Benefit Programs

Expedite Specially Adapted Housing (SAH) Grant Processing for Eligible Terminally Ill Veterans

Recommendation:

Congress should pass appropriate legislation to provide VA with the authority to implement emergency procedures to bypass existing regulations when life-threatening situations are involved. VA should be required to expedite the approval of the Specially Adapted Housing process and be authorized to exercise judgment at the local level in cases where the failure to act poses a significant risk to the life or health of a veteran.

Background and Justification:

Veterans who suffer from ALS and other terminal illnesses often do not survive to benefit from the improvements that an SAH grant could have afforded them. The root of this problem is the complex network of myriad regulatory requirements that guide the SAH program. Staffing shortages compound the problem by limiting the amount of time and effort employees are able to dedicate to navigating through the red tape in order to fully address these unique situations.

While the required SAH renovations must be as compliant as possible, there must be a balanced focus on the immediate needs of the veteran. It is not uncommon for unneeded adaptations to be forced on veterans as a condition of project approval, only to be removed by them after the work is completed. These extra adaptations are a needless waste of time and money. Safety issues must be weighed to ensure that concerns, such as potential evacuation in case of fire, do not prevent immediate modifications that would be critical in preventing more imminent dangers, such as falling. VA must encourage employees at the local level to request waivers when appropriate and to streamline the overall waiver process.

Veterans with ALS and other terminal illnesses who satisfy eligibility requirements dealing with medical feasibility, property suitability, and financial feasibility can be granted conditional approval that would authorize them to incur certain preconstruction costs for home adaptation. While a procedural framework exists today for this to happen, there are risks involved for the clients who seek to invoke these provisions.

Also, in some cases, VA can provide direct reimbursement for work that has been completed, but nuances in the law can too easily thwart these options. Every veteran and every situation is unique, and these variances require legislation to be crafted in such a way as to facilitate favorable outcomes for the most severely disabled veterans who may face life-threatening emergencies in the absence of prompt modifications to their living environment.

Numerous administrative hurdles must be overcome in the application of the SAH decision process. The minimum property requirements (MPRs) focus on safety and sanitation. Some MPRs address how these two items can best be achieved. More progress, however, is needed when dealing with unique situations, such as veterans with terminal illness.

Provide a Supplemental Automobile Grant to Eligible Veterans

Recommendation:

Congress should authorize a supplementary automobile grant to eligible veterans in amounts equaling the difference between the amount previously spent and the current grant maximum in effect at the time of vehicle replacement and maintain the efficacy of this vital benefit.

Background and Justification:

Congress authorizes VA to provide financial assistance to eligible veterans through a grant in the amount of $20,235. This grant is used towardward the purchase of a new or used automobile to accommodate a veteran or service member with certain disabilities that resulted from a condition incurred or aggravated during active military service.

Unfortunately, the cost of replacing modified vehicles purchased through the VA automobile grant program presents a financial hardship for veterans who must bear the full replacement cost once the adapted vehicle has exceeded its useful life. The divergence of a vehicle's depreciating value and the increasing cost of living only compounds this hardship.

Congress and VA have already acknowledged the adverse impact that higher cost of living has on veterans who utilize the SAH grant. The law now authorizes up to three usages of the SAH grant and provides for annual increases in the maximum grant amount to keep pace with the residential cost-of-construction index. When the maximum grant amounts are increased, veterans or service members who have not used the assistance available to them up to the allowable amount may be entitled to a grant equal to the increase in the grant maximum amount in effect at that time. This increase also means a veteran who previously used the grant is entitled to additional SAH benefits—the current rate of maximum entitlement minus what was previously used. The intent of this onetime grant, which allows for prorated supplementary funding as it increases, was to provide veterans with a means to overcome service-incurred disabilities in the home. The same calculus should be applied to the automobile grant.

The Department of Transportation reports the average useful life of a vehicle is 12 years, or about 128,500 miles. On average, the cost to replace modified vehicles ranges from $40,000 to $65,000 when the vehicle is new and $21,000 to $35,000 when the vehicle is used. These substantial costs, coupled with inflation, present a financial hardship for many disabled veterans who need to replace their primary mode of transportation once it reaches the end of its usefulness.

Congress must resist, and the IBSVOs will strongly oppose, any effort or proposal to eliminate reimbursement for certain adaptive equipment now standard on most new vehicles. VA proposed such a recommendation in its 2017 budget proposal as a cost-saving measure, but in reality it only further erodes the value of the automobile grant by removing the veteran's purchasing power to a level inconsistent with Congress's original intent. It is a surreptitious reduction in benefits for veterans with serious service-connected disabilities. Under current law, VA reimburses eligible veterans for necessary adaptive equipment required to operate a vehicle safely and effectively. VA is not looking to "modernize the law" to reflect the fact that certain equipment on automobiles that used to be optional is now standard.

The true intent behind this proposal is to give VA broader discretion to determine "necessary equipment" for veterans to safely operate vehicles. It would create a scenario where VA could determine that features such as air-conditioning, now standard on nearly all vehicles, are no longer "necessary" for veterans to operate vehicles, because they are now considered a standard vehicle features. But if the air-conditioning in the vehicle breaks, a veteran with a spinal cord injury that has lost the ability to effectively regulate his or her

body temperature would now have to pay out-of-pocket to repair this piece of equipment, because VA would consider this a standard vehicle feature.

Take leather seats as another example. They ease the transfer in and out of a vehicle for veterans with loss of use of lower extremities. Leather seats are currently considered a reimbursable item, but under the VA's new authority it would not be considered adaptive equipment subject to reimbursement.

For those less nuanced with the adaptive equipment needs of seriously disabled veterans, something like leather seats and air-conditioning would seem like nothing more than luxury items. However, these vehicle features, although standard on most vehicles today, are in fact critical components to facilitate safe, efficient, and comfortable vehicle operation.

Ultimately, measures such as this must be opposed, as they would dilute the value of this essential benefit to veterans with serious service-connected disabilities.

Provide a Supplemental Home Adaption Grant for a New Home

Recommendation:

Congress should establish a supplementary housing grant that covers the cost of new home adaptations for eligible veterans who have already used their initial grants.

Background and Justification:

Grants should be established for special adaptation to homes that veterans purchase to replace initial specially adapted homes. Adapted housing grants for eligible service-connected disabled veterans literally open doors to independence. Prevailing societal and structural barriers to access outside the home become easier to confront once the limitations brought on by a veteran's disability are mitigated by living circumstances that promote confidence and facilitate freedom of movement.

VA adapted-housing grants currently given to eligible veterans are provided on a onetime basis. Homeowners, however, sell their homes for any number of reasons both foreseeable and unforeseeable (e.g., change in the size of families, relocation for career or health reasons). Once the housing grant is used, veterans with service-incurred disabilities who own specially adapted homes must bear the full cost of continued accessible living should they move or modify a home.

Those same veterans should not be forced to choose between surrendering their independence by moving into an inaccessible home or staying in a home simply because they cannot afford the cost of modifying a new home that would both mitigate their service-incurred disability and better suit their life circumstances.

Relax Standards to Establish Service Connection Based on Military Sexual Trauma

Recommendation:

Revise Section 3.304(f)(3) to allow that a veterans lay testimony alone may establish MST (the stressor) when a mental health professional confirms the claimed stressor is adequate to support a diagnosis of post-traumatic stress disorder related to that stressor.

Background and Justification:

Evidentiary standards for establishing a service connected disability resulting from MST should be relaxed. Twenty in 100 female veterans and one in 100 male veterans have reported to VA they experienced MST while on active duty. A recent study examined MST in men and women deployed in the wars in Iraq and Afghanistan. Forty two (42) percent of women and twelve and a half (12.5) percent of men reported experiencing MST.

According to the Department of Defense Sexual Assault Prevention and Response Office, 86.5 percent of sexual assaults go unreported, meaning that official documentation of most assaults may not exist. Sexual assault is one of the most devastating crimes against a person. Long after physical injuries heal, psychological wounds can persist.

For decades VA treated claims for service connection for mental health problems resulting from MST in the same way it treated all claimed conditions—the burden was on the claimant to prove the condition was related to service. Without validation from medical or police records, claims were routinely denied. More than a decade ago VA relaxed its policy of requiring medical or police reports to show that MST occurred.

Nevertheless, thousands of claims for service connection for post-traumatic stress disorder (PTSD) resulting from MST have been denied since 2002 because claimants were unable to produce evidence that assaults occurred. From 2008 to 2012 grant rates for PTSD resulting from MST were 17 to 30 points lower than grant rates for PTSD resulting from other causes. Incidents occurring during service tend to be reported years after the event(s), making it exceedingly difficult to obtain evidence to support service connection for PTSD and other mental health challenges.

The IBVSO's conclude that current VA regulations and policies with regard to MST lead to high denial rates of claims for PTSD and other mental health conditions. Given the high incidence of veterans experiencing sexual trauma while on active duty, the IBVSOs believe it reasonable for VA to grant veterans the same reduced evidentiary burden as provided title 38, United States Code, § 3.304(f)(3).

Reform Survivor Benefit Programs (SBP)

Recommendation:

Congress should authorize Dependency and Indemnity Compensation (DIC) eligibility increases for all survivors, equal to that of other federal programs. The amount of increase should be 55 percent of VA disability compensation for a 100 percent disabled veteran.

Congress should repeal the inequitable offset between DIC and SBP because no duplication occurs between these two separate and distinct benefit programs.

Congress should enact legislation to enable eligible surviving spouses to retain DIC upon remarriage at age 55.

Background and Justification:

Increase DIC Rates

The current rate of compensation paid to the survivors of deceased members is inadequate and inequitable when measured against other federal programs. Under current law, DIC is paid to an eligible surviving spouse if the military service member died while on active duty or when a veteran's death resulted from a service-related injury or illness.

DIC payments were intended to provide surviving spouses with the means to maintain some semblance of economic stability after the loss of their loved ones. Survivors relying solely on DIC face significant financial hardships at the time of their spouse's death.

Therefore, IBVSOs believe the rate of DIC should be increased from 43 percent to 55 percent of a 100 percent disabled veteran's compensation for all eligible surviving spouses.

Eliminate DIC and SBP Offsets

Current law requires DOD SBP annuity payments be reduced by an amount equal to VA DIC payments. Service-connected disability compensation benefits are provided to veterans by VA for the effects of injuries and illnesses sustained while on active duty. Payments authorized under the SBP program by DOD for surviving spouses are governed by separate and distinct eligibility criteria. Congress must act to repeal this inequitable offset because there is no duplication of benefits.

When a veteran's death is the result of service-connected injury or illness, or following specific periods of total disability due to service-connected causes, eligible survivors or dependents can receive DIC from VA. Career members of the armed forces earn entitlement to retired pay after 20 or more years of service. Survivors of military retirees have no entitlement to any portion of the veteran's military retirement pay after his or her death, unlike many retirement plans in the private sector. Under the DOD SBP program, deductions are made from an active duty members military pay to purchase this survivor annuity.

The SBP is not a gratuitous benefit because it is actually purchased by the military retiree. Upon a retiree's death, the SBP annuity is paid monthly to eligible beneficiaries. If the veteran's death was unrelated to any service-connected injury or illness, or if the veteran was not totally disabled due service-connected disability for the requisite period of time preceding death, beneficiaries receive their full SBP payments.

If a veteran's death was due to service-connected causes or if the requisite period of time was attained while a veteran was rated totally disabled due to service-connected causes, the SBP annuity is reduced by an amount equal to the DIC payment. When the monthly DIC rate is equal to or greater than the monthly SBP annuity payments, beneficiaries lose SBP annuity payments in its entirety. Therefore, payments made by the retiree towards the purchase of the SBP plan were essentially made in vein

Remarriage

No eligible surviving spouse should be penalized because of remarriage. Congress should lower the remarriage age requirement from 57 to 55 to continue DIC payments for survivors of veterans who have died on active duty or from service-connected disabilities. Equity with beneficiaries of other federal programs should govern

Congressional action for this deserving group.

Current law allows a surviving spouse to reestablish entitlement to DIC benefits if they remarry at age 57 or older. *The Independent Budget* VSOs appreciates Congressional action that was taken to allow certain survivors to reestablish entitlement to this rightful benefit; however the current age threshold of 57 years remains arbitrary and imposes an unnecessary burden upon those seeking to remarry.

Remarried survivors of retirees of the Civil Service Retirement System, for example, obtain a similar benefit at age 55. This change in eligibility would also bring DIC in line with SBP rules that permit continued entitlement when remarriage occurs at the age of 55.

Repeal the Tax Imposed on Military Retirees Rated Less Than 50 Percent Disabled

Recommendation:

Congress should enact legislation to repeal the inequitable tax imposed on military longevity retirees that requires their retirement pay be offset by an amount equal to their disability compensation when they are rated less than 50 percent disabled.

Background and Justification:

All military longevity retirees should be permitted to receive military retirement pay and VA disability compensation concurrently through the Concurrent Retirement Disability Pay (CRDP) program. The IBVSOs believe the current prohibition imposed upon military longevity retires rated less than 50 percent disabled has persisted for far too long. An honorably discharged veteran retired after 20 or more years who sustained service-connected disabilities should not be penalized for becoming injured or ill while in service to our country.

Many veterans retired from the armed forces based on length of service must forfeit a portion of their retired pay, earned through faithful performance of military duties, as a condition of receiving VA compensation for service-connected disabilities when they are rated less than 50 percent disabled. This policy is inequitable. Military. M retired pay is earned by a veteran's career, usually more than 20 years of honorable and faithful service performed on behalf of our nation.

VA compensation is paid solely because of disability resulting from military service, regardless of the length of service. Most nondisabled military retirees pursue second careers after military service to supplement their incomes, thereby enjoying a full reward for completion of a military career with the added reward of full civilian income. In contrast, military retirees with service-connected disabilities do not enjoy the same full earning potential. Their earning potential is reduced commensurate with the degree of service-connected disability.

A longevity-retired injured or ill veteran should not suffer a financial penalty for choosing a military career over a civilian career, especially when, in all likelihood, a civilian career would have involved fewer sacrifices and quite likely greater financial rewards. In order to place all injured and ill longevity military retirees on equal footing with nondisabled military retirees, no offset should occur between full military retired pay and VA disability compensation.

To the extent that military retired pay is offset by VA disability compensation, the disabled military retiree is treated less fairly than a nondisabled military retiree. Moreover, an injured or ill veteran who does not retire from military service but elects instead to pursue a civilian career after completing a service obligation can receive full VA disability compensation and full civilian retired pay—including retirement from any federal civil service position.

Congress has recognized this tax to be, in fact, inequitable. In recent years the law was changed to correct this injustice by allowing certain military retirees—those with VA disability ratings of 50 percent or greater—to receive their full retirement and their full service-connected disability compensation benefits through the CRDP program. This is evidence that Congress does not consider DOD and VA compensation payments as duplicative.

One way for Congress can approach balancing cost and equitability would be to phase in CRDP for the less than 50 percent service-connected veterans. The only reason this group of deserving retired veterans rated less than 50 percent disabled are precluded from receiving both benefits is to simply to save the government money.

Protect Standards for Service Connection

Recommendation:

Congress should reject proposals that would change the definition of service connection for veterans' disabilities and death. Standards for determining service connection should remain grounded in the existing law, which recognizes the 24-hour nature of military service.

Background and Justification:

Disability compensation is paid to a veteran who is disabled as the result of an injury or disease (including aggravation of a condition existing prior to service) while in active service if the injury or the disease was incurred or aggravated in line of duty. Compensation may also be paid to National Guard and reserve service members who suffer disabilities resulting from injuries while undergoing training.

Periodically a committee, commission, government agency, or member of Congress proposes that military service should be treated as if it were a civilian job. That is to say, they propose that if a service member happens to get sick or injured while working a shift, he or she might be eligible, after discharge, for medical treatment and, perhaps, compensation from the federal government. Conversely, if a service member is injured before or after "work" or becomes ill from a disease that is not obviously related to military service, he or she would not be eligible for service connection. Furthermore, medical care after service would be the responsibility of the veteran alone.

Unlike a civilian job, where most people work set hours and can spend the rest of their day (and off days) doing anything they want to do, the military does not distinguish between "on duty" and "off duty." A service member on active duty is always at the disposal of military authority and is essentially on call 24 hours a day, 365 days a year. A soldier on leave can be ordered back to base to be deployed that same day. A ship returning from a six-month tour in the Persian Gulf can be turned around in mid-ocean to undertake a new mission that will keep its crew away from home for additional weeks or months. The ground crews that prepared planes in support of missions in Iraq, Afghanistan, and Libya worked anytime they were needed, day or night. Service members are there when needed, every day, often at risk of injury, disease, or death in defense of all Americans. Congress created the Veterans' Disability Benefits Commission (VDBC) to carry out a study of "the benefits under the laws of the United States that are provided to compensate and assist veterans and their survivors for disabilities and deaths attributable to military service." After more than 30 months of hearings, study, analysis,

and debate, the VDBC unanimously endorsed the current standard for determining service connection. Current law requires only that an injury or disease be incurred or aggravated coincident with active military service. This remains sound public policy; any change would only impose additional hardship on the men and women who have already given so much.

Eliminate Rounding Down Veterans' and Survivors' Benefit Payments

Recommendation:

Congress should no longer round down veterans' and survivors' cost-of-living adjustments (COLAs).

Background and Justification:

In 1990, Congress, in an omnibus reconciliation act, mandated veterans' and survivors' benefit payments be rounded down to the next lower whole dollar. While this policy was initially limited to a few years, Congress has continued to extend it every few years. Each year's COLA is calculated on the rounded-down amount of the previous year's payments. While not significant in the short run, the cumulative effect over time results in a significant loss to beneficiaries.

The effect of rounding down monthly COLA increases has eroded approximately $10 per month for every veteran or survivor. For example, a veteran totally disabled from service-connected disabilities would have received $2,994.033 per month in 2016. With the reinstatement of the round-down, a 3 percent COLA in 2017 would produce a monthly payment of $2,994, just 3 cents per month less than he or she would receive without the round-down.

Thirty-six cents per year seems insignificant at first. The next year a 3 percent COLA is based on $2,994, not $2,994.03, and produces a loss to the veteran of $1.03 for the year. However, this is where the impact of rounding down becomes realized. In the third year, the difference is $1.37 per month, or $16.44 per year. If this continues in the tenth year, the veteran is losing $42.48 per year and in a 10-year period the veteran has lost $210.

The cumulative effect of this provision of law levies a tax on disabled veterans and their survivors, costing them money each year. When multiplied by the number of disabled veterans and DICIC recipients, millions of dollars are siphoned from these deserving individuals annually. All told, the government estimates that it would cost beneficiaries $1.6 billion over 10 years.

Veterans and their survivors rely on their compensation for essential purchases such as food, transportation, rent, and utilities. It also enables them to maintain a marginally higher quality of life. This is money, after helping veterans that circulates through their communities, helping raise the standard of living for other Americans as well.

The IBVSOs note and greatly appreciate the passage of P.L. 114-197, the Veterans' Compensation COLA Act of 2016, which became law on July 22, 2016. This legislation did not contain a round-down provision. Congress must act to permanently eliminate the practice of rounding down.

Exclude the Value of Life Insurance Policies as Countable Income

Recommendation:

Congress should enact legislation that exempts the cash value of VA life insurance policies and all directly resulting dividends and proceeds from consideration in determining a veteran's entitlement to health care under Medicaid.

Background and Justification:

Life insurance provides the surviving spouses and dependents of veterans with a means of maintaining financial stability after a sponsor's death. In some cases, however, veterans are forced to surrender their VA life insurance policies and apply the cash value of the surrendered policy toward the cost of nursing home care as a precondition of Medicaid coverage.

When this occurs, these policies become nothing more than a funding vehicle for the veteran's care prior to death, masquerading as a form of protection for survivors. As a result, the government is paying for a veteran's care in lieu of paying proceeds to survivors, instead of fulfilling both obligations.

Reduce Premiums for Service-Disabled Veterans Insurance

Recommendation:

Congress should enact legislation that authorizes VA to revise its premium schedule for Service-Disabled Veterans Insurance (SDVI) based on current mortality tables.

Background and Justification:

Improved life expectancy and new mortality tables should be used to reduce premiums for SDVI. Congress created the SDVI program for veterans who faced difficulty obtaining commercial life insurance due to their service-connected disabilities. At the program's onset in 1951, rates were based on contemporaneous mortality tables and remained competitive with commercial insurance.

Since that time, reductions in commercial mortality rates reflected improved life expectancy as illustrated by updated mortality tables. VA remains bound to outdated mortality tables, the use of which results in rates and premiums that are no longer competitive with commercial insurance offerings. This deviates from the intent of this benefit to provide SDVI to veterans with service-incurred disabilities who cannot obtain commercial life insurance due to their disability. This inequity is compounded by the fact that eligible veterans must pay for supplemental coverage and may not have premiums waived for any reason.

Even though the IBVSOs recognize the efforts of Congress in authorizing an increase from $20,000 to $30,000 in the supplemental amount available with the passage of PP.L. 111-275, the Veterans Benefits Act of 2010, we believe congressional intent will not be met under the current rate schedule because many service-disabled veterans cannot afford VA premiums.

Establish Presumptive Service Connection for Hearing Loss and Tinnitus

Recommendation:

Congress should enact presumption of service-connection legislation for hearing loss and tinnitus for combat veterans and other groups of veterans whose military duties exposed them to high levels of noise and who subsequently suffer from tinnitus or hearing loss.

Background and Justification:

Many veterans are exposed to acoustic trauma and increased noise exposure due to the nature of job requirements while on active duty. In some cases these veterans acquire hearing loss or tinnitus but are unable to prove service connection because of inadequate in-service testing procedures, lax examination practices, or poor record keeping.

Establishing a presumption would resolve this long-standing injustice and streamline the process to when evaluating entitlement to service connection. The Institute of Medicine issued a report in September 2005 titled *Noise and Military Service: Implications for Hearing Loss and Tinnitus*. This report found patterns of hearing loss consistent with noise exposure seen in cross-sectional studies of military personnel and a relation between combat, combat arms, combat support, and combat service support veterans.

Combat veterans are typically exposed to prolonged, frequent, and exceptionally loud noises from such sources as gunfire, tanks, artillery, explosive devices, aircraft, and other equipment used in the performance of their military occupations. Exposure to acoustic trauma is a well-known cause of hearing loss and tinnitus. Many combat veterans are unable to document their in-service acoustic trauma needed to prove the relation between hearing loss or tinnitus.

World War II veterans are at a particular disadvantage. In the 1940s, military audiometric tests were done by spoken and whispered voice. These tests They were universally insufficient to detect all but the most severe hearing loss and testing records fell short for a variety of reasons. Today's hearing-test baseline for active-duty service-members has been "renormed." This renorming skews test findings by reflecting better hearing results than may actually be present.

Congress has made special provisions for other deserving groups of veterans whose claims are unusually difficult to adjudicate because of extenuating circumstances. Congress should do the same for this group of veterans and require VA to develop a list of military occupations known to expose service members to noise.

VA should also be required to presume noise exposure for any veteran who worked in certain military occupations and grant service connection for those who now experience documented hearing loss or tinnitus after separation from service. Furthermore, combat veterans should be afforded the benefits of this presumption.

Establish More Equitable Rules for Hearing Aid Compensation

Recommendation:

VA should amend its Schedule for Rating Disabilities (VASRD) to provide a minimum 10 percent disability rating for any hearing loss medically requiring a hearing aid.

Background and Justification:

Currently, the VA's VASRD does not provide a compensable rating for hearing loss at the established levels severe enough to require hearing aids. A disability severe enough to require use of a prosthetic device should be compensable.

Beyond the functional impairment and the disadvantages of artificial hearing restoration, hearing aids negatively affect the wearer's physical appearance, similarly to scars or deformities that result in cosmetic defects. Also, it is a general principle of VA disability compensation that ratings are not offset by the function artificially restored by a prosthetic device.

For example, a veteran receives full compensation for amputation of a lower extremity although he or she may be able to ambulate with a prosthetic limb. Additionally, a review of title 38,CFR section 1(4), of the VASRD shows that all disabilities whose treatment warrants an appliance, device, implant, or prosthesis receives a compensable rating, with the exception of a hearing loss with hearing aids.

Assigning a compensable rating for medically directed hearing aids would be consistent with minimum ratings otherwise provided throughout the rating schedule. Such a change would be equitable and fair.

Expand the Definition of Wartime Service for Non-Service-Connected Disability Pension

Recommendation:

Veterans who receive hostile-fire pay, served in a combat environment, or were awarded the Armed Forces Expeditionary Medal, the Purple Heart medal, the Combat Infantryman Badge, or similar decoration for participation in military operations should be eligible to receive VA non-service-connected disability pension benefits regardless of whether they served during an officially recognized "wartime period."

Background and Justification:

A pension is payable to a veteran who is 65 years of age or older or who is permanently and totally disabled as a result of non-service-connected disabilities, who served at least one day of active duty during a period of war, and who has a qualifying low income.

Although Congress has the sole authority to declare war, the President, as commander in chief, may send US forces into hostile situations at any time. While some of these incidents occur during defined periods of war (e.g., Somalia, 1992–95), many other military actions take place during periods of "peace" (e.g., Grenada, 1983; Lebanon, 1982–87; Panama, 1989) including the the Mayaguez Incident (May 12—15, 1975).

The sole service criterion for eligibility for a pension—at least one day of service during a period of war—too narrowly defines military activity in the last century. Expeditionary medals, combat badges, and the like can better serve the purpose of defining combat or warlike conditions when Congress fails to declare war and when the president neglects to proclaim a period of war for veterans' benefits purposes.

Congress should amend the law so that the receipt of hostile-fire pay or award of an expeditionary medal, campaign medal, combat-action ribbon, or similar military decoration would qualify an individual for VA pension benefits. This action would ensure that veterans who were placed in hostile situations would become eligible for a pension should they become totally disabled due to non-service-connected disabilities.

Establish More Equitable Rules for Veterans Exposed to Agent Orange on the Korean Demilitarized Zone (DMZ)

Recommendation:

Extend the presumptive service-connection end-date to May 7, 1975, for Korean War veterans who served on the Demilitarized Zone to mirror the end date for Vietnam War veterans. The extension of the delimiting date to May 7, 1975, would afford veterans with qualifying Korean service the same assumption of exposure as is afforded veterans with Vietnam service.

Background and Justification:

Currently, the Korean DMZ presumptive service-connection end date is August 1971. The delineating dates for presumptive service connection because of exposure to the herbicide Agent Orange in Korea should be established in the same manner as they are for Vietnam War veterans: if a veteran served in Korea north of the Imjim River at any time after Agent Orange was applied there, then presumptive service connection should be granted for the conditions identified in title 38, CFR, section 3.309(e).

For Vietnam veterans, the current law states that if service in Vietnam is verified as defined in title 38, CFR, section 3.307(a)(6), service connection for any of the presumptive conditions contained in title 38, CFR, section 3.309(e), will be granted.

For Korean DMZ veterans, presumptive service connection is granted if a veteran served on the Korean DMZ between April 1968 and August 1971 (title 38, CFR, section 3.307[[[a][][6][][][iv]). This is verified by assignment to one of the units that rotated to the Korean DMZ. Hostile-fire pay was granted for these period(s) of DMZ assignment.

Usage:
- Vietnam: Agent Orange was used in Vietnam from January 1961 to October 1971
- Korean DMZ: Agent Orange was used on the Korean DMZ from April 1968 through July 1969

Presumptive Periods:
- Vietnam: January 9, 1962, and ending on May 7, 1975—four years after last application
- Korean DMZ: April 1968 and ending on August 31, 1971—two years after last application

DOD records confirm that Agent Orange was used extensively in sections of the Korean DMZ. Research has shown that the dioxin in Agent Orange has a half-life of one to three years in surface soil and up to 12 years in interior soil. The toxicity of dioxin is such that it is capable of killing newborn mammals and fish at levels as small as five parts per trillion (or one ounce in six million tons). Dioxin's toxic properties are enhanced by the fact that it can enter the body through the skin, the lungs, or through the mouth.

The dioxin on the Korean DMZ did not lose its efficacy on August 31, 1971. It continued to be absorbed into the bodies of the troops who were operating north of the Imjim River and affected the health of those veterans, just as it did to Vietnam veterans.