Pending Legislation

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Statement of

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Committee on Veterans' Affairs

With Respect To

Pending Legislation

Washington, D.C.

Chairman Takano, Ranking Member Bost, and members of the committee, on behalf of the men and women of the Veterans of Foreign Wars of the United States (VFW) and its Auxiliary, thank you for the opportunity to provide our remarks on legislation pending

before this committee.

The VFW urges Congress to work in a bipartisan manner and pass legislation to once and for all address the urgent needs of veterans suffering from conditions due to military toxic exposures. It is time to come together to develop a comprehensive, permanent solution. Veterans have little or no proof that toxic or environmental exposures occurred during their service, and the burden of proof falls too heavily on them when asked to provide evidence for Department of Veterans Affairs' (VA) benefits and care. The fact that VA denies nearly 80% of disability claims related to burn pits shows the difficulty veterans today face when attempting to access services they have earned.

Veterans cannot afford to wait any longer. What we and other Veterans Service Organizations are suggesting creates a better solution for veterans now and in the future. Specifically, the VFW believes it is essential that veterans exposed to toxic substances have access to VA health care for conditions they currently have, as well as for preventive care. To take care of those who served in areas where burn pits and other airborne hazards where used, there needs to be a concession of exposure and a list of presumptive conditions known to be associated with these and other hazards. Lastly, veterans need a permanent framework that ties the entire process of identification, research, scientific review, and VA processes to ensure veterans from all operations, domestic and abroad, now and in the future, have an efficient and transparent path to the care and benefits they need.

What we are asking for is not new. It took decades to achieve these very same benefits for veterans of the Vietnam era. We want the same for veterans of all generations, without making them wait for years, and without having to reinvent the process again and again.

The framework we suggest builds off what worked in the past and is very similar to that of the *Agent Orange Act of 1991*. Until the expiration of the Secretary of Veterans Affairs' authority to promulgate regulations under that act, the Agent Orange model proved to be an efficacious method of granting presumptive benefits to veterans. For this reason, the VFW believes Congress should enact legislation that would establish an independent commission to identify toxic exposures and environmental hazards and trigger additional studies, require the National Academies of Science, Engineering, and Medicine (NASEM) to evaluate the scientific evidence regarding the association of health conditions and toxic exposures and environmental hazards, and require VA to grant presumptive service-connected

benefits for conditions associated with toxic exposures and environmental hazards based on NASEM's findings.

All the toxic exposure bills listed in this testimony have portions that, if combined, would form a complete package to cover as many veterans as possible and accomplish the goal of true toxic exposure reform for all generations of veterans. Several bills are focused on conducting more studies and, although we support these efforts, we strongly believe that there is already enough evidence for VA to start providing veterans with the care and benefits they urgently need.

H.R. 1273, Vietnam Veterans Liver Fluke Study Act

The VFW supports this legislation that would direct the Secretary of Veterans Affairs to conduct a study on the prevalence of cholangiocarcinoma, or bile duct cancer, in Vietnam veterans. Bile duct cancer is linked to liver flukes, which are tiny parasitic worms contracted through the consumption of raw or under-cooked fish commonly found in Southeast Asia. This study is important to better understand how Vietnam era veterans may be at a greater risk to develop this rare cancer.

H.R. 1355, K2 Veterans Care Act of 2021

From 2001 to 2005, thousands of U.S. service members were stationed at the Karshi-Khanabad Air Base in Uzbekistan, known as K2. Declassified Department of Defense (DOD) documents indicate that the former Soviet base was heavily contaminated with remnants from chemical weapons, radioactive uranium, jet fuel, and other toxic hazards. It was also found that open burn pits were used. Service members report that they saw signs warning them of the contaminants, witnessed glowing pond water, and smelled chemicals burning. Veterans who served at K2 have reported high rates of cancers, neurological disorders, and other serious conditions that, for some, have led to permanent disability or death. Unfortunately, the evidence of their exposure to these toxins has not been sufficient to receive VA benefits for their conditions.

The VFW supports this legislation which would provide K2 veterans with care and benefits for conditions associated with these exposures. We would also like to provide a recommendation that since the scientific body mentioned in the bill has been designated as NASEM, a formal agreement between VA and NASEM should be included.

H.R. 1585, Mark Takai Atomic Veterans Healthcare Parity Act of 2021

From 1948 to 1958, the United States conducted 43 nuclear tests at Enewetak Atoll on the

Marshall Islands. Approximately 6,000 veterans participated in the massive cleanup project of the test sites, which ran from May 1977 through May 1980. The VFW supports this legislation which would provide health care benefits to these radiation-exposed "atomic veterans" who participated in the cleanup of Enewetak Atoll, ensuring they receive the same benefits given to other service members involved in active nuclear tests.

H.R. 1972, Fair Care for Vietnam Veterans Act of 2021

In 2018, NASEM found that "sufficient evidence of an association" exists between Agent Orange exposure and hypertension and monoclonal gammopathy of undetermined significance (MGUS). VA has not added these to the list of presumptive conditions, even though the science shows they meet a stronger evidentiary standard than some of the previously approved conditions. The VFW supports this legislation to add hypertension and MGUS to VA's list of presumptive conditions associated with herbicide exposure.

H.R. 2127, TEAM Act

The VFW strongly supports this legislation which would provide critical reforms and guidance necessary for VA to effectively grant care and benefits to veterans suffering from conditions due to toxic exposures. This legislation includes two major components that are key to comprehensive toxic exposure reform––a permanent framework and expansion of health care.

In alignment with the VFW's top priority, this legislation would: establish an independent commission to review toxic and environmental exposures incident to military service and recommend independent studies; require VA to enter into an agreement with NASEM to conduct studies on possible associations between diseases and toxic exposures; and require VA to respond to those scientific findings when a positive association is found with exposure to a toxic substance and grant presumptive service connection when warranted. The VFW believes that the comprehensive approach provided in this legislation would address past, present, and future toxic exposures at locations both domestic and abroad.

In addition, this legislation expands VA health care enrollment eligibility for all veterans exposed to toxic substances during their service. This is especially important for veterans who urgently need health care for conditions associated with their exposure but have not fully completed the VA disability claims process.

H.R. 2268, Keeping Our Promises Act

The VFW supports this legislation which would codify a set of presumptive conditions recognized through regulation for VA medical coverage associated with herbicide exposure in Vietnam era veterans. The bill would also add hypertension to the current list. In 2018, NASEM found that "sufficient evidence of an association" exists between Agent Orange exposure and hypertension, meeting a stronger evidentiary standard than some of the previously approved conditions. For this reason, the VFW supports including hypertension as a presumptive condition for herbicide exposure. In addition, the provision to extend the sunset date within title 38, United States Code, section 1116, would reauthorize the Agent Orange Act until 2030.

H.R. 2368, COVENANT Act

The VFW supports the intent of this legislation and would like to present our recommendations for improvement. We appreciate that this bill would create a concession of exposure to burn pits and other toxins at locations in the Middle East and beyond. It would establish a presumption of service connection for more than 20 illnesses related to toxic exposures and expand eligibility to VA health care for covered veterans.

The VFW recommends adding language that would ensure eligibility for all veterans exposed to burn pits, to include locations added to VA's Burn Pit Registry, identified by the Department of Defense, or as found in a service member's Individual Longitudinal Exposure Record (ILER). We want to ensure that as new conditions, toxins, or locations are identified, current and future veterans will be eligible to receive the care and benefits they deserve.

H.R. 2372, Presumptive Benefits for War Fighters Exposed to Burn Pits and Other Toxins Act

The VFW supports this legislation as it aligns with our organization's resolutions and priorities to provide care and benefits for all who have been exposed in service. The bill establishes 20 different presumptive conditions for veterans exposed to burn pits and other toxic substances. Furthermore, the bill would require VA to add illnesses to the list when a positive association is found between any of the covered toxins.

Another key provision in this proposal is the petition mechanism for addressing new toxic exposures. Grassroots advocacy is the lifeblood of veteran organizations and the petition component of this bill would allow for veterans' voices to be heard directly within VA.

H.R. 2436, Veterans Burn Pits Exposure Recognition Act of 2021

When a veteran files a VA disability claim for a condition related to burn pit exposure, the claim has an 80% chance of being denied. Providing sufficient evidence of the exposure is nearly impossible as most veterans do not have any record of exposure in their military personnel records or other proof of the in-service event. The VFW supports this legislation which would concede exposure to toxic chemicals associated with burn pits for veterans deployed to locations where burn pits are known to have been used. This would remove the heavy burden of proof from exposed veterans for conditions not yet determined as presumptive. We see this bill as key to resolving one of the most pressing issues for toxic exposures today.

H.R. 2530, Enewetak Atoll Cleanup Radiation Study Act

The VFW supports this legislation to direct the Secretary of Veterans Affairs to seek to enter into an agreement with the National Academies of Sciences, Engineering, and Medicine to conduct a study on the level of radiation exposure experienced by members of the armed forces who participated in the cleanup of Enewetak Atoll.

H.R. 2569, Veterans Agent Orange Exposure Equity Act

Declassified DOD records show that herbicides were used to control vegetation on military bases in Thailand where U.S. service members served during the Vietnam War. Currently, VA grants benefits only for specific veterans who prove they participated in "regular perimeter duty on the fenced-in perimeters" of those bases. The idea that a person could have been exposed to these harmful agents only if they were on a portion of a base ignores both science and common sense. The fact is that veterans were exposed on all parts of these bases and now suffer from the effects of Agent Orange.

In addition, defoliation missions were conducted at locations in Laos and Cambodia during the Vietnam War. The VFW supports this legislation to include veterans who spent time in Thailand, Laos, and Cambodia for a presumption of service connection for exposure to herbicides and provide the long overdue recognition and care that these veterans deserve.

H.R. 2580, Palomares Veterans Act of 2021

The VFW supports this legislation to provide a presumption of service connection for veterans exposed to radiation in Palomares, Spain, during the period from January 17, 1966 to March 31, 1967. Approximately 1,600 service members participated in the decontamination effort during the three months following the collision of an American B-52 bomber and a KC-135 tanker aircraft which caused the release of four thermonuclear weapons. Considered one of the largest nuclear disasters in history, U.S. service members involved in the clean-up were exposed to radioactive plutonium and many reported they

were not provided the proper protective clothing required to ensure their safety. Veterans suffering from illnesses due to this radiation exposure must have access to the care and benefits they have earned.

H.R. 2607, FASTER Presumptions Act

This VFW supports the intent of this legislation to modify VA procedures in determining presumptions of service connection for conditions related to toxic exposures. We would like to address our main concern and also highlight aspects of this legislation that would work well when incorporated as part of a larger toxic exposure solution.

The VFW strongly believes that the identification and initial assessment of toxic exposures should be reviewed by a commission independent from VA. This would reassure veterans that a fair review of the science would be conducted. Additionally, we believe that NASEM, rather than a VA-appointed science review board, is best suited to evaluate the available data and draw conclusions on the strength of association.

The VFW appreciates the provision which would create a working group within VA to evaluate the conclusions of scientific review and provide the Secretary recommendations on establishing presumption of service connection for certain conditions. The working group would also allow veterans and members of the public to provide comments on the scientific conclusions and their impact, and in cases where the Secretary did not grant a presumption of service connection, an explanation would be published in the Federal Register. In addition to the points already mentioned, the specific timeframe for each step within the working group would create additional transparency to the process of granting presumption of service connection.

The VFW also appreciates that this legislation would make important improvements to data collection from the DOD. It also would ensure extensive and regular toxic exposure-specific training for VA providers and contractors conducting medical exams, as well as staff adjudicating claims, thereby creating the necessary cultural competency required to effectively evaluate and process toxic exposure claims. Lastly, the VFW supports the provision in this bill requiring a quarterly review of the quality of adjudication of toxic

exposure claims to provide critical data for better oversight of the overall processes.

Discussion Draft, Fort McClellan Health Registry Act

For decades, service members at Fort McClellan in Alabama were exposed to hazardous toxic substances through contaminated ground water and soil. VA identified some of the exposures including but not limited to radioactive compounds used in training activities, mustard gas and nerve agents used in decontamination testing activities, as well as airborne polychlorinated biphenyls from a nearby Monsanto plant. The VFW supports this draft legislation which would create a Fort McClellan Health Registry to examine the health of veterans who served at Fort McClellan from January 1, 1935 to May 20, 1999.

Discussion Draft, PFAS Registry Act of 2021

Per- and polyfluoroalkyl substances (PFAS) are synthetic chemicals found in small amounts in products such as non-stick cookware, clothing, and carpets. PFAS are also found in fire-fighting foam, called aqueous film forming foam (AFFF), used to fight fuel fires. Releasing these chemicals during training exercises or for emergencies have caused ground water contamination at U.S. military installations, putting service members at risk for a number of serious health conditions. The VFW supports this draft legislation which would create a registry specifically for veterans who may have been exposed to PFAS due to AFFF.

Chairman Takano, this concludes my testimony. I am prepared to answer any questions you or the committee members may have.

Information Required by Rule XI2(g)(4) of the House of Representatives

Pursuant to Rule XI2(g)(4) of the House of Representatives, the VFW has not received any federal grants in fiscal year 2021, nor has it received any federal grants in the two previous fiscal years.

The VFW has not received payments or contracts from any foreign governments in the current year or preceding two calendar years.