Pending Legislation

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Statement of
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For the Record

United States Senate
Committee on Veterans' Affairs

With Respect To

Pending Legislation

WASHINGTON, D.C.

Chairman Tester, Ranking Member Moran, 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.

S. 280, BEST for Vets Act of 2023

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The VFW supports this bill that would ensure only licensed health care professionals furnish medical disability examinations under an existing Department of Veterans Affairs (VA) pilot program. A March 2021 Government Accountability Office study reported a significant increase in the use of Veterans Benefits Administration (VBA) contractors to perform examinations versus Veterans Health Administration (VHA) medical centers. Therefore, the pilot program established in section 504(a) of the *Veterans' Benefits Improvements Act of 1996* for contracted medical disability examinations would mimic VHA's health care professional medical disability examiners. We do want to clarify that even though this would increase the number of medical disability examiners and create parity between VA and the contracted pilot program, each health care professional needs to furnish these examinations within their scope of practice. The VFW wants to ensure that VA's high-quality standards are maintained with contractors as well.

S. 291, A bill to amend title 38, United States Code, to establish in the Department of Veterans Affairs the Veterans Economic Opportunity and Transition Administration, and for other purposes

The VFW supports this proposal to establish the Veterans Economic Opportunity and Transition Administration in the Department of Veterans Affairs. VA is comprised of three administrations––the National Cemetery Administration (NCA), Veterans Health Administration, and Veterans Benefits Administration. VBA is in charge of not only compensation and pension, but also the GI Bill, vocational rehabilitation, housing and business loans, and the broadly defined transition assistance program, which is shared with the Departments of Labor, Defense, and Homeland Security.

The VFW believes our nation's focus on the economic opportunities of our veterans must be permanent. In reality, not all veterans seek VA health care when they are discharged, they do not need assistance from the NCA, and they do not all seek disability compensation. However, the vast majority are looking for gainful employment and/or education. Congress should recognize the value of these programs by separating them into their own administration focused solely on their utilization and growth.

The VFW has long proposed that Congress creates a fourth administration under VA with its

own undersecretary whose sole responsibility is the economic opportunity programs. This legislation would permit the new Secretary of Veterans Economic Opportunity and Transition Administration to refocus resources, provide a champion for these programs, and create that central point of contact for Veterans Service Organizations and Congress. This would ensure that the GI Bill, Veteran Readiness and Employment, home loan, and other benefits centered on economic opportunity receive the attention they deserve.

S. 350, Fry Scholarship Enhancement Act of 2023

The VFW supports this proposal to expand the Fry Scholarship. This legislation would enable surviving families of certain veterans who were previously not eligible for this benefit to utilize the incredible Fry Scholarship. Parity of benefits is an important issue for the VFW, and we are glad this is being made a priority.

S. 414, Caring for Survivors Act of 2023

The rate of Dependency and Indemnity Compensation (DIC) paid to the survivors of service members who died in the line of duty or to veterans who died from service-related injuries or illnesses has only minimally increased since the benefit was created in 1993. The VFW supports this legislation to increase DIC payments to survivors, reaching parity with payments made to surviving spouses of other federal employees.

This legislation also addresses the need to protect survivors, who may also be caregivers, in cases where the veteran is totally disabled for less than the arbitrary period of ten years and dies from a non-service-connected condition. Currently, in those cases the survivors would not receive DIC. The VFW supports this legislation to provide benefits in these situations, gradually starting at five years and increasing to the full amount at ten years. This would extend DIC eligibility to more survivors and ease some of the financial burdens with which they suddenly may be faced.

We do, however, have requests for clarification regarding the bill as it is currently written.

As it is not explicitly stated, we want to ensure that the increase to DIC is the same for the base pay for all recipients of the benefit, even those receiving added amounts such as the eight-year provision for Aid and Attendance. We would also like clarification that the of January 1, 1993, included in the Individuals Described section would not exclude any current group of eligible DIC recipients from the increase.

Additionally, the VFW recommends making an exception to the ten-year time frame for payments to the surviving spouses of veterans who die from amyotrophic lateral sclerosis (ALS). This is because the average life expectancy for someone diagnosed with ALS is only two to five years.

S. 498, Veteran Education Empowerment Act

The VFW supports this legislation to authorize grants to institutions of higher learning to establish, maintain, and improve Student Veteran Centers. These centers are a critical resource for student veterans as they pursue their degrees, and these grants are essential for institutions unable to prioritize funding for student veteran support. Having a centralized location for networking, tutoring, and resources and programs specific to student veterans may be a lifeline during their educational journey. We support expanding resources to help create these centers where most needed and maintain them over time while reporting best practices for student success. In prioritizing institutions to receive this support, we recommend that institutions with current Veterans Integration to Academic Leadership (VITAL) programs, as well as minority-serving institutions, be added to other priority considerations. We also support collecting data to help all institutions establish better practices for student veteran support services.

S. 572, Ensuring Access to VA INFO Act of 2023

The VFW supports this proposal to establish timelines for responses to congressional inquiries submitted for the record. Oversight of federal agencies is a critical role of Congress, and it needs timely responses from official inquiries to perform its oversight role effectively. This proposal sets a forty-five day commonsense timeline for responses and seems to allow for flexibility if responses are complex or involve other government agencies.

S. 656, Veteran Improvement Commercial Driver License Act of 2023

The VFW supports this proposal to revise the rules for approval by the Secretary of Veterans Affairs of Commercial Driver License (CDL) education programs. Our country faces supply chain issues and one of the reasons is a lack of commercial transport drivers. Many CDL programs are offered at for-profit institutions that require different approval requirements for new locations and are identified as "branches." Not-for-profit schools are allowed to open new campuses and receive approval to utilize VA education benefits as soon as a new location opens. For-profit schools that open new branches have different approval requirements, one of which is a wait time of up to two years for students to utilize VA benefits. These same student veterans are able to immediately use these benefits for the same program at the main institution.

This proposal puts safeguards in place to ensure for-profit schools that open second branches for CDL instruction follow VA and State Approving Agency guidelines, and have reporting requirements to verify compliance. Restrictions on second branches were established to prevent certain entities from preying on veterans and pilfering VA benefits. However, in this instance we believe there is enough oversight included in the proposal to allow for the lifting of these restrictions for certain educational programs.

S. 740, GUARD VA Benefits Act of 2023

The VFW strongly supports this legislation that would reinstate penalties for charging veterans and survivors unauthorized fees related to claims for VA benefits. We believe that unaccredited claims consultants should be subject to penalties in the same manner as accredited representatives.

With the passage of the PACT Act, the VFW has observed an increase in online advertisements from predatory claims consultants we call "Claim Sharks" that target veterans' earned VA benefits. These groups promise to increase veterans' VA disability ratings. They argue that the high fees they charge in some way make them more effective in

assisting veterans than the free services offered by VA-accredited Veterans Service Organizations. Under VA regulations, fees charged for claims assistance are capped and usually apply only to a percentage of retroactive benefits. However, many of these unaccredited consultants use contracts that include a commitment by the veteran to pay the Claim Shark all or a significant portion of their increased benefits. If a veteran receives a disability percentage increase years later, these companies often return seeking more money.

Several of these predatory companies have made statements that there is no avenue for them to seek VA accreditation, but this is completely untrue. There are no restrictions for these consultants to be accredited by VA, but they refuse to do so because they would no longer be able to charge exorbitant fees. They would also be subject to oversight by VA's Office of General Counsel. Currently, these predatory companies have no accountability, no oversight, and no penalties. Companies that prey upon veterans and flagrantly disregard congressional oversight authority should be held accountable.

S. 774, Veterans Border Patrol Training Act

The VFW supports this legislation. Transition from military service is a pivotal time in each service member's life. Many competing priorities like the need to find housing and health care can make it especially challenging to develop gainful post-service careers. To that end, the VFW places great value in the SkillBridge program, as well as efforts to expand opportunities therein. This proposal would create a SkillBridge pathway for transitioning service members interested in becoming U.S. Border Patrol Agents. Early engagement in such opportunities can promote continued public service of individuals transitioning to civilian life and help them create a well-defined plan.

S. 897, Expedite Veteran Appeals Act of 2023

Veterans are filing VA claims at higher numbers than ever before, in part due to having information regarding benefits and services easily accessible online. VA has also experienced a surge in filed claims following last year's passage of the PACT Act. As such, there will continue to be an increased workload at VA's Board of Veterans Appeals (BVA),

and predictably some cases will be taken to the United States Court of Appeals for Veterans Claims. BVA has hired more judges in order to address the increased volume of cases.

The VFW supports this proposal to increase the number of judges from seven to nine in order to ensure timely decision making at the Court of Appeals for Veterans Claims. This would be a positive step for veterans appealing cases before the court and would help streamline operations. An additional point to consider when adding judges is the need to hire additional support staff, law clerks, and administrative support. The VFW suggests adding language to this proposal that includes appropriate support staff for these judges and necessary staff for the overall operations of the court.

S. 1090, A bill to direct the Secretary of Veterans Affairs to update the payment system of the Department of Veterans Affairs to allow for electronic fund transfer of educational assistance, administered by the Secretary, to a foreign institution of higher education, and for other purposes

The VFW supports this bill that would make it easier for veterans or those using VA education benefits to attend foreign institutions. There has been concern from overseas universities that the inability of VA to send payments to foreign institutions creates a barrier to their participation. It is unclear if the issue of VA making these electronic payments is regulatory or technical in nature. We urge Congress to not only pass legislation that would allow VA to make electronic payments to foreign institutions, but also fund VA in the event this would require a technological upgrade. We also urge policy changes and potential technological upgrades to be comprehensive of all ways in which VA benefits may more efficiently be transferred, including directly to veterans and their dependents living overseas. Veterans who may be receiving Monthly Housing Allowance or disability compensation, or are utilizing the Foreign Medical Program, rely on these payments and often are forced to make costly and burdensome bank transfers to pay their monthly bills.

S. _____ (Schatz), Student Veterans Transparency and Protection Act

The VFW supports this legislation that would require necessary improvements to the GI Bill Comparison Tool and ensure veterans and individuals using VA education benefits have access to the information they need to make informed choices when selecting institutions. The VFW worked hard with Congress and other veteran organizations to establish the original GI Bill Comparison tool, which is why these measures are so important to us. While steps to combat misrepresentation and aggressive recruiting from predatory institutions are important, it is also critical that individuals have the information and resources they need to accurately research and compare institutions on their own. It is important that this data is not only complete and up to date, but that it is easy to understand and digest for the average individual relying on this information to make important life decisions. Adding clearer and expanded definitions of some of the data the tool shares would allow individuals to see not only what is important, but why it is important. Also, disaggregating the data would more clearly show the outcomes an institution provides for student veterans such as job placement.

Because student veterans and individuals using GI Bill benefits have possibly been affected by school closures, are facing lost VA benefits, or are saddled with student loan debt, we also support measures in this legislation to restore VA education benefits to individuals who used their entitlement at institutions subject to civil enforcement action. Expanding the scope would give these students a lifeline to complete their degrees in the event their institutions close. The VFW wants the GI Bill Comparison tool to provide the most transparent and accurate record of student feedback. Understanding an institution's history with student veterans and others using VA benefits is necessary to make an informed choice. We support measures to require this feedback be shared in perpetuity, provided the information is clear and accurate regarding each individual infraction. We would also recommend a careful review of how feedback is stored and shared through the tool in cases of change of ownership.

We also support measures to require training for VA counselors on all components of the GI Bill Comparison Tool as they advise potential students in making these decisions. As many student veterans are first-time students on active duty and make their institutional decisions while using tuition assistance benefits, it is critical that Department of Defense counselors are trained to provide accurate and meaningful data and have full understanding of use of the comparison tool.

S. _____ (Moran), Love Lives On Act of 2023

As a resolutions-based Veterans Service Organization, the VFW does not have a position on whether survivors should retain their benefits upon remarriage. There are, however, provisions within this legislation that the VFW supports.

We support updating the definition of surviving spouse within title 38 of the United States Code. The last time the definition was updated was in 1962 and much has changed in the last sixty years. The change would remove the currently restrictive language that describes a surviving spouse as a person of the opposite sex to be more in line with current law that allows for same-sex marriages. The change also strikes the wording that states a surviving spouse may not live with another person or hold themselves out to be married. Survivors should not fear that living with another person could cause them to lose their benefits. This is outdated language that should be updated to reflect the marriage requirements of the current era.

The VFW supports eliminating the fifteen-year limit for surviving spouses to use the Fry Scholarship. Following the death of their service members, surviving spouses may not be in the position to use this important education benefit for several years since they may suddenly be faced with finding stable employment, housing, child care or other critical needs. Survivors should be able to use this benefit without time limits.

The VFW also supports surviving spouses regaining their TRICARE benefits if they remarry and that marriage later ends. Survivors who remarry but later the marriages end can regain their Dependence and Indemnity Compensation and their Survivor Benefit Plan payments. TRICARE benefits to which unmarried survivors are entitled should be reinstated if their future marriages end in order to have parity with their other survivor benefits.

S. _____ (Kennedy), Veterans Second Amendment Protection Act of 2023

The VFW supports this proposal to ensure due process is restored for veterans who are assigned fiduciaries. Veterans who need the assistance of a fiduciary to handle their finances have their names added to the National Instant Criminal Background Check System,

potentially preventing them from legally purchasing and possessing firearms. The VFW opposes this practice because veterans should not lose the constitutional rights they have fought for without proper due process. We are also concerned that this practice stigmatizes mental health by forcing veterans to choose between seeking the care they need to cope with injuries and illnesses sustained through military service or keeping their firearms.

Chairman Tester, Ranking Member Moran, thank you for the opportunity to provide our remarks on these bills.