adjustment that is automatic to Social Security beneficiaries.

The VFW supports this legislation that will bring parity to VA disability and survivor recipients' compensation by providing a COLA beginning December 1, 2013, so long as VA disability, pension and survivor benefits continue to be calculated with the currently used Consumer Price Index – W, and not change the calculations for these adjustments to the Chained – Consumer Price Index.

### **S. 927, Veterans' Outreach Act of 2013:**

The VFW often hears from veterans who are confused by the dearth of information about veterans' benefits, veteran-specific services, and community resources. Since 2001, thousands of new non-profit and community organizations have popped up, seeking to meet the needs of service members, veterans and their families. Some provide tremendous resources and services, like the Wounded Warrior Project, Student Veterans of America, Fisher House, Team Rubicon, or Team Red White and Blue. Others have rightfully come under fire from charity watchdogs for seeking to exploit the good will of the American people.

Saturation of the marketplace and the availability of information through online and social channels have left many veterans confused. The VFW and our partners in the veterans' community have seen this before and we proudly help any veteran who reaches out navigate this complex system to the best of our ability. But we can't do it alone.

Chairman Sanders' bill would insist that the federal government take a hard look at how it disseminates information about veteran-specific services to the men and women who need it. It seeks to improve coordination among federal, state and community resources to ensure that information can be delivered in a timely manner. The VFW believes these efforts are long overdue and we are proud to support this legislation, and continue our work with federal, state and local agencies who seek to inform veterans of the programs and services designed to serve them.

### **S. 928, Claims Processing Improvement Act of 2013:**

The VFW generally supports the concept of this bill and we thank Chairman Sanders for his attention to the VA disability claims backlog. The current wait times to process VA disability claims remains woefully insufficient, and the VFW has consistently testified for nearly 20 years that the disability claims backlog demands leadership and decisive action.

We support many of the provisions in this bill, such as creating a study group to evaluate how VA administers work credit for claims processors, establishing a task force on training and retention for raters, providing education and training for transitioning service members to assist in claims-processing, and streamlining how VA acquires military records.

However, the VFW has several concerns about the current bill. First, the VFW opposes reducing a veteran's appeal period from one year to 180 days. To the VFW, this clerical change will not affect the backlog, since rated claims are no longer considered pending. Instead, this will only hurt veterans who wish to appeal their rating decisions, and only further exacerbate VA bureaucratic hurdles when veterans seek exemptions from the 180-day filing period.

Second, the VFW wants to clarify that when VA requests records from the military, VA must summarize why they stop development after a second attempt to acquire records.

Third, the VFW worries that formally adopting VA's 125-day backlog goal, while ambitious,

does not accurately reflect the steps required for proper claim development in certain circumstances. We also believe that is unnecessary to formally codify “pending,” since this is already defined in VA regulations and introduces an unnecessary redundancy in the code.

**S. 930, a bill to amend title 38, United States Code, to require the Secretary of Veterans Affairs, in cases of overpayments of educational assistance under Post-9/11 Educational Assistance, to deduct amounts for repayment from the last months of educational assistance entitlement, and for other purposes:**

The VFW supports this bill, which would protect student-veterans from facing significant financial hardships and allow a student veteran to charge their individual overpayment to entitlement. A student-veteran’s enrollment status can change month to month by adding or dropping units, or based on an institution’s academic calendars. When these payments change so frequently, lack of due process and poor communication does not allow the veteran a reasonable path to understand whether or not they have received an overpayment in a timely manner.

The VFW understands that VA overpayments must be recouped in order for benefit programs to work efficiently, but the VFW is also concerned that debt collections for a benefit as complicated as the Post-9/11 GI Bill can cause significant financial hardships for both veterans and their schools. Organizations representing school certifying officials, like the National Association of Veterans Program Administrators (NAVPA), report that VA’s assignment of debt collections to schools and students, as well as erroneous offsets have been inconsistent across the board. By allowing VA to tack debts to the end term of a benefit, we offer veterans the flexibility to continue attending without facing potential financial hardships.

While the VFW supports this bill, we also recognize that this is just a stop-gap measure to protect student-veterans. It does not tackle the major issue through which schools and veterans report that VA poorly communicates the results of an assigned overpayment from the Regional Processing Office in a timely manner. This can result in the recoupmnt of other federal funds from schools through the Treasury’s tax offset program, which in turn may result in the school reassigning the debt to the student and/or placing a veteran’s credit in jeopardy. Either way the student veteran’s educational goals are in jeopardy. VA must clarify its policies on debt collections. Debt notices must be clear and both veterans and

schools should be able to take quick steps to resolve any outstanding debts. We look forward to working with the committee to resolve this issue in an equitable way that not only protects veterans and schools, but also ensures VA can properly administer its benefit programs in a responsible manner.

### **S. 932, Putting Veterans Funding First Act of 2013:**

The VFW is proud to support this bill, which is a companion to H.R. 813. In March, VFW Commander-in-Chief John Hamilton made the case for why Congress needed to offer advance appropriations for all VA programs. Advance appropriations would prevent disruptions or delays to existing or proposed programs and services that occur when budgets are not passed in a timely manner. As we have seen with Advance Appropriations for VA's medical care accounts, when VA knows how much funding they will receive, they can better plan and more responsibly spend their annual budget. By including all accounts under Advance Appropriations, building projects will not be halted, IT development will not be delayed and essential services and staffing levels will not be threatened by arbitrary cutbacks.

### **S. 935, Quicker Veterans Benefits Delivery Act:**

The VFW supports the intent of this legislation, but we have serious concerns with the bill as written. The VFW supports the provision to mandate VA's acceptance of private medical evidence that is competent, credible, probative, and otherwise adequate for purposes of making a decision on a claim. However, we believe that the bill must also clarify that VA must not order an additional exam for the veteran unless VA has provided a thorough explanation as to why the private medical evidence proved insufficient for establishing service connection and determining a rating.

Next, the VFW understands and supports the goal of lowering the threshold with which VA can deliver temporary disability ratings for veterans, but we believe the concept in this bill requires further development. The VFW believes that this bill would unintentionally incentivize VA to deliver temporary disability ratings with no required follow-up. The bill currently also exempts VA from considering claims with a temporary rating as "backlogged"

for the purposes of reporting to Congress.

The VFW understands that the wait time for disability rating decisions remains a national embarrassment that demands innovative solutions. We thank Senator Franken for his attention to this issue and his continued support of our veterans. Though we cannot support this bill in its current form, we look forward to working with Senator Franken to craft a bill that will best serve the needs of our disabled veterans.

### **S. 938, Franchise Education for Veterans Act of 2013:**

The VFW is proud to support this bill, which will allow veterans to tap into their earned education benefits for established professional development programs offered by franchisors. The VFW has long held that the GI Bill is a professional development tool designed to help veterans secure the skills necessary to succeed in the marketplace. Allowing veteran franchisees to use their earned education benefits for legitimate industry training seems like a reasonable extension of non-degree professional training already offered through the GI Bill.

However, the VFW must ensure that State Approving Agencies, which already approve or disapprove on-the-job training and apprenticeship programs for GI Bill eligibility, also have oversight in approval and disapproval of franchise education programs to ensure training is relevant and necessary for the success of the franchisee.

Veterans, by nature, are more entrepreneurial than their civilian counterparts, and veterans who own franchises are more likely to succeed than civilian franchisees. Considering both of these factors, providing educational resources for veterans to operate their own franchises is a reasonable way to not only encourage business ownership among veterans, but also a way to foster success and build the economy with proven leaders.

### **S. 939, a bill to amend title 38, United States Code, to treat certain misfiled documents as motions for reconsideration of decisions by the Board of**

## **Veterans' Appeals, and for other purposes:**

When a veteran seeks to appeal his or her rating decision with the Board of Veterans' Appeals, paperwork must be filed with the board in a timely manner. If the veteran fails to file within the designated time period, their motion to reconsider will be dismissed by the Board. However, many times the paperwork is confusing and veterans will mistakenly seek to file their motion to reconsider with the VA regional office of original jurisdiction for the claim. When this happens, the regional office must process the paperwork and forward it to the Board within the allotted time, or the veteran's motion will be dismissed. To avoid this unreasonable burden on veterans who make a good faith effort to file a motion for reconsideration before the deadline, the VFW agrees that misfiled documents postmarked within the allotted time should also be treated by the Board as a motion for reconsideration. The VFW is proud to support this bill.

Chairman Sanders, Ranking Member Burr and distinguished members of the committee, this concludes my statement and I am happy to answer any questions you may have