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H.R. 3173, H.R. 3735, H.R. 3771, H.R. 4042 AND TWO DRAFT BILLS, THE ARLINGTON NATIONAL CEMETERY BURIAL ELIGIBILITY ACT, AND LEGISLATION PROVIDING DEPENDENCY AND INDEMNITY COMPENSATION TO THE SURVIVING SPOUSE OF A VETERAN WITH A TOTALLY DISABLING SERVICE-CONNECTED COLD WEATHER INJURY

HEARING

BEFORE THE

SUBCOMMITTEE ON BENEFITS

OF THE

COMMITTEE ON VETERANS' AFFAIRS
HOUSE OF REPRESENTATIVES

ONE HUNDRED SEVENTH CONGRESS

SECOND SESSION

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TUESDAY, JUNE 11, 2002

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON BENEFITS,
COMMITTEE ON VETERANS' AFFAIRS,
Washington, DC

The subcommittee met, pursuant to call, at 10 a.m., in room 334, Cannon House Office Building, Hon. Michael K. Simpson (chairman of the subcommittee) presiding.

Present: Representatives Simpson, Miller, Reyes, Evans and Davis.

OPENING STATEMENT OF CHAIRMAN SIMPSON

Mr. SIMPSON. Good morning. The hearing will come to order.

Today we are receiving testimony on a number of bills, including two draft proposals. I will highlight each briefly.

H.R. 3173, the Servicemembers and Military Family's Financial Protection Act of 2001, would increase the maximum monthly lease amount under the Soldiers and Sailors Civil Relief Act, as well as increase coverage under the Servicemembers' Group Life Insurance and Veterans' Group Life Insurance programs.

I want to welcome the chief sponsor of this bill and a long and very active member of this committee, Mr. Gutierrez, who will be speaking on H.R. 3173 shortly.

H.R. 3735, the Department of Veterans Affairs Overpayment Administration Improvement Act of 2002, would authorize the Secretary to waive veterans' overpayments in certain instances and extend the application period for waiver recovery.

H.R. 3771 would exclude from income for pension purposes certain monetary benefits paid by States to disabled veterans.

The chief sponsor of this bill, Mr. Crowley, has a scheduling conflict and is not able to be here this morning. Without objection, I

will be submitting his statement for the record which he has submitted.

[The statement of Hon. Joseph Crowley appears on p. 88.]

Mr. SIMPSON. H.R. 4042, the Veterans' Home Loan Prepayment Protection Act of 2002, would prohibit additional daily interest charges following prepayment of VA housing loans.

The first draft proposal before the subcommittee is the Arlington National Cemetery Burial Eligibility Act. All of us are familiar with this legislation. The main difference between today's draft and the bills that passed the House in the 105th and 106th Congresses is the authority provided to the President to grant a burial waiver for those who do not otherwise meet the eligibility criteria, yet made significant contributions to the Armed Forces.

The final bill on our agenda, also a draft proposal, extends dependency and indemnity compensation to a surviving spouse when a veteran dies of a non-service connected disability as long as he was rated by VA after August of 1998 totally disabled for a cold weather injury at least 1 year preceding death.

We have a full plate this morning, so I will turn now to the ranking member for his opening statement.

OPENING STATEMENT OF HON. SILVESTRE REYES

Mr. REYES. Thank you, Mr. Chairman.

I would like to again thank you for holding this hearing and particularly for considering H.R. 3735, which I introduced to simplify and to improve the processing of the requests for waivers of overpayments.

This morning I also want to welcome our good friend and our colleague on the full committee, Luis Gutierrez of Illinois, who will be discussing H.R. 3173, his proposal to increase the maximum rental amount under the Soldiers and Sailors Civil Relief Act, and to provide additional optional insurance under the Servicemembers' Group Life Insurance program.

I support the provisions of H.R. 3173 but recognize the concerns raised by the Department of Veterans Affairs and the Department of Defense. I hope, rather than just saying "no," VA will be able to provide some constructive suggestions for amending the legislation and to assure that its objectives can be achieved within the parameters of reasonable insurance program premiums.

I will devote most of my time to my bill concerning overpayments. The first section, H.R. 3735, would provide veterans and their beneficiaries with an opportunity to wait until a final decision is made on the existence and the amount of an overpayment until requesting a waiver.

I am surprised frankly, Mr. Chairman, by the VA's opposition to this bill. Filing a request for waiver of an overpayment implies that an overpayments does in fact exist and that the amount of the overpayment is not in dispute. The extension of time provided by the bill would only extend the time period for beneficiaries who in fact contest the overpayments, since it does not change the 180-day time limit for those who did not file an appeal.

The General Accounting Office recently reviewed the clarity of the Veterans' Benefits Administration's correspondence to beneficiaries. GAO found that about half of the VBA's compensation let-

ters did not, I repeat, did not clearly explain pertinent financial information concerning the claimants' benefits.

Although the sample of pension claims reviewed was smaller, 15 percent of those letters reviewed by GAO were unclear. Asking a beneficiary to request a waiver of an overpayment before a final determination as to the existence and the amount of overpayment has been made seems to me patently unfair. I strongly urge my colleagues on this committee to support this provision.

Section 2 of the bill is intended to give the Secretary explicit authority to waive small overpayments for administrative convenience. This is similar to the authority that is routinely exercised by the Social Security Administration.

Given the large backlog of claims pending before the VA, my intention is to provide a means of dealing with small overpayments in a cost-efficient fashion. I would expect this authority to be exercised if a manner that is similar to that that is currently exercised by the Social Security Administration.

Under the Social Security Administration's policy, if an overpayment is less than $30, recognizing the cost associated with notification, SSA will send a notice to the claimant only in very rare occasions. The overpayment is ordinarily administratively waived without further action.

If the overpayment is more than $30 but less than $500 and the individual requests a waiver or reconsideration, SSA will presume that the overpayments were without fault and grant the waiver without any further action.

H.R. 3735 would allow the Secretary to similarly set an amount below which overpayments would not be pursued at all.

Such policies are an effective and cost-efficient manner of dealing with small overpayments with minimal government action. At a time when VA is struggling to keep up with a large number of claims, I don't believe we can afford to spend time pursuing overpayments where the cost of collection exceeds the amount that is actually collected.

I also support H.R. 3771 introduced by our good friend and colleague, Mr. Crowley, which would exclude certain veterans' benefits paid by the State and local governments from income for purpose of the pension program.

I also support H.R. 4042 introduced by our ranking member, Mr. Evans, which would require lenders to credit payment of VA loans on the date that the payment is actually received, if it was received while the lender was open for business.

I agree that some reforms are needed in the eligibility for burial in Arlington National Cemetery, and I am extremely interested in hearing what our witnesses have to say on that particular proposal.

While I agree that we need to look at the issues concerning the criteria for dependency and indemnity compensation, I am concerned about the proposals which would provide a shortened period of total disability for cold-related injuries but not for veterans disabled by the reason of exposure to radiation, Agent Orange, or other similar conditions. I hope that witnesses will explain the justification for such a distinction.

Since the regulation date reference in the bill provided for a maximum of 30 percent for cold-related injuries, I expect that the bill

would benefit an extremely small number of surviving spouses. I hope that the witnesses will also address this concern.

Mr. Chairman, I look forward to the testimony of our witnesses who will be testifying today; and I thank you for the opportunity to speak.

Mr. SIMPSON. Thank you, Mr. Reyes.

[The prepared statement of Congressman Reyes appears on p. 79.]

Mr. SIMPSON. I now turn to the ranking member of the full committee, Mr. Evans, if you have an opening statement. Mr. Evans.

OPENING STATEMENT OF HON. LANE EVANS

Mr. EVANS. Yes, sir. I appreciate to opportunity to speak at this hearing. I salute you and Congressman Reyes for holding this hearing, and I am pleased that we are considering H.R. 4042.

I introduced this bill to prevent duplicate payments of interest when VA home loans are paid off during the hours when the lender is open for business. In these days of electronic transfers of payment, it seems unconscionable for veterans to be charged additional interest while their payments are earning money for the lender.

I am an original cosponsor of H.R. 3175, the Servicemembers and Military Fairness Financial Protection Act, and H.R. 3735, the Department of Veterans Affairs Overpayment Administration Improvement Act of 2002. I am also proud to be a cosponsor of H.R. 3771 introduced by Mr. Crowley of New York.

Although generally supporting increases of benefits for veterans, I am concerned that a different standard is being established for veterans who have been disabled by cold injuries as compared to veterans disabled by the effects of radiation or Agent Orange. Perhaps we need to review the criteria for DIC in general.

I am pleased, also, that we have joined by our colleague from Illinois Luis Gutierrez and look forward to his testimony.

Thank you, Mr. Chairman.

[The prepared statement of Congressman Evans appears on p. 84.]

Mr. SIMPSON. Mr. Miller, do you have an opening statement?

Mr. Jeff MILLER. Mr. Chairman, I do have a statement I would like to have entered into the record. In view of the time and the people that we have to testify today, I will pass this morning.

Mr. SIMPSON. Without objection, your statement will be entered into the record.

[The prepared statement of Congressman Miller appears on p. 87.]

Mr. SIMPSON. Mrs. Davis.

Mrs. DAVIS. Thank you, Mr. Chairman. I just want to thank you and the ranking member for holding the hearing. I certainly have a number of veterans in my community that deal with the these critical issues every day. I appreciate that.

I also just want to apologize in advance. I am glad we don't have votes during the hearing, but I will have to leave for a while and then come back to the hearing. Thank you.

Mr. SIMPSON. Thank you.

Our first panel witness, as I mentioned during my opening statement, has been a member of the Veterans' Affairs Committee for

many years, in fact, since 1993. He is a passionate advocate for veterans.

Luis, thank you for joining us this morning; we welcome your testimony.

STATEMENT OF HON. LUIS GUTIERREZ, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF ILLINOIS

Mr. GUTIERREZ. Thank you, Mr. Chairman.

First, I would like for my complete statement to be entered in the record.

Mr. SIMPSON. Without objection.

Mr. GUTIERREZ. Thank you, Chairman Simpson and Ranking Member Reyes and all of the members of the committee that are here with us, including my good friend from Illinois, the ranking member of the full committee. I want to thank you for the opportunity.

These are enormously challenging times for our country. We are doing what we can to meet those challenges. We are reaching across party lines to show national unity. Together, we have worked hard and accomplished much. We are united in our efforts to confront and eradicate terrorism.

However, no group of Americans has made or will make, as long as this effort lasts, as valuable a contribution or as great a sacrifice as will have—for whom we will be as proud of as the people who are the men and women of the Armed Forces.

Among the many hazards and challenges facing the men and women, not all of whom are found on the battlefield or overseas. Some of these challenges originate here at home, even though they are far from home. And to make matters worse, these are challenges not only the men and women who sign up for duty must face but that their family members must face as well.

Many of those challenges are financial. In various ways, members of the Armed Forces and, in particular, members of the National Guard and Reserves who leave their jobs, homes and families at a moment's notice, face tremendous economic burdens as a result of their willingness to serve. It is at least within my power, and the power of the committee, to do something about that.

The bill I introduced in October of 2001 would provide men and women called up for duty and their families with new financial protections and peace of mind. It does it in a few ways.

First, it will help ensure that members of the military who are called away from home still have a home to which to return to when they do return.

When members are deployed or separated from their jobs, their household income often drops dramatically. Yet they still have bills to pay. In particular, nothing happens to their monthly rent or mortgage, even though they have greatly reduced salaries as they are called up from the Reserves or the National Guard.

H.R. 3173 would amend 50 United States Code Section 530 as established by the Soldiers and Sailors Civil Relief Act of 1940. My bill would prohibit the eviction of any activated military member from their place of residence due to a failure to meet monthly housing payments. This protection would be in place during the term

of active duty and continue for up to an additional 3 months after active duty is over.

If a landlord initiates eviction proceedings during that period, a judge would be directed to first rule on whether the family's income has been materially affected by military service. An eviction can only occur if a judge finds that the family's income has not been so impacted. This relief would apply to Servicemembers' families whose monthly housing payment is $1,950 a month or less.

Under current law, such relief is limited to families whose monthly housing payments are $1,200 or less. I seek to increase this threshold by about 37.5 percent. The Congressional Budget Office has determined this provision would not increase Federal spending.

So, as we all see, it is—I am not creating a new piece of law. It already exists. You can't evict somebody if they are in military service if they are—and they are protected if it is $1,200 or less.

Mr. Chairman, I had a fine lieutenant who rented my apartment in Puerto Rico, worked at Roosevelt Roads. It was $1,350 a month. It was $150 over the scale. And the rents are very, very high for many people—and mortgages, obviously. It has been over 10 years since we have addressed this issue. So that $1,200 is 10 years ago.

I don't know what it has been like in many of the Members' districts. I know what it has been like in Chicago over the last 10 years. I know what rent has increased to over the last 10 years. It has increased dramatically. Housing and the cost of housing over this country has increased dramatically. So it is not a new program. It just says, hey, we had it at $1,200. Let's increase it to $1,950 so that it could reflect the reality that servicemembers actually confront each and every day.

And it doesn't cost—obviously, it doesn't cost. I want everybody to know that has always been—you have to go before a judge and show that you have been materially affected. You just can't say, I am not going to pay my rent, I am in Afghanistan. And when you come back, you have to pay all of the rent, you have to pay all of the mortgage. You don't get a—it is not a freebie. You know, you do have to compensate the landlord for full—that is the way it has always been, and that is the way it will always continue to be.

My proposal is not only reasonable, it is fair and just. If you have given up your bed, the comforts of home and the security of having your own roof over your head, you have traded it in for an Army cot in a tent or in a barracks, you are certainly entitled when your service is completed to return to your home. Just as important, you deserve the peace of mind to know that, while you are away, your family is going to be secure at home in their residence at home.

I would like to make note at this point of an oversight by legislative counsel in preparing the bill that will result in minor technical changes to two of the bills in markup.

The second major element of my proposal, as I outlined in Section 3 of my bill, ensures that a family will be provided for in the event—the very rare event, I hope—that something unfortunate occurs and that the servicemember dies while serving the nation.

Again, our Nation's reliance on members of the Guard and Reserves helps illustrate the need for a change in current law. Our military cannot operate without the contributions of civilian sol-

diers, medical personnel, doctors, dentists, academics familiar with foreign countries and languages, engineers, architects, people from a vast array of fields who agree to give up good jobs, good salaries here at home and serve when they are needed.

The economic needs of full-time uniformed personnel are just as great and only increase with more years of service. As it stands right now, there are significant barriers that prohibit these men and women from knowing with confidence that their families will be adequately safeguarded if something should happen to them.

Today, armed services personnel are eligible for life insurance paid through an affordable monthly premium and administered through the Servicemembers' Group Life Insurance program. However, current law caps payouts at $250,000. This amount is far too low and would not meet the needs a family would face with loss of income due to a wage-earner's death in the line of duty.

Under my bill, military personnel could opt for coverage in increments of $250,000 above the current ceiling, up to a million. This represents a potential increase of $750,000 over the current limit.

This life insurance would continue to be funded by premiums deducted by servicemembers' military paychecks. Currently, life insurance coverage costs approximately 8 cents per month for every dollar of coverage. The Congressional Budget Office reports it is unable to predict that there would be any further government reimbursement necessary in addition to servicemembers' premiums. Let us all keep in mind that should this added incentive increase the number of policyholders, it could increase—it would lead to greater revenues for the program itself and for government coffers.

We know that military service is dangerous. But the already significant risk would be compounded by additional risks to one's dependents.

My hope would be that no family would ever need to take advantage of the increased level of benefits. But even in this case it still would have done some good for all of us. A military member can carry out their duty better if they have fewer things to worry about while they are away then wondering about their families back at home and how they are going to survive.

Finally, as long as we are upgrading current law to reflect the true needs of the military, I think it is crucial that the law better reflects the true composition of the military. So my third one, Mr. Chairman, is pretty simple. As we all know, the military includes women, and they are enlisting in greater numbers. The same holds true for our country's economy, a family's earning and what a mother and a wife does. My bill replaces outdated references in current law with gender-neutral language.

It basically says "husbands," and so if we can put "spouse." so it can be a man or woman that is the person that is serving. I guess that once upon a time it was all about men. It no longer is in our military service.

So the third one simply brings us up to date and says, just in case a women goes and has the insurance policy, somebody can't say, you are not the husband, you know. So we can change that.

Let me finish with this, and thank you for your kindness.

Look, it increases it. You have to pay a premium for it, so it is not free.

Lastly, you know, $250,000, I know some people say will say, well, Gutierrez, can't they just go—well, I want to remind everybody, at least my homeowner's insurance says it covers everything except for acts of war. So if my house gets blown away in an act of war, guess what? I can't go to State Farm and get coverage.

My life insurance—mine says, that if I die in war, guess what? Not covered. So don't think that military personnel can just go and buy any life insurance policy.

As we all know, I know the VA finally, on Friday, decided to send a letter. I hope, given the fact that I introduced the bill last October, they wouldn't have waited until 48 hours before the hearing to finally make a statement.

And I would hope that they would be a little more, how do I say, constructive and maybe write to us and instruct us on how we could better do the work than simply saying: Well, we find this and this or the other flaw with the bill.

I think that we should increase the insurance premiums for a doctor or, you know, a lawyer, an architect, an engineer, for anyone in the military service. They have to pay for it. Things have changed. Things are more expensive.

We all know what we did for the firemen in New York, the policemen in New York. We all know about the compensation programs. Here is a program that is funded by their premiums. Let's allow them to be raised.

I think everyone in this room knows that, you know—on your Visa card, if you use it, or your Master Card, you got $250,000 extra insurance if you die during that airplane—you can buy insurance for a million dollars just to take an airplane at the airport. There it is. Go and buy your policy.

You know, let's be serious about this. These men and women are in harm's way. Let's give them the peace of mind and let's allow them to buy the insurance that they need that they can't get elsewhere because of their military service.

Thank you, everybody—Mr. Chairman, Mr. Reyes, Mr. Evans, Mr. Miller. Thank you so much for allowing me to testify before this committee this morning.

Mr. SIMPSON. Thank you, Luis. We appreciate your testimony.

[The prepared statement of Congressman Gutierrez appears on p. 90.]

Mr. SIMPSON. I will tell you that we will—the committee is going to be looking at several provisions in the Soldiers and Sailors Civil Relief Act. So I appreciate your testimony today.

I don't have any specific questions, but I do appreciate your interest in veterans and being here to testify.

Mr. Reyes.

Mr. REYES. Thank you, Mr. Chairman.

I don't have any questions, other than to make an observation that, since Easter, I have had the opportunity to be in the Afghanistan area, including Afghanistan itself; and our colleague is absolutely right. More and more of the burden is being carried by our Reserves and National Guard; and we, I think, need to be mindful of that and give them every kind of protection that we can to reflect the challenge that they face today. So I commend our colleague for doing this.

Mr. SIMPSON. Mr. Evans.

Mr. EVANS. I have no questions.

Mr. SIMPSON. Mr. Miller.

Mr. MILLER. No.

Mr. GUTIERREZ. I just want to add this. Even a bus driver in Chicago makes 65 or $70,000 a year. Think about that for a moment, $250,000, what would that do for someone that makes—a bus driver?

Mr. SIMPSON. A bus driver in Chicago makes 65 or 70?

Mr. GUTIERREZ. You put 20 years in. In New York City, it is twenty-nine ninety-five. I just talked to one of the guys. I was out there for the parade.

What I am trying to say, if you look at electricians, carpenters—you don't have to go to doctors, lawyers. You are talking about people that are in unions, bricklayers that are making, especially with their overtime, you are going to see that they are making 50 to $75,000 a year in their trades.

So thank you very much for allowing me to speak to you this morning.

Mr. SIMPSON. Thank you for being here today.

Mr. GUTIERREZ. If you can't make that, Mr. Chairman, make sure you get a raise.

Mr. SIMPSON. Will the second panel please approach the table? Admiral Dan Cooper is with us again, as he was last week. Some people may wonder if we are ever going to let him get out and actually reduce the claims backlog, rather than being here testifying in front of this committee. But we do appreciate your attendance at these meetings; and as I said last week, I certainly appreciated you and the chairman of the BVA for staying during the entire hearing to hear the testimony of the other panelists.

The Under Secretary is accompanied by Robert Epley, John Thompson, and Thomas Lastowka.

Admiral, you may begin.

STATEMENT OF THE HONORABLE DANIEL L. COOPER, UNDER SECRETARY FOR BENEFITS, VETERANS BENEFITS ADMINISTRATION; ACCOMPANIED BY ROBERT EPLEY, JOHN H. THOMPSON, AND THOMAS LASTOWKA

Mr. COOPER. Thank you, sir.

Mr. Chairman, members of the subcommittee, I am pleased to be here today to discuss several legislative items of interest to the committee; and I respectfully request that my written statement be made part of the record.

The first one, H.R. 3173, which essentially affects the Sailors and Soldiers Relief Act, deals with active duty personnel. Therefore, I defer to the views of the Department of Defense.

Section 3 of this bill would allow the servicemember to elect, within 30 days of becoming eligible for Servicemembers' SGLI, additional coverage in increments of $250,000 up to a total of a million dollars. We oppose Section 3, but we oppose it for what I think are very good reasons. Namely, the Secretary is charged with preserving the actuarial soundness and final well-being of the SGLI program.

The amount of potential coverage is inconsistent with what has been determined to be sound actuarial policies. As we called around to other insurance companies, they give life insurance predicated on a factor of the amount a person makes. That factor is usually four or five times the annual wage, as I understand it.

This particular bill, if it were to go to a million dollars, would go up a factor of 18 and, in some cases, as much as 40 times the annual wage. Therefore, again, it is the actuarial soundness that I discuss. We believe that the availability of optional coverage would result in premium costs that would be so high as to be prohibitive for the vast majority of those that might be able to get it.

And obviously, we would not want to do this with a flat premium. The 30-day open season would allow anybody in the Armed Forces to join, no matter what age, no matter what physical problems they may have, and, similarly, no matter what hazardous duty they would be undertaking. This, too, would detract dramatically from the actuarial soundness of the program.

Next, the law as presently stated requires that the service department reimburse the SGLI program in amounts traceable to the hazardous duty that servicemembers undertake. During the Vietnam War, this required the SGLI be reimbursed about $550 million. I think that number would go up quite a bit if it were taken into account here.

Further, as written in the program, the SGLI would not be authorized to investigate the reason why people might get this insurance. No commercial insurance company will give life insurance unless they, in fact, take a look at the person getting that extra insurance and determining that they are willing to insure them.

Finally, the bill as stated takes effect 60 days after it is passed here; and I honestly feel that is an insufficient time to have it properly be enforced within our program. In my personal opinion, the bill needs to be better described and refined in order to be a viable program.

H.R. 3735 extends the time during which a debtor could request waiver of recovery for overpayment of benefits. Under current law, the debtor may request a waiver within 180 days from the date of notification or have additional time if approved by the Secretary. This bill would reverse the Congressional decision which amended the initial statute when it was originally set at 2 years. Congress decided to make it 180 days. Our experience supports that particular observation.

This bill, if not well-defined, could grant the debtor a second opportunity to request a waiver. In other words, they could request a waiver, that would be turned down; then they come in questioning the amount, that is turned down; and then they could come back, the way this is written right now, and get a second 180 days to have the waiver.

Additionally, a new provision would grant authority to waive any overpayment if in fact the amount to be collected was much less than the amount it would cost—just like Mr. Reyes stated, the amount it would cost us to get that. In fact, the Secretary of the VA has that authority right now and does terminate collections when those numbers are disproportionate.

We do not support this because we believe the provisions are unnecessary and would not improve the debt collection process.

H.R. 3771. In 1978, Congress restructured the need-based pension program to provide greater assistance to those personnel truly in need and to create a more equitable program. All sources of income were to be considered in the same way, and, at that time, they eliminated all exclusions. The improved pension program currently takes into account the greater needs of severely disabled veterans and gives them, in fact, $6,000 a year more.

This bill would exclude monetary benefits paid by States and municipalities from consideration for the purposes of the VA benefits. We can only find one State in which that might be applicable. Because the bill was inconsistent with the goal provided in the improved pension program, VA cannot support this bill.

H.R. 4042, the Veterans' Home Loan Prepayment Protection Act. As I understand it today, in the commercial banking world, any bill paid prior to 2 p.m. on a given day is posted that day; and any bill posted after 2 p.m., in fact, is reflected on the next day. This is, as I understand it, in every State. This bill would prohibit additional daily interest charges if the prepayment in full arrived after the cut-off time in that particular State.

We do not feel that it is appropriate to override the State commercial law regarding the kinds of hours. This would increase costs to the lender; and, in trying to run a couple of cases and take a look at what it would cost, it would cost the person paying it approximately $20 or less.

Our major concern is that it could have a deleterious effect in that VA loans would be the only ones that had this exception and, therefore, could well be shunned by the commercial activities upon which we depend for our very viable loan program.

For those reasons, we do not support the bill.

The Arlington National Cemetery Burial Eligibility Act comes under the Department of the Army; and we support whatever they decide to do.

Finally, DIC to Survivors of Veterans Disabled by Cold-Weather Injuries.

In 1978, Congress authorized payment in cases of non-service connected death if the veteran, at the time of death, was receiving compensation of 100 percent and had been receiving it for last 10 years. It was meant to provide continuing income to families that had come to be dependent upon it.

In 1999, the Millennium Health Care Act made one single exception. That was to authorize payment to survivors of former POWs who had been at 100 percent disability for just 1 year. This bill would authorize payment in the same manner as if the veteran's death were service-connected, where the veteran at the time of death was in receipt of compensation for a cold-weather injury but had only been receiving that compensation at 100 percent for 1 year. In other words, this is the same exception that Congress decided to give for former POWs.

This law would accord significantly preferential treatment to survivors of veterans who had cold-weather injuries. There is no apparent justification for singling them out from other injuries such as gunshot wounds, paralysis, and amputations. In the absence of

compelling justification for this distinction, VA cannot support this legislation.

Mr. Chairman, that concludes my statement.

Mr. SIMPSON. Thank you, Admiral Cooper. I appreciate you, as I said, being here again today to testify.

[The prepared statement of Admiral Cooper appears on p. 93.]

Mr. SIMPSON. I understand from your statement that Mr. Gutierrez's bill—you don't object to the portion of the bill that raises the rent.

Mr. COOPER. That is absolutely correct.

The problem we have with the SGLI is on an actuarial basis and the problem of keeping it a viable program.

Mr. SIMPSON. It is not based on theory, just on the actuarial numbers?

Mr. COOPER. That is correct.

Mr. SIMPSON. You have the ability to waive overpayments. The Secretary has that ability to waive overpayments. Do you know how many they waived in 2001?

Mr. COOPER. I cannot answer it. I will take that for the record.

Mr. SIMPSON. Okay.

(The information follows:)

Department of Veterans Affairs
Veterans Benefits Administration

Information for the Record
Subcommittee for Benefits' June 11, 2002 Legislative Hearing

Chairman Mike Simpson asked that VA provide data on the number of indebtedness waiver requests the Secretary has used his current authority to approve. The following information responds to that request.

Fiscal Year 2001

Waived in full:	Compensation	2,988
	Pension	10,278
	Total	13,266
Waived in part:	Compensation	258
	Pension	777
	Total	1,035

Fiscal Year 2002 (thru March 31, 2002)

Waived in full:	Compensation	1,078
	Pension	4,026
	Total	5,104
Waived in part:	Compensation	81
	Pension	283
	Total	364

Mr. SIMPSON. I don't have any other questions. Mr. Reyes.

Mr. REYES. Thank you, Mr. Chairman.

You know, one of the things that we are faced with today, as I made mention in my comments, is it is a different world in terms of the burden that is being carried by our National Guard and Reservists; and I believe that we need to consider that one aspect as we talk about—when we talk about the insurance provision.

You make reference to what is currently available and making the comparison with regular insurance. When our men and women are activated and are deployed, they are deployed, in most cases, to very dangerous regions of the world and under very dangerous war-type considerations. I think that it is inherent for the VA and the committee to recognize that and to make whatever adjustments are necessary to better reflect that. We are asking men and women to give up their civilian salaries, give up their civilian life to be activated, as they have agreed to do and as they are doing—I made mention in the last several months I have been to Afghanistan twice. —and a number of them are Reservists and National Guard. In fact, taking us around in Afghanistan was the Minnesota National Guard in C-130s, where they have been. So I would hope the VA would work with us in making recommendations as to what doable things we could work on to reflect today's deployment schedule.

In that sense, how would you, Mr. Secretary, refine the insurance provisions to provide the desired coverage? In other words, what we are looking for is the VA to partner up with what we are trying to do to recognize and reflect the dangers that are currently being faced by our men and women in the Reserve and National Guard units.

Mr. COOPER. Let me first say that I certainly agree with every statement that you make concerning the Reserves and National Guard. As far as the Insurance and making it a viable program, quite frankly, what I would do is turn to Mr. Lastowka, who is the gentleman in charge of our program and also the one that deals with insurance companies around the country. So, quite frankly, I can't tell you specific things to do. There are several things that would have to be done as we look at this.

My concern is that it would have to take fairly high premiums, no matter what—as we talked to various commercial companies, as they look at this—and, of course, the commercial companies are the ones who actually write the policies even in the SGLI. But I think it takes a lot of refinement in looking at it and making a determination of what can be done by viably. So I would ask Mr. Lastowka——

Mr. REYES. Well, before he comments, perhaps also consider would it be possible to set up a separate special financing fund for the additional benefits to protect the basic SGLI—you know, the SGLI fund from charges that would be attributed for higher benefits?

Mr. COOPER. I can't answer that. But, as I mentioned earlier, the law does say that at a certain point the Department of Defense can reimburse the SGLI to keep it viable because of hazardous duty. The Army, Navy and Air Force did, during Vietnam. In this case, the reimbursement would obviously be much more than the $500

million plus that they paid then. I can't answer your specific question. I am merely referring back to that—because I think we are talking about a couple of separate laws. But it is something that we would have to look into; and, again, I would depend on Mr. Lastowka.

Mr. LASTOWKA. Congressman, we in the insurance program always understood our mission to include providing adequate insurance at very low cost to American servicemembers. We think we have done a very credible job of that.

One of our concerns here is that this seems to be predicated on a smaller group than all servicemembers, specifically professional Reservists called to active duty. We do believe that there are programs in place through benefits associations that could better address that need outside of the Servicemembers' Group Life Insurance Program.

We have had experience in the past with optional coverage, which neither the VA nor Congress found adequate, back in Desert Storm; and we believe that, should we be offering insurance on an optional basis in these amounts, the actuarial behavior of people would challenge the financial viability of the program.

Mr. REYES. Well, if I can just correct you on one observation. This is not intended for the professional Reservists.

As we heard testimony from our colleague, in Chicago—not in El Paso, but in Chicago—bus drivers earn $60,000 plus a year. You activate the—the family, there is a tremendous hardship placed on the family when the reduction in salaries such that is commensurate with military salaries. So it doesn't—from my perspective, it doesn't just address, you know, your doctors, your lawyers, your dentists. It carries, I think, a responsibility to recognize that times have changed dramatically in terms of salary compensation, even when you are talking about nonprofessional ranks.

Mr. LASTOWKA. Well, we in the insurance program, together with DOD and the Servicemembers' Group Life Insurance Advisory Committee, have reviewed the amount of insurance and believe that $250,000 is the correct amount of insurance at this time.

Mr. REYES. Well, I would respectfully disagree. But, Mr. Chairman, can I have a couple of more minutes?

Mr. SIMPSON. Without objection.

Mr. REYES. Because I wanted to also address the issue of overpayments in the context of the VA's objection.

You know, I have seen letters where veterans have been asked to pay back, in some cases, as little as a dollar. There is something wrong with the system that I think needs to be looked at. That is a fundamental reason for my bill, to make sure that we don't spend a minimum of 34 cents on just on a stamp—soon to be more, I believe—to collect back a dollar or $5. It just doesn't make sense.

Mr. COOPER. I certainly agree.

Let me just say, this is not an area that I have focused on in the days I have been aboard. However, I will say to you that I have looked at some letters that have been sent out and the form letters we use. I would agree with you. They are not very plain. We have to do the same thing we are trying to do with the claims process, to make those so that they are plain; and I will guarantee that I will do that.

Mr. REYES. Well, let me ask you one other question. Your testimony indicates that it is administratively efficient to bar a veteran from requesting a waiver after he or she has received a corrected notice of an overpayment. Can you explain why it is fair to require a veteran to request a waiver of an overpayment which he or she believes is incorrect? I mean, that is——

Mr. COOPER. I think the way it is stated right now, as I understand it, they put in both reliefs at the same time. So both the request for waiver and the request for a change in the amount that they owe come in at the same time. Now you may have some specific cases that I—of which I am not aware, but the policy is to put in both at the same time. If it is determined that the amount is less or they do not have to pay it, then that rescinds the other request. But both requests come in simultaneously.

Congress is the one that looked at this several years ago when the law said 2 years were allowed, and they determined—because, as I recall, VA was having trouble with debt collection. They determined at that time that 180 days was appropriate; and if the person came in and requested relief, then VA had the authority to give them that relief. That is my understanding right now.

Mr. REYES. Well, counsel is telling me that that is not correct, that they have to make a decision; is that correct?

Mr. COOPER. I would appreciate maybe if she could tell me at some point what it is we can do better, and I would be glad to look into it and see what we can do. I am not that familiar with it, except to look at what we have been doing, what we say that we have to do in trying to look at the letters. I will be glad to look at it very carefully with whatever the counsel decides.

Ms. MCCARTHY. With the Chair's indulgence, the situation is that if someone comes in with an overpayment letter—and I had this numerous times when I was actually in practice doing these kinds of things—frequently, the overpayment was wrong, the amount was wrong or the dates were wrong or there were other issues. At that point in time, it made no sense to say to this person you don't believe this overpayment exists or that it is right, but you have to act as if it is and request a waiver without ever figuring out what the right amount is. Beneficiaries are not advised in VA's initial letters, I don't believe, that, for example, their Social Security check may be taken to recover the overpayment if they don't request waiver right away.

Now some people do request review and waiver at the same time. But we have just heard from GAO of the problems with the clarity of the letters. A lot of times people don't even figure out what is going on until someone starts withholding money from their check, either their VA check or they start getting notices that their Social Security check is going to be stopped.

It is not at all clear to me that someone who requests a review of the overpayment decision is going to get a final determination within the 180 days in which they have to request a waiver.

Mr. COOPER. My statement would only be that I can't obviously refute what you are saying or discuss it intelligently. I can say that the way it is laid down, if we were doing it properly, then it seems to me that it is logical. I would agree that our letter is not good

or proper as far as laying it out. I will guarantee you that I will work on that.

I think it is good if I could get specific examples. That would help to an extent. But the important thing is I get the information out that, in fact, we should do what we say we are doing. If we don't do that, then we need to correct that.

But Congress is the one that set up the time of 180 days; and, obviously, Congress can change it. But it was 2 years at one point. All I can guarantee you is I will take a hard look at it and try to ensure that we do it properly. I cannot talking about specific cases. I just don't know.

Mr. REYES. Thank you, Admiral.

One more issue to ask about. What is the cost to VA and the Federal Government of pursuing an overpayment which is referred to the Treasury for offset of Social Security or other Federal benefits?

Mr. COOPER. I have no idea. I will take that for the record.

Mr. REYES. Can you get back to us?

Mr. COOPER. Yes, sir.

(The information follows:)

Department of Veterans Affairs
Veterans Benefits Administration

Information for the Record
Subcommittee for Benefits' June 11, 2002 Legislative Hearing

Congressman Silvestre Reyes, Ranking Member, asked that VA provide data on the cost to VA of pursuing collection of a debt resulting from an overpayment of VA benefits. The following information responds to that request.

Treasury Department Offset of Federal Benefits: $13.20 for each offset, charged to the debtor.

Example: A veteran owes VA $500 as a result of a benefits overpayment. VA requests a monthly deduction of $100 from the veteran's Social Security check for five months. Treasury will deduct a total of $113.20 each month from the veteran's Social Security check. The total amount collected from the veteran would be $566 ($113.20 x 5).

Debt Management Center Administrative Cost to Collect a VBA Debt: $10.77 per case (*estimated* average for FY 2002)

Total administrative costs for FY 2001: $6.2 million
Total amount of receivables collected: Over $300 million (includes all VBA benefit debts)

Mr. REYES. Mr. Chairman, I appreciate the indulgence. But this is a very important issue, as I was just explaining, as I was just discussing with our veterans. Because when they have to file simultaneously it is—in their minds, it is an admission that they feel it is a violation of their own personal rights in challenging the overpayments.

Mr. SIMPSON. Right. I appreciate that, and I do appreciate your testimony on that.

I know that we have read the GAO report that came out recently relative to the letters, and I know that VA is working very hard to ensure that the letters that they send are actually written in English. It is not a unique problem to the VA. It is a unique problem to government, it seems like. It is called governmentese or something like that.

Mr. COOPER. Let me mention to you we are making a major change in our letters that are going out in the claims probably now. When I come up next time, that full change wouldn't have been implemented, so I will answer some more questions. We have not done so in this particular case, and I will guarantee you that we will.

But if there are specific cases that I should address, too, I would appreciate that; and we will be glad to make sure that we do that right.

Mr. SIMPSON. I appreciate that. I would advise that if we have specific cases that we can give you to show exactly what we are talking about that we send those to Admiral Cooper.

Mr. EVANS. I have no questions.

Mr. SIMPSON. I thank you today for your testimony and look forward to hearing from you again on future bills as we——

Mr. COOPER. I am busy next week.

Mr. SIMPSON. Well, this committee is very interested in making sure we try to do what is right by our veterans and try to get to the bottom of some of these things and try to improve the system, as I know you are. I appreciate it very much. Thank you.

Panel 3, please come forward.

Mr. Craig Duehring and Mr. Thomas Higginbotham are representing the Department of Defense and Arlington National Cemetery, respectively; and you may begin when you are ready. We will hold our questions until each of you has concluded. I would ask you to keep your testimony to 5 minutes. Your full statement will be included in the record.

STATEMENTS OF CRAIG DUEHRING, ACTING ASSISTANT SECRETARY OF DEFENSE (RESERVE AFFAIRS), DEPARTMENT OF DEFENSE; AND THURMAN HIGGINBOTHAM, DEPUTY SUPERINTENDENT, ARLINGTON NATIONAL CEMETERY

Mr. SIMPSON. Mr. Duehring.

STATEMENT OF CRAIG DUEHRING

Mr. DUEHRING. Thank you, Mr. Chairman, Mr. Reyes, and members of the subcommittee. Thank you for giving me the opportunity to come before you this morning to discuss H.R. 3173, the Servicemembers and Military Families Protection Act of 2001.

The Department of Defense supports Section 2 of H.R. 3173, which would amend the Soldiers and Sailors Civil Relief Act to prohibit, absent a court order, eviction or distress of a servicemember's spouse, children or other dependents during the member's military service if rent from the premises does not exceed $1,950 per month. This is an increase from the current maximum rent of $1,200, which has been in effect since 1991. This increase is needed to reflect that some servicemembers, especially those with families living in high-cost areas, pay rents in excess of the current maximum.

The Department of Defense does not support Section 3 of H.R. 3173, which would permit a servicemember to elect, within 30 days after becoming eligible for Servicemembers' Group Life Insurance, additional coverage in increments of $250,000 up to $1 million. An insured servicemember would be able to elect this additional coverage after his 30-day period if proof of good health is provided.

We concur with the Department of Veterans Affairs' concerns that the bill would be inconsistent with sound actuarial principles and may jeopardize the financial stability of the SGLI program.

The Department of Defense is also concerned that increasing the coverage to the levels proposed by the bill would have a negative impact on the cost of the SGLI program which now offers very affordable insurance at a flat rate for everyone, regardless of medical condition. If the higher coverage is approved, we are concerned that the basic rate would increase.

In order to maintain the financial integrity of the program and keep premiums at an affordable level, premiums for optional coverage would have to be based on age, and physical examinations would be required in order to provide proof of good health for those who elect additional SGLI coverage after the close of the 30-day period.

We are also concerned about a possible impact on child coverage, which is currently offered at no cost, and on spouse coverage.

Finally, the Department is concerned that the higher levels of coverage which many servicemembers will not elect will increase the burden on commanders to document that the servicemembers were aware of the higher levels of coverage and opted not to purchase them. Such documentation is necessary because survivors are often reluctant to believe that a deceased servicemember knowingly chose to be covered by less than the maximum amount of SGLI.

I appreciate any opportunity to discuss this matter with you further.

[The prepared statement of Mr. Duehring appears on p. 105.]

Mr. SIMPSON. Thank you, Mr. Duehring. Mr. Higginbotham.

STATEMENT OF THURMAN HIGGINBOTHAM

Mr. HIGGINBOTHAM. Thank you, Mr. Chairman. It is my pleasure to be here.

I would like to correct—my first name is Thurman, not Thomas, for the record, sir.

Mr. SIMPSON. You got it.

Mr. HIGGINBOTHAM. Thank you.

I appreciate the opportunity to appear before this committee to discuss eligibility for burial at Arlington National Cemetery and the Arlington National Cemetery Burial Act.

Arlington National Cemetery is America's most prominent national cemetery and serves as a shrine honoring the men and women who have served in the Armed Forces. It is a visible reflection of America's appreciation for those individuals whose acts and accomplishments reflect the highest service to the country.

Since its founding in 1864, the cemetery has functioned primely as a military burial ground. Over the years, the symbolic significance of Arlington National Cemetery has evolved. The cemetery has become recognized as the Nation's foremost national memorial to military members, and it is the final resting place of presidents and other leading public figures.

Title 32 of the Code of Federal Regulations sets forth the criteria for burial and eligibility in Arlington National Cemetery. The Army, as the executive agent for the cemetery, strives to implement these regulations fairly and consistently. We must endeavor to preserve Arlington as a national shrine, honoring the men and women who have served in the Armed Forces and those Americans who have made extraordinary public contributions to our Nation and our Armed Forces.

Although we acknowledge that the Arlington National Cemetery Burial Act provides exception authority, we nonetheless object to the legislation. We believe that the burial eligibility standards at Arlington should continue to be governed through regulations promulgated by the Secretary of the Army, rather than by statute.

We believe that these procedures have been effective in attaining the goals of fairness, consistency and efficient use of space. The current regulatory regime provides the Army, as executive agent, the framework and flexibility needed to address unusual cases in a timely, fair and appropriate manner.

The Army is very concerned that expanding burial eligibility to new categories of individuals will create inequities. While the Army appreciates the actions of the Congress and this committee in making additional land available to the cemetery, space will eventually run out. In light of these constraints, expanding burial eligibility will eventually cause the denial of the privilege to other eligible persons. Expanding burial eligibility may also create difficulties for those families whose loved ones have been denied burial privileges prior to the changes.

We also note that the Arlington National Cemetery Burial Eligibility Act would eliminate burial eligibility for several narrowly defined categories. The Army believes that these individuals, including top leadership in the Department of Defense and other high-level government officials, should continue to receive, by virtue of their service to the Nation, the special honor afforded by burial at Arlington.

Thank you for providing me the opportunity to present our views on this matter. I look forward to answering questions.

[The prepared statement of Mr. Higginbotham appears on p. 108.]

Mr. SIMPSON. Thank you for your testimony, Mr. Duehring, regarding section 2 of 3173, the Servicemembers and Military Fami-

lies Financial Protection Act of 2001, that would prevent eviction or distress of a servicemember's spouse, children, or other dependents during the member's military service if their rent on a premises does not exceed $1,950 per month, which is an increase from the current $1,200.

Should Congress index that somehow to the local financial market or local housing markets or something like that so that we don't have to come back periodically and increase that?

Mr. DUEHRING. Well, we would be happy to take a look at any proposal that you have and come up with a Department position on that. But initially when asked about this particular proposed increase, we very much support it, and we would be happy to look at that if you ask us, if you wish us to do so.

Mr. SIMPSON. I appreciate that. As we start looking at some of these provisions, we may send something up for you to review. There may be one that is added that would, in fact, increase it and then index it for the future so that we don't have to periodically come back and increase it, and your input on that would be very helpful.

Mr. Higginbotham, it is not the staff's fault that I read Thomas instead of Thurman; it is due to 52 years—51 years of using these eyes and not having my glasses on.

Mr. HIGGINBOTHAM. It is common, Mr. Chairman. I get it a couple times a week.

Mr. SIMPSON. I have got a couple questions concerning your objections to the Arlington National Cemetery burial bill. You cite your concerns about expanding eligibility. And could you please tell me how many members of a Reserve component die after retiring, but before age 60, and how many ADTs and IDT deaths there are in a given year?

Mr. HIGGINBOTHAM. I am not prepared to answer that, but we will provide it for the record.

(The information follows:)

Here are the ARNG recordable (accident) fatalities* since 1998:

	Ground	Air	
1998	20	1	21
1999	10	0	10
2000	17	4	21
2001	16	3	19
2002	18	1	19
2003	18	0	18
Totals	99	9	108

GRAND TOTAL ARNG - 1998-2003 - 108

* - Remember, these numbers **DO NOT include** suicides, homicides, combat casualties, or disease fatalities of soldiers ON OR OFF DUTY STATUS. They **also DO NOT include** any fatalities occurring to an ARNG soldier when they were not on any kind of duty status (Traditional M-day types).

Army Reserve Casualty Report - Training (Statistical)
OEF/OIF (for the period of 22 Mar 03 - 15 Mar 04)

DEATHS DURING TRAINING	From 22 Mar - 31 Dec 03	From 1 Jan - 15 Mar 04			
			Total	SUB TOTAL	GRAND TOTAL
TPU					
ADT	1	5	6	-	-
IDT	3	0	3	-	-
AT	2	0	2	-	-
ADSW	2	0	2	-	-
IET	2	0	2	-	-
ADME	1	0	1	-	-
IMA	1	0	1	-	-
			-	17	-
DEATHS OF MOBILIZED SOLDIERS (ALL TPU)					
KIA IN THEATER	14	7	21	-	-
OTHER THAN IN THEATER	14	7	21	-	-
IN THEATER (NOT KIA)	12	1	13	-	-
			-	55	-
GRAND TOTAL, DEATHS			-	-	72

Prepared by HQ USARC; DCS, G-1; AFRC-PRS-M (MAJ SHEILA BAILEY) (404)-464-9637 or sheila.bailey@usarc-emh2.army.mil

Mr. SIMPSON. So if we don't have any numbers on that, how did you come up with the numbers in your testimony?

Mr. HIGGINBOTHAM. Well, we are basically looking at the expansion of—reducing or increasing the burial rate that we currently have based on the available space that we have.

Mr. SIMPSON. Well, we have some numbers and testimony of the numbers that will be eligible, and as we look at it, I find it hard to believe that it would be by more than a handful of individuals a year.

Secondly, you maintain your support in there for high-level government officials, actually Members of Congress and so forth, that have never served in the military.

Mr. HIGGINBOTHAM. No. The ones that did serve in the military.

Mr. SIMPSON. But don't otherwise qualify.

Mr. HIGGINBOTHAM. That is correct.

Mr. SIMPSON. I have a hard time supporting that, and then not allowing these people to be buried in Arlington. So I——

Mr. HIGGINBOTHAM. I understand the current regulations——

Mr. SIMPSON. It seems inconsistent there, because it is really a space-availability-type argument you are making.

Mr. HIGGINBOTHAM. Correct.

Mr. SIMPSON. Well, I don't have any more questions. Mr. Reyes.

Mr. REYES. Well, you know, just following up on what you are saying, that is our responsibility to provide additional space. I mean, we ought to be getting testimony and opinions based on who has earned the right to be interred in Arlington. So I would just mention that in passing.

But I have a question for Mr. Duehring. The SGLI program is an "opt-out" program. The servicemember is automatically enrolled for the maximum amount unless he or she elects to decline coverage or elects a lesser amount. The proposed program would require the servicemember to "opt-in" by affirmatively selecting additional coverage after being advised of the necessary premiums.

If the premiums for the optional coverage were segregated from the basic coverage, would the concerns expressed in your testimony regarding increases to the cost of basic coverage be alleviated? Would that take care of your objection?

Mr. DUEHRING. Could I ask a clarification question on that? Are you talking about actually having two separate programs in effect?

Mr. REYES. Well, it would be the same program, but we would separate the additional premiums from the basic.

Mr. DUEHRING. I see. I am not sure why—I would have to take that, you know, and look at it. We haven't actually addressed it that particular way. And I guess the best answer would be to say that we would have to see if there might be some pitfalls that we would encounter along the way to see if it is the, you know, fair and actuarially sound thing to do.

Mr. REYES. Would you agree that for those that would come into this program—what we are trying to do is provide coverage for them because they are going into a situation that does not normally fall into coverage of insurance companies that you are referring to. Would you agree with that?

Mr. DUEHRING. Yes, sir.

Mr. REYES. We are talking about activating a plumber, a dentist, you know, a cop on the beat. I mean, what we are trying to do as members of this committee is reflect the reality that, because of downsizing, we now have to depend on a greater share of the burden on our Reservists and our National Guard. We are activating them; we are sending them to Afghanistan, to Bosnia, to Kosovo, to all these different regions of the world; I think, the last I heard from the President, 120 different countries today versus 77 2 years ago. And that burden is being carried by, in the large sense, not just the Active military, but by the men and women in the Reserves and the National Guard.

We need to do better by them, you know, in every way, whether it is providing them an opportunity if they are, God forbid, killed in Active Duty to go into Arlington Cemetery, to making sure that if they get killed or otherwise become incapacitated, that their families aren't going to suffer because these guys are patriots. Do you agree with that?

Mr. DUEHRING. Absolutely, sir. We actually are in the midst of a very broad, comprehensive review to look at how we run the Guard and Reserves. This is something we haven't done for years. In fact, just recently we have provided briefings to committee members and staff members here on Capitol Hill as to our progress on it in looking at the entire scope of how we bring people on Active Duty, how long we use them, what their compensation is, the entire spectrum. And, of course, this—SGLI is a very important part of it. In fact, it is a wonderful program.

As I think back in the 1960s when I first joined the military, I think it was $10,000 was the limit, and I was pretty impressed with that because I knew that I couldn't get comparable coverage, certainly not at that cost, in the outside world. And now I think that the program we have, the $250,000 program, is a very important contribution to our people. And we would be happy to look into any proposals that you have that you send our way, sir.

Mr. REYES. Well, and we would ask for support, and, if possible, to partner up with what we are trying to do. I will just tell you in closing that when you go to any financial counselor and they talk about how much you should have in savings in case of a long-term illness or something like that, they recommend 10 times your salary. And if a bus driver is earning $60,000 a year, ten times that is $600,000. All of a sudden, $250,000 doesn't seem that great or that attractive.

And that is really what we are basically trying to do here is reflect the needs of maintaining some semblance of normality for families that are being affected simply because we downsized our regular military. They are—and I will tell you, I am very proud of those families and those men and women in the Reserves and the National Guard because they do not complain. All they ask is an opportunity to not worry about their families, and that is what we are trying to provide them is that cloak of confidence that, when a Nation asks them to be deployed, that we are going to do everything within our power to at least make sure that their families are well provided for. That is what this is about. It is not about making it exorbitant in terms of coverage or anything else. That is the only thing. Thank you.

Mr. DUEHRING. Thank you, sir.

Mr. SIMPSON. Mr. Evans.

Mr. EVANS. I think Mr. Reyes handled it real well and very eloquently. I appreciate your work.

I have no other questions.

Mr. SIMPSON. Thank you. I thank you both for your testimony today, and we look forward to working with you on these issues.

Panel four.

Mr. REYES. And, Mr. Chairman, I just want to—you will get back with the information for the record?

Mr. HIGGINBOTHAM. Yes, sir.

Mr. REYES. Thank you.

(See p. 23.)

Mr. SIMPSON. Panel four will please come forward. They are made up our veterans' service organization representatives, Mr. Brian Lawrence of the DAV, Mr. Carl Blake of the PVA, Mr. Patrick Eddington of the VVA, and Mr. Richard Jones of AMVETS. Without objection, your full statements will be included in the record.

Thank you all for being here today. We look forward to your testimony. Mr. Lawrence.

STATEMENTS OF BRIAN E. LAWRENCE, ASSOCIATE NATIONAL LEGISLATIVE DIRECTOR, DISABLED AMERICAN VETERANS; CARL BLAKE, ASSOCIATE LEGISLATIVE DIRECTOR, PARALYZED VETERANS OF AMERICA; PATRICK G. EDDINGTON, ASSOCIATE DIRECTOR OF GOVERNMENT RELATIONS, VIETNAM VETERANS OF AMERICA; AND RICHARD JONES, NATIONAL LEGISLATIVE DIRECTOR, AMVETS

STATEMENT OF BRIAN E. LAWRENCE

Mr. LAWRENCE. Good morning, Mr. Chairman and members of the subcommittee. On behalf of the DAV, thank you for the opportunity to testify on the following bills and draft bills: H.R. 3173, the Servicemembers and Military Families Financial Protection Act of 2001; H.R. 3735, the Department of Veterans Affairs Overpayment Administration Improvement Act of 2002; H.R. 3771, to exclude monetary benefits paid to veterans by State and local government from consideration as income for purposes of pension benefits; H.R. 4042, the Veterans Home Loan Prepayment Protection Act of 2002; the Arlington National Cemetery Burial Eligibility Act; and legislation providing dependency and indemnity compensation to the surviving spouse of a veteran who, for at least 1 year preceding death, was rated totally disabled for service-connected cold weather injuries by the Department of Veterans Affairs.

In accordance with our constitution and bylaws, the DAV's legislative focus is on benefits for service-connected disabled veterans, their dependents, and survivors. Our legislative agenda is determined by mandates in the form of resolutions adopted by our membership. Because the primary focus of the DAV is on benefits for service-connected disabled veterans, we have no resolutions that pertain to most of the legislation under today's consideration. My written statement addresses each bill, but, for the sake of brevity,

I will restrict my comments to the draft bill regarding DIC, the dependency indemnity compensation.

The DAV appreciates that this legislation seeks to recognize and reward the great sacrifice made by veterans who served in bitterly cold conditions, such as the Chosin Reservoir in Korea. However, we believe that general improvements in VA benefits should be extended to all veterans and not just a small fraction of veterans rated under specific diagnostic codes. We do not oppose this draft bill, but would prefer that it include the spouses of all veterans who, for at least 1 year preceding death, were rated totally disabled by the Department of Veterans Affairs.

The subcommittee's efforts to improve VA benefits signifies to our Nation's veterans that their dedicated service to our country is noted and appreciated. Clearly the DAV's mission to improve the lives of disabled veterans is shared by this subcommittee. We appreciate your efforts and look forward to working with you in the future on issues important to disabled veterans.

Mr. Chairman, that concludes my testimony, and I will be happy to answer any questions.

[The prepared statement of Mr. Lawrence appears on p. 111.]

Mr. SIMPSON. Thank you, Mr. Lawrence. Mr. Blake.

STATEMENT OF CARL BLAKE

Mr. BLAKE. Chairman Simpson, Ranking Member Reyes, members of the subcommittee, PVA would like to thank you for the opportunity to testify today on the proposed legislation. H .R. 3173, the Servicemembers and Military Families Financial Protection Act of 2001, provides important improvements to benefits for veterans. Section 1 of the bill would increase the maximum monthly lease amount protected under the Soldiers' and Sailors' Civil Relief Act of 1940 from $1,200 to $1,950.

Currently under 50 U.S.C. Section 530, landlords are limited in their ability to evict Active Duty personnel or their dependent families from a family dwelling if a military tenant pays $1,200 a month or less for the dwelling. This amount was last increased to $1,2000 in Public Law 102-12 in 1991. Due to ever-increasing costs of living, rental rates in many localities have gone up; therefore, this protection should mirror the increase. Men and women called to Active Duty, who often take a reduction in pay when drawing Active Duty pay instead of their civilian paycheck, should not have to suffer the threat of being evicted from their homes. PVA supports section 1 of the bill.

Section 2 of the bill would provide for an optional increase in maximum coverage under SGLI and VGLI. It would allow for incremental increases in insurance coverage up to $1 million. This buy-up option would be available by paying a premium equivalent to the rate that soldiers currently pay for SGLI. This provision would allow servicemen and women to be sure that their families would be provided for in the event of an unfortunate accident. PVA supports section 2 of the bill.

H.R. 3775, the Department of Veterans Affairs Overpayment Administration Improvement Act of 2002, would extend the time for application for a waiver of recovery of claims of overpayments of veterans benefits to 180 days from the date of final determination

of the overpayment amount if such date is later than the date that is 180 days from the date of pay notification of the indebtedness. The bill would also allow the Secretary of Veterans' Affairs to waive recovery of an overpayment if that recovery would impede the efficient and effective administration of veterans benefits due to the small amount involved and the cost of assessing and collecting such amount. Veterans cannot be held responsible when the Administration makes a mistake and issues an overpayment of benefits. Although PVA fully supports the right of the VA to recover overpayments, the recovery process should not take advantage of a veteran. PVA supports H.R. 3735.

PVA applauds the intent behind H.R. 3771, a bill that would provide that monetary benefits paid to veterans by States and municipalities shall be excluded from consideration as income for purposes of pension benefits. Veterans who receive pension benefits should not face reduction of those benefits simply because their States chose to recognize their service to this country with similar payments. PVA fully supports H.R. 3771.

Similarly, there are many examples in Federal policy whereby low-income disabled veterans are placed at a disadvantage relative to beneficiaries of other disability support programs. The Department of Housing and Urban Development regulations offer earnings disregards to Social Security income or Temporary Assistance to Needy Family recipients in HUD-subsidized housing. Unfortunately, veterans receiving pension benefits who attempt to go to work do not receive the same assistance. The same can be said of a new Social Security law that denies access to VA vocational rehabilitation services for veterans on Social Security disability benefits who want to attain greater economic self-sufficiency.

PVA would like to work with the Committee to explore in greater details the ways in which many Federal programs designed to help persons with disabilities overlook the disabled veteran population.

H.R. 4042, the Veterans Home Loan Prepayment Protection Act of 2002, would prohibit mortgage lenders from charging additional interest following prepayment in full of VA-guaranteed home loans. Mortgage lenders currently have a means to determine their own cutoff time for receipt of loan prepayment. This allows the mortgage lender to charge additional interest for an extra day or, in some cases, several days. Ultimately the veteran ends up paying additional interest on a loan that he or she has already prepaid in full. This is an issue of basic fairness. PVA supports the provisions of H.R. 4042.

PVA does not oppose the Arlington National Cemetery Burial Eligibility Act draft legislation. We would, however, recommend that the limitation on Presidential waiver authority be broadened somewhat to not only include extraordinary acts, service, or contributions to the Armed Forces, but, with proper notification to the Chairman and Ranking Members of both the House and Senate Committees on Veterans' Affairs, to include extraordinary acts, service, or contributions to our Nation as a whole.

I would like to thank the subcommittee for its commitment to improve the benefits for our servicemen and women. We look forward to work with the subcommittee in the future, and I would be happy to answer any questions.

[The prepared statement of Mr. Blake appears on p. 114.]

Mr. SIMPSON. Thank you, Mr. Blake. Mr. Jones.

STATEMENT OF RICHARD JONES

Mr. JONES. Chairman Simpson, Ranking Member Reyes, Mr. Evans, on behalf of National Commander Joseph W. Lipowski, I am pleased to present the views of AMVETS regarding the legislation before this panel.

Mr. Chairman, AMVETS has been a leader since 1944 in helping to preserve the freedom secured by America's Armed Forces, and we are pleased to give our full support on the issues before you today. As a Nation, we owe our veterans an enormous debt of gratitude for their service, their patriotism, and their sacrifices. We know we cannot fully repay them, yet we know as well that their benefits are yet another cost of freedom, and we are pleased this panel does not forget.

In regard to Arlington National Cemetery, we believe it is appropriate to eliminate the requirement for retired reservists to be 60 years old before being admitted to Arlington. The strict standards for burial at Arlington should be amended in this regard. The change would maintain the integrity of the strict standards at Arlington while also recognizing the need to address potential problems as they apply to an entire category of individuals.

AMVETS would also support the legislation to recognize members of the Reserves who die in training. They, too, should be allowed burial in Arlington National Cemetery. Often, mixed crews of Reserves and Active Duty personnel work together to fly in troops, material, and related supplies. If the crew were killed, current code holds Active Duty personnel eligible for Arlington burial, but reservists aren't. This is a peculiar outcome based solely on the reservist's paperwork describing an individual's status as in training. We trust, upon your full consideration, the panel will agree.

As a matter of our advocacy, AMVETS believes that totally disabled veterans are undercompensated. We urge Congress to undertake a full review of service-connected compensation to understand more fully the service-connected needs of veterans and give them the highest priority. It is our view that service-connected compensation and death benefits should be liberal and generous.

This concludes my statement. I would be pleased to answer any questions the panel might have.

[The prepared statement of Mr. Jones appears on p. 119.]

Mr. SIMPSON. Thank you, Mr. Jones. Mr. Eddington.

STATEMENT OF PATRICK G. EDDINGTON

Mr. EDDINGTON. Good morning, Mr. Chairman, and on behalf of our national president, my thanks to you, to Ranking Member Reyes, Mr. Evans, and the rest of the committee for giving us the opportunity to appear here today to comment on the several excellent bills that have been brought up for consideration.

Mr. Chairman, I am not going to rehash at this point in time what we have said in our written statement. I think it largely speaks for itself. I do want to associate VVA with the observations that you, Mr. Reyes, Mr. Evans, andMr. Gutierrez have made with regard to the rationale for these bills. We are in full agreement

with you within the context of what we had to say in our written statement.

I do have one other measure that I want to bring before the committee's attention. This is a benefits-related issue, and I would like for you all to think about this over the course of the next few weeks and months, if you would be so kind.

As you are probably aware, we have had a lot of press coverage over the course of the last several weeks on what amounts to a new issue affecting Vietnam-era veterans, and that is Project Shipboard Hazard and Defense, the 1960s chemical and biological warfare testing program that was undertaken by the Department seeking to try to find ways to protect our ships and our personnel from Soviet chemical and biological weapons. What we have learned over the course of our investigation during the last year, Mr. Chairman, is that the VA and DOD have simply not done a good job over the last 5 or 6 years especially in dealing with this issue. A tremendous amount of data is still classified on this subject, and that has an obvious and direct impact on the ability of veterans to file claims and have those claims dealt with in a relatively expeditious fashion.

So I am here to ask you today, on behalf of our national president, to take under advisement the notion of holding a hearing either later this summer or perhaps early this fall that would involve this committee and possibly the Military Personnel Subcommittee or the Armed Services Committee to look at exactly how the executive branch has handled this issue over the last Five years, roughly. Where are we today with regards to notifying these veterans who have been exposed? What are we doing to do to treat these veterans and ensure that they are taken care of?

And for us, Mr. Chairman, we have a lot of urgency on this because many of these veterans are elderly, they are getting up there. We are not sure how much longer many of them are going to be with us, and we do know that several of the SHAD veterans who approach VVA are desperately ill, many of them with respiratory and cerebrovascular problems that the VA itself has already identified in an internal study may be a problem.

So that would be my request to you today, Mr. Chairman. We would be following up with formal letters to you and to the Ranking Member. Thank you.

Mr. SIMPSON. Thank you, and thank you for your testimony today. And we will take that under advisement.

[The prepared statement of Mr. Eddington appears on p. 123.]

Mr. SIMPSON. One question I guess I have is all of you support—I have got to get the numbers of the bills right—3173 and increasing the SGLI, being able to increase that up to a million dollars. As the VA has testified, actuarially that makes the program unsound, which I guess would mean you would have to substantially increase premiums. Does that mean that you would all support increasing the premiums on that?

Mr. JONES. For AMVETS, we certainly believe that the system should be actuarially sound, and if that calls for increases in premiums, that is the choice to be made. But the measure of insurance backing is also important, as has been spoken to and addressed earlier in this meeting.

Mr. BLAKE. From PVA's perspective, the thing to understand about this change is that it is an option that the servicemember has. If they are aware of that, they are going to be aware of what the premium would be to buy up to this higher level, and that is a choice that they have. So we wouldn't oppose that requirement.

Mr. SIMPSON. Any other comment?

Mr. EDDINGTON. My observation on behalf of VVA, Mr. Chairman, would be that the administration tends to want to lowball these kinds of things almost any time you want to propose any kind of major increase in veterans' benefits. I would be fascinated to see what the General Accounting Office has to say about this. They are the auditors, they are the experts. If they were to come back and say that, yes, it could put the program in jeopardy if X number of folks were to actually fall into that circumstance, then that would certainly be something that we would want to take a look at.

But our view is VA has probably taken an absolute worst-case scenario when they are looking at this, and I would like to see, frankly—we would like to see, VVA, how would GAO take a look at this? Let them examine whether or not the VA's basis for making their particular statement is truly sound.

Mr. SIMPSON. If, in fact, it does, I mean, require a substantial increase in premiums, would you support it?

Mr. EDDINGTON. On a sliding scale I would imagine that our membership would probably support that.

Mr. SIMPSON. Thank you for your testimony today. I appreciate it and I thank you all for what you do for veterans.

Mr. Reyes?

Mr. REYES. Thank you, Mr. Chairman.

I would support holding a hearing, because I know there are a lot of questions in that area, and I think it makes sense to have a joint hearing between us and the Armed Services. And I would support anything that we have to do to get it going, and I would volunteer to do that.

Mr. SIMPSON. Thank you, Mr. Reyes.

Mr. REYES. I have one question in the context of cold-related injury. Are any of you aware of any situations in which a veteran who is totally disabled due to cold-related injury under current regulations would not have been rated as totally disabled prior to the issuance of the July 14, 1998, revised rating?

Mr. EDDINGTON. I would have to take that question for the record, Mr. Reyes, and consult our benefits counsel, and go out and find out whether or not we have got folks within our membership who fall into that particular category. But I would be happy to take that back.

Mr. REYES. Okay.

[No cases identified.]

Mr. JONES. And as legislative director for AMVETS, I have been given no examples or incidents, as you described, by our service director.

Mr. BLAKE. I would concur with Mr. Eddington. That would be an issue that our benefits people would have to take up, and they probably have that information. I would be happy to get back with you on it.

Mr. REYES. Okay.

Mr. LAWRENCE. I have no specific examples.

Mr. REYES. If we could get that information, we would be very appreciative.

That is all I have.

[No cases identified.]

Mr. SIMPSON. Mr. Evans?

Mr. EVANS. I have no questions.

Mr. SIMPSON. I thank you all for your testimony today. Thanks for being here, and we look forward to working with you on these issues.

Would the last panel please come forward now.

Mr. Thomas Miller is representing the Blinded Veterans Association. Mr. Jim Fischl is with The American Legion. Mr. Sid Daniels is with the Veterans of Foreign Wars. And Mr. Daniel Borinsky is a local attorney.

Gentlemen, I again ask that you keep your testimony to 5 minutes. Your full testimony will be included in the record.

Mr. Thomas MILLER. Mr. Chairman, are we going in the order in which you introduced the panel?

Mr. SIMPSON. Yes. We are just trying to get the name plates right up there. I appreciate it.

Mr. Miller, you will be first.

STATEMENTS OF THOMAS MILLER, EXECUTIVE/LEGISLATIVE DIRECTOR, BLINDED VETERANS ASSOCIATION; JAMES R. FISCHL, DIRECTOR, NATIONAL VETERANS AFFAIRS AND REHABILITATION COMMISSION, THE AMERICAN LEGION; SIDNEY DANIELS, ASSISTANT DIRECTOR FOR VETERANS BENEFITS POLICY, VETERANS OF FOREIGN WARS OF THE UNITED STATES; AND DANIEL BORINSKY, ATTORNEY AT LAW

STATEMENT OF THOMAS MILLER

Mr. Thomas MILLER. Thank you, Mr. Chairman and Ranking Member Reyes, for inviting the Blinded Veterans Association to express our views this morning on H.R. 3771.

First, I would like to say I share your problems in reading sometimes, and I may have a little difficulty with my braille as you had with the print up there.

But, again, I would like to thank you particularly for including H.R. 3771 in the hearing this morning, and want to especially thank Representative Joe Crowley for introducing this bill.

As has been repeated a number of times by most all of the witnesses, I think we all know now the intent of H.R. 3771 is to exclude, for pension purposes, the payments made by States and municipalities to veterans who served America in the military. We believe this is a very important, yet a very simple change that can be made in the pension law. Unfortunately, under current law, severely disabled non-service connected veterans are unfairly penalized, having to count payments that are made to them by their States or municipalities for recognizing and honoring their service to America.

We would disagree with the VA in their comments that these veterans receive enough and would like to make the point that

these benefits—monetary benefits made by States and municipalities are not intended to be income-maintenance programs, they are intended as gifts, recognizing and honoring honorable service in the military by the veterans that reside within their States and local jurisdictions. As a consequence, these veterans should not have to make a decision as to whether to apply for and receive these monetary payments based on whether or not it is going to adversely impact their non-service connected pension benefit. In fact, many veterans could be in jeopardy of losing that pension benefit totally if their other income brings them fairly close to the pension threshold. By accepting the monetary payment from a State or local jurisdiction, it might throw them above that pension threshold, resulting in their loss of the pension altogether.

I think it is important also to note that these are the most severely disabled individuals and who are most at risk for being able to find meaningful and productive employment. As an example, blind people in this country of employment age, the unemployment rate has hovered around 70 percent or greater historically. So these pension programs are extremely important to severely disabled veterans, and we believe that it is truly unjust that they should have to make a choice between a payment made from their State in order to preserve a Federal pension benefit.

We would also like to point out that the VA general counsel back in October of 1966 rendered an opinion suggesting that this income should not be counted as income for pension purposes, and should be considered as a gift or a bonus; and we strongly concur with that and would hope that these committees would adopt this legislation and amend Title 38 to enable that to happen.

We believe, Mr. Chairman, that the Federal Government ought to be trying to incentivize or encourage States and municipalities to do more to honor and recognize military service to America, and the current pension laws certainly serve as a disincentive for States to establish such benefits and monetary payments. Unfortunately, as well, it serves as a disincentive for many disabled veterans to even seek payment through these programs within their States.

That concludes my comments, Mr. Chairman, and, again, I want to thank you and Mr. Reyes and the entire subcommittee for including H.R. 3771 in this hearing, and as an aside would mention, Mr. Simpson, that one of our blind veterans has been working very hard with the State legislature in your home State trying to establish such an annuity for blind veterans within the State of Idaho.

But anyway, again, thank you very much, and I would be pleased to respond to any questions you might have.

[The prepared statement of Mr. Thomas Miller appears on p. 128.]

Mr. SIMPSON. Thank you, Mr. Miller. Mr. Fischl.

STATEMENT OF JAMES R. FISCHL

Mr. FISCHL. Thank you, Mr. Chairman and members of the subcommittee. The American Legion appreciates the opportunity to provide testimony to the distinguished members of the subcommittee on the following bills that seek to improve benefits for America's veterans.

On H.R. 3173, the American Legion has long supported the goal of improving the quality of life benefits for the members of the Reserve and National Guard. While the American Legion does not have a specific resolution supporting this bill, the provisions out lined in H.R. 3173 are a solid step toward reaching that goal. Especially in today's environment when Guard and Reserve personnel are being tasked at an overwhelming rate, Congress must ensure that benefits received by these citizen soldiers remain at a level comparable to their Active Duty counterparts.

On H.R. 3735, VA overpayments are much too confusing and complex. We strongly support the provisions in 2(a) of this bill that would allow the clock to start on the appeal process at the point that a final determination is made on the amount of the alleged overpayment.

We also believe that the Committee on Waivers should be required to make a decision prior to requiring a notice of disagreement to be filed by the claimant. Many waiver requests will be resolved in favor of the veteran locally without the need to trigger the appellate process.

Lastly, emphasis should be placed on administratively disposing of waivers for small amounts of money in the interest of not incurring needless administrative expenses that far exceed the amount to be recouped. While we appreciate the Secretary having the authority to waive small overpayments, we realize that the word doesn't always get to everyone, and we have seen many overpayments for very small amounts make it to the Board of Veterans Appeals, and we have seen examples of an elderly widow with an overpayment of $100 making it to the Board of Veterans Appeals. Now, I realize that is an exception, but it is just easier if we codify that and have the Secretary to who strongly would support this just codify it and put it into regulatory perspective.

On H.R. 3771, the American Legion fully supports this bill. Those receiving non-service connected pension are among this Nation's poorest veterans, and the American Legion favors any measure which will raise the standard of living for this population. Further, the American Legion believes that the purpose of monetary benefits paid by States and localities to deserving veterans should not be defeated by counting against non-service connected pensions. That purpose is to reward veterans' honorable service in the Armed Forces of the United States as citizens of the State, county, parish, or municipality providing the benefit.

On H.R. 4042, while this bill provides an obvious benefit for veterans in that they would not be charged additional interest based on the time of day that the payment was posted by the lender, the American Legion shares Admiral Cooper's concern that there could be a possible detrimental effect, that the additional expense incurred by the lenders could either be passed on to the borrower or discourage lenders from participating in the program, and the American Legion would strongly advocate that this provision be looked at. While we fully support the intent of the bill, it is terrific, but we just would like to make sure that, in the interest of trying to help somebody, we don't hurt any veterans.

On the draft legislation on Arlington Cemetery, the American Legion believes that there should be no waivers for unqualified per-

sons except under unique and compelling circumstances that comport with codified nonpartisan waiver procedures as established by the Congress. Currently there is no statute that covers burial in Arlington Cemetery, only 32 CFR Part 553. This is not a law, but a set of administrative regulations. The American Legion supports a clearly defined eligibility criterion for burials at Arlington National Cemetery in order to assure compliance and fairness and to assure that the remaining space is judiciously used.

And finally, Mr. Chairman, the American Legion would like to add its support to providing dependency and indemnity compensation to the surviving spouse of a veteran who, for at least 1 year preceding death, had a service-connected disability rating based on a service-connected cold weather injury. We applaud this legislation and its intent to provide the spouses of veterans who served in World War II and Korea under the most extreme conditions.

Mr. Chairman, that concludes my testimony. I will be happy to answer any questions that you might have.

[The prepared statement of Mr. Fischl appears on p. 129.]

Mr. SIMPSON. Thank you, Mr. Fischl. Mr. Daniels.

STATEMENT OF SIDNEY DANIELS

Mr. DANIELS. Thank you, Mr. Chairman. On behalf of the members of the Veterans of Foreign Wars, I appreciate the opportunity to be here today to comment on the bills under consideration. While we support each of the measures under consideration, I will limit comments to H.R. 3735, H.R. 4042, and the two draft bills.

Mr. Chairman, the VFW supports H.R. 3735, the Department of Veterans Affairs Overpayment Administration Improvement Act of 2002. This measure would bring about two important changes in the administration of overpayments. It would extend the time that the veteran has to make an application for a waiver of an overpayment in instances where a timely appeal of the overpayment decision has been filed; and, secondly, the measure would authorize the Secretary to waive certain debt for the convenience of the government, particularly in cases where the cost of recovery could exceed the amount of the original overpayment. We believe this measure is common sense and would be of immense benefit to both the veterans and the Department of Veterans Affairs.

The VFW strongly supports H.R. 4042, the Veterans Home Loan Prepayment Act. This measure would prohibit residential mortgage lenders from collecting additional daily interest charges once prepayment in full of housing loans guaranteed by VA has been made. This measure seeks to correct the longstanding practice used by many mortgage lenders of deferring or recording payments made after 12 noon, in some cases 2 o'clock, 3 o'clock, to the next business day. Thus, a Friday payment is recorded as being made on Monday or perhaps Tuesday in cases where a bank holiday is being observed on a Monday. The practice of deferring payments to the next business day can result in additional costs to the veteran, who is often unaware of the policy. We believe that provisions of H.R. 4042 will effectively address the problem of daily interest rates being charged unfairly to veterans.

The VFW supports the draft bill titled the Arlington National Cemetery Burial Eligibility Act. For the past several years we have

supported all legislative attempts to codify the rules for interment at Arlington National Cemetery and to clearly limit any policy of exceptions to these rules. This bill enumerates eight categories of eligibility for burial at Arlington. The only exception to those categories would be made by the President for an individual whose acts of service or contributions to the Armed Forces are so extraordinary, he or she could become eligible under the Secretary of the Army, after the Secretary of the Army immediately notifies the Chairman and Ranking Members of both the House and Senate Committees on Veterans' Affairs. The VFW believes this bill, if enacted into law, will reassure the American public that the rules for Arlington National Cemetery are clearly defined, properly codified, and published for all to see.

And finally, Mr. Chairman, we support the bill that provides for payment by the Secretary of Veterans' Affairs of Dependency and Indemnity Compensation to the surviving spouses of the deceased veterans who, for at least 1 year preceding death, had a service-connected disability rated totally disabling that was due to a service-connected cold weather injury.

Mr. Chairman, this concludes my testimony. I would be happy to answer any questions. Thank you.

[The prepared statement of Mr. Daniels appears on p. 132.]

Mr. SIMPSON. Thank you, Mr. Daniels. Mr. Borinsky.

STATEMENT OF DANIEL BORINSKY

Mr. BORINSKY. Thank you, Mr. Simpson, Mr. Reyes, Mr. Evans, Ms. Davis. I am going to cut my six-paragraph statement to two paragraphs, and then, with your permission, I would like to make three extemporaneous comments in response to Mr. Cooper's earlier testimony.

Historically, banks needed to cut off the receipt of transactions with the public before the end of the day to give bank personnel an opportunity to reconcile and post transactions before the close of the bank's business day. This practice led to the term "banker's hours." accordingly, the practice of deferring to the next business day the posting of payments received after a reasonable cutoff time at one time had a rational economic basis. However, with the advent of computers and 24-hour operation centers, banks no longer have a reasonable basis for imposing artificial deadlines. In fact, banks are able to use a deadline to enhance their revenue in a way that effectively avoids a borrower's scrutiny.

One now defunct bank—this was about 15 years ago—Intercity Savings of Washington, DC, actually set a cutoff time of 8:30 a.m., but did not open until 9 a.m., thereby ensuring that every payment received on a particular day would not be credited until the next business day. That is 15 years ago. This is 2 or 3 years ago. In another instance, I wired funds to Crestar Bank, which is now known as SunTrust, to pay off a Crestar Mortgage Company Bank, a 100-percent-owned subsidiary, at approximately 11 a.m. The payoff statement established a cutoff time of 2 p.m. When I inquired as to why that payment was not credited the day it was wired, I was told that Crestar Bank had not credited Crestar Mortgage's account soon enough. 11 o'clock; 2:01 goes to next day.

The harm to individual veteran borrowers is relatively small. In the aggregate, however, it amounts to a huge abuse of American veterans.

That is a summary of my prepared statement.

Mr. Cooper in his prepared statement says: Such legislation, H.R. 4042, would likely require large commercial loan servicers to give special handling to VA loan payments they receive. That, in turn, would likely increase the cost to those entities in serving VA loans.

I have with me, although I had not submitted it to Ms. Seibert earlier because I was not aware of this particular issue, the Federal Register for Monday, June 24, 1985. This is from the Department of Housing and Urban Development, sanctioning special treatment with respect to FHA, Department of HUD loans. The special treatment—it is fairly involved, but I will try to simplify it—is if I make a loan payoff on an FHA loan after the first business day of the month, let's say May the 1st, so I make the payment on May the 2nd, that payment, the banks are permitted to credit that bank payment, since it was after the first business day, not within the window, on the next business—first business day of the following month, meaning June the 1st. The Department of HUD indicated in this statement from Monday, June 24, 1985, that this practice caused a total—they estimate a total amount of extra interest paid by borrowers was estimated to be $65,124,000.

So, Mr. Cooper's remarks remind me of a comment that I hear was once attributed to Senator Russell Long when he was chairman of the Finance Committee of the Senate. He says: Every time we try to raise taxes, the comments from businessmen are, well, we understand that you need to raise the revenue, but the method you have chosen is so complicated and the bookkeeping burden would be so enormous, that it is just not cost-effective, so we don't think you should raise it in that manner. However, according to the story attributed to Senator Long, every time we pass a credit or liberalize deductions, I have never once heard a comment from the business community that it would be difficult to comply with.

If anyone will read, it will—read the Federal Register, about 2 or 3 pages, from Monday, June 24, 1985, and will still give credence to the possibilities enumerated by Mr. Borinsky, I would be very surprised.

The second extemporaneous comment I would like to make is on the next page of Mr. Cooper's testimony, he says—in an attempt to minimize the benefit to the veterans, he says: For example, a veteran with an outstanding balance of $50,000 on a loan at an interest rate of 7¼ percent 1 day sooner would be credited $10.

The person who wrote that statement either doesn't know what they are talking about in terms of the size of the VA loans or—we see very, very few VA loans of a size of only $50,000. They are more likely two, three, and four times that large. So they either do not know what they are saying, or they are purposefully putting a low figure in order to give a reading of this that minimizes the practical benefit and impact to a veteran.

Finally—and this is really the issue that got me started on being concerned about this, was this Crestar Bank issue, and that is the banks are being sneaky. It is a question of dishonorable conduct,

and I think that the veterans deserve honorable conduct. I think it is unfortunate that Congress has to intervene for a bank to act honorably not only to veterans, but to others, but we are just considering the veterans here. But I think that the sneakiness aspect overrides, really, everything else. If it is fair, if it costs more to service a VA loan, then let them say, well, we will have a VA service additional charge. It just costs us more, so we will credit your payment on the 2nd instead of the 1st because that is the VA additional handling charge; but not to do it in a way that conceals from public scrutiny the impact on the veteran.

So, those are my abbreviated general comments and my extemporaneous response to Mr. Cooper's comments.

Mr. SIMPSON. Thank you, Mr. Borinsky. I appreciate that.

[The prepared statement of Mr. Borinsky, with attachment, appears on p. 135.]

Mr. SIMPSON. Did I hear you right that banks are being sneaky?

Mr. BORINSKY. I know that is hard to believe, Mr. Simpson.

Mr. SIMPSON. Wow. I don't have any questions, but I do have just one comment. I believe, Mr. Miller, during your testimony you mentioned—you said that the VA testified that relative to H.R. 3771, the exclusion of State and local benefits, that those veterans, those severely disabled veterans, were already being adequately compensated, and I don't think that is what the testimony was. The testimony, I think, was that it was that they were—the improved pensions program currently takes into consideration their needs, not necessarily that they were being adequately compensated. So, I just didn't want to get that misrepresented, I think, of what the VA was testifying to, as I read their testimony.

Mr. Thomas MILLER. Thank you.

Mr. SIMPSON. I appreciate that. And I thank all of you for being here today. Mr. Reyes.

Mr. REYES. Thank you, Mr. Chairman.

Could I ask Mr. Borinsky to admit that material that he read from for the Record?

Mr. BORINSKY. Okay.

Mr. SIMPSON. Without objection.

Mr. REYES. Thank you.

[The information follows:]

safety, or welfare of subjects (see §§ 56.110 and 56.111), before implementation. These requirements do not apply in the case of a deviation from the investigational plan to protect the life or physical will-being of a subject in an emergency, which deviation shall be reported to FDA within 5 working days after the sponsor learns of it (see § 812.150(a)(4)).

(b) *IRB approval for new facilities.* A sponsor shall submit to FDA a certification of any IRB approval of an investigation or a part of an investigation not included in the IDE application. If the investigation is otherwise unchanged, the supplemental application shall consist of an updating of the information required by § 812.20(b) and (c) and a description of any modifications in the investigational plan required by the IRB as a condition of approval. A certification of IRB approval need not be included in the initial submission of the supplemental application, and such certification is not a precondition for agency consideration of the application. Nevertheless, a sponsor may not begin a part of an investigation at a facility until the IRB has approved the investigation. FDA has received the certification of IRB approval, and FDA, under § 812.30(a), has approved the supplemental application relating to that part of the investigation (see § 56.103(a)).

Dated: June 4, 1985.

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 85-15069 Filed 6-21-85; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Parts 203, 213, 222, 234

[Docket No. R-85-0722; FR-1028]

Prepayment Privileges and Application of Monthly Payments Toward Late Charges on FHA-Insured Single Family Mortgages

AGENCY: Office of Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Final rule.

SUMMARY: This rule: (1) Eliminates the 30-day written notice requirement for prepayment of single family mortgages and the requirement that prepayments be made on an interest payment date; (2) permits prepayments (in whole or in part), other than those received on an installment due date, to be credited on the next installment due date; (3) requires that lenders fully disclose in writing the lender's policies on collection of prepayment interest; and (4) imposes sanctions, including forfeiture of prepayment interest, on lenders who violate the disclosure requirements. This rule also permits mortgagees to apply a portion of a mortgagor's total monthly payment to a late charges.

EFFECTIVE DATE: August 2, 1985.

FOR FURTHER INFORMATION CONTACT: Richard B. Buchheit, Director, Single Family Servicing Division, Office of Single Family Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410-5000, Telephone: (202) 755-6672. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION:

I. Background

For many years, HUD's policies on single family prepayments generated a significant number of complaints from mortgagors, members of Congress and consumer interest groups. Current regulations require that a mortgagor: (1) Give the mortgagee a 30-day written notice of intention to prepay the mortgage, in whole or in part, and (2) make such payment on the installment due date (established by § 203.17 as the first of the month), unless the mortgagee elects to waive the requirements. If a mortgagor fails to meet both conditions for prepayment, the mortgagee may refuse to accept prepayment until the first day of the month following expiration of the notice period, unless the mortgagor agrees to pay interest to such later date. Thus, if a mortgagor gives a 30-day notice on September 15, the mortgagee may refuse to accept the prepayment until November 1, unless the mortgagor agrees to pay interest to November 1. The effect is two-fold: a notice period much longer than 30 days, and increased costs for the mortgagor.

When originally adopted, the requirement for a 30-day notice period was justified as giving lenders adequate time to anticipate prepayments, to develop close-out balances, and to arrange for reinvestment of prepayment funds. The advent of computers and other advanced equipment, combined with a greater degree of sophistication among money managers and immediate access to numerous short- and long-term investment alternatives, has obviated the need for a 30-day notice.

Prepayments are now usually initiated in connection with the sale of the property and involve new financing. Problems arise, however, because many mortgagors and real estate brokers are unfamiliar with the FHA regulations on prepayment privileges, and schedule the settlement date on the new home to take place as early as possible after financing is secured. The pressure for an early settlement date and the lack of familiarity with the regulations generally override serious consideration by the mortgagor of the prepayment penalty and, in effect, deny the mortgagor a reasonable opportunity to postpone the date of settlement to coincide with the date of prepayment set by the mortgagee. Instead, the mortgagor pays the extra interest in order to complete the sale as scheduled.

The current regulations result in mortgagees receiving significant amounts of unearned interest from prepaying mortgagors. Departmental data, gathered from HUD's Management Information System, indicated that approximately 108,000 FHA-insured mortgages were prepaid in 1981. From an analysis of the prepayment data, HUD constructed a general composite picture of the Department's average annual single family mortgage prepayment activity. That composite indicated that the typical mortgage: (1) Was prepaid in the 6th year of the 30-year term, (2) had an average outstanding balance of $55,000 at time of prepayment, and (3) was financed at a 12 percent interest rate. HUD estimated that an average amount of $804, representing one and one-half months of extra interest, was paid by 75 percent of all prepaying mortgagors. Based on this estimate, the average annual number of prepaying mortgagors paying extra interest was estimated to be about 81,000 (75 percent of 108,000), and the total amount of extra interest paid by such mortgagors was estimated to be $65,124,000 (81,000 times $804).

II. The 1979 and 1984 Proposed Rules

On October 31, 1979 (at 44 FR 62531), the Department published a proposed rule to amend 24 CFR 203.558 to provide that, with respect to single family mortgages insured on or after the effective date of the rule, a mortgagee: (1) Could not require a 30-day written notice of the mortgagor's intention to prepay the mortgage; (2) must credit a prepayment in full as of the date the payment was received; and (3) need not credit a partial prepayment (other than one received on an installment due date until the following installment due date. The rule also proposed to amend § 203.608 to require the mortgagee to permit reinstatement of a mortgage

under certain circumstances, including after the institution of foreclosure proceedings.

Comments received in response to the October 31, 1979 proposed rule were generally opposed to the provisions relating to crediting of a prepayment as of the date it was received and to the reinstatement of a mortgage. The main arguments against the proposed rule were that: (1) Crediting prepayments in full as of the date payment was received would act to the severe detriment of mortgagees participating in the Government National Mortgage Association (GNMA) mortgage-backed securities program, since GNMA requires that mortgagees pass through interest through the last day of the month in which the payment is received; and (2) requiring reinstatement of the mortgage would serve to protect chronically delinquent mortgagors.

Early in 1984, the Department decided to republish for public comment that portion of the 1979 proposed rule dealing with prepayment privileges, because HUD continued to believe that, under the current regulations, prepaying mortgagors are subject to inequitable treatment by mortgagees with regard to the imposition of extra interest. The Department also believed that republication as a proposed rule was appropriate because of the significant period of time that had elapsed since the initial publication of the proposed rule. It was decided, however, that the portion of the 1979 proposed rule that would have required reinstatement of mortgages should, in response to the critical public comments, be withdrawn. (HUD reserved the right to repropose a similar amendment or to consider another course of action at some future time on the matter of reinstatement of a mortgage.)

On May 18, 1984 (at 49 FR 21079), the Department republished the proposed rule to amend sections in 24 CFR Parts 203, 213, and 234 which deal with prepayment privileges. The proposed rule provided that, with respect to mortgages insured on or after the effective date of the (final) rule, a mortgagee: (1) Could not require a 30-day written notice of the mortgagor's intention to prepay the mortgage; (2) must credit a prepayment in full as of the date the payment was received; and (3) need not credit a partial prepayment, other than one received on an installment due date, until the next following installment due date.

For those mortgages that were insured before the effective date of the rule, mortgagees could continue to exercise the option permitted by 24 CFR 203.558 and collect interest until the first day of the month following expiration of the 30-day notice of prepayment.

The rule also added proposed amendments to sections in 24 CFR Parts 203, 213 and 222 relating to application of monthly payments on single family mortgages. The proposed amendments to §§ 203.24, 213.515 and 222.6 would add late charges to the list of items to which the mortgagee may apply a portion of a total monthly payment. Section 203.554 already permits mortgagees to deduct late charges from the monthly payment, subject to notice requirements, if such deduction is not inconsistent with the terms of the mortgage. The amendments would clarify that such deductions are permitted and would codify late charge collection procedure set out HUD Handbook 4330.1, Chapter 4, paragraph 63.

The proposed amendments would continue safeguards relative to late charges by: (1) Requiring the mortgagee to give notice to the mortgagor of its intention to impose a late charge, (2) prohibiting a mortgagee from adding previously uncollected late charges to the monthly payment for purposes of calculating the present late charge, (3) subjecting the collection of late charges to the law of the State in which the mortgage is serviced and to the terms of the mortgage, and (4) prohibiting initiation of foreclosure proceedings when the only delinquency under the mortgage is a late charge that is due but unpaid.

The proposed amendments would be reflected in HUD's new security instruments, in order to further the objective of section 905 of the Housing and Community Development Amendments of 1978. Section 905 requires that, insofar as it is practicable and to the extent permitted by law, HUD, the Department of Agriculture, and the Veterans Administration should use uniform note and mortgage forms and other documents to reduce the paperwork and regulatory burden on homeowners and homebuyers.

III. Discussion of Comments

The Department received eleven comments in response to the May 18, 1984 proposed rule. The commenters included eight mortgagees, two mortgage banking associations, and one national organization representing home builders. All of the commenters were critical of the portion of the proposed rule dealing with prepayments, and raised arguments similar to those made in response to the October 31, 1979 proposed rule. No comments were submitted regarding the proposed amendments dealing with late payments.

The following discussion represents the scope and nature of the comments.

A. Elimination of the 30-day Written Notice Requirement

Of the ten comments dealing with the proposed elimination of the 30-day written notice requirement, five commenters agreed that the notice was no longer necessary for the purpose of developing close-out balances or as an aid to reinvestment of prepayment funds. Five commenters expressed opposition to its elimination, but only two of those commenters advanced any reasons in support of their position. Those reasons were: (1) The initial justifications for the requirement are still valid, and (2) mortgagors should be held to the terms of the mortgage.

B. Crediting Prepayments in Full as of the Date Payment Is Received.

The commenters were unanimous in opposing the proposed change that would require lenders to credit prepayments in full as of the date payment is received. Their basic arguments can be summarized as follows:

(1) The change would impose serious burdens on mortgagees who place many of their FHA-insured mortgages in the GNMA mortgage-backed securities (MBS) program;

(2) HUD's estimates are inaccurate regarding the percentages of FHA-insured mortgages that are placed in GNMA-MBS pools and or prepaying mortgagors who are charged extra interest;

(3) HUD and GNMA already require mortgagees to absorb other expenses relating to foreclosures, interest on advances to GNMA pools, and interest and penalty charges if MIP premiums are not received by HUD on a timely basis, even where the delay was not caused by the mortgagee;

(4) The rule would increase the cost of housing for all buyers, and would have the most serious impact on first-time homebuyers and low- and moderate-income families, because of higher up-front costs and other charges that would be needed; and

(5) HUD's arguments (A) that the amendments are needed to conform HUD's practices to those of the VA and (B) that there is little evidence that mortgagees have voiced significant opposition to the VA practices are invalid and inappropriate.

1. *The changes impose serious burdens on GNMA–MBS participants.* GNMA requires issuers/servicers

participating in the MBS program to pass through interest to certificate holders through the last day of the month of a prepayment in full, regardless of the date of the prepayment. For example, if prepayment is made on September 5, the participating issuer/servicer is required to pass through interest to the security holder through September 30, even though, under the proposed rule, the issuer/servicer would receive interest from the mortgagor only until September 5. The proposed rule would force issuers/servicers to absorb the difference between the amount of interest collected and the amount of interest due GNMA.

Statistics supporting the May 18, 1984 proposed rule indicated that at least 70 percent of all FHA-insured single family mortgages are placed in GNMA–MBS pools. Based on the estimated 108,000 FHA-insured mortgages that are prepaid in full annually, mortgagees would have to absorb, on the average, pass-through interest fees to GNMA on about 75,600 mortgages annually. HUD estimated that the annual costs to MBS issuers resulting from GNMA requirements could ultimately exceed $20 million dollars. Current statistics indicate that about 90 to 95 percent of all such mortgages are now placed in GNMA–MBS pools; thus, the costs that mortgagees would be required to absorb would be significantly higher than indicated in the proposed rule.

HUD noted in the proposed rule that, because the rule would only apply prospectively, the projected costs for MBS issuers (and savings for prepaying mortgagors) would not be entirely realized until the rule was adopted and in effect for six years. Accordingly, the annual cost to the MBS issuers, based on the figures used in the proposed rule and assuming that the number of prepayments in full increase in an even amount every year, would be about $3.4 million the first year, with a $3.4 million increase every year until the $20.3 million level was reached in the sixth year. Based on the same assumptions, the net savings to mortgagors would approximate $10.8 million the first year and increase by a like amount annually until the projected $65 million level was reached in the sixth year. These projections assumed that *all* prepayments in full occur by the end of the sixth year of the mortgage term. More realistically, the projected costs and savings would be at a lower annual rate and extend over a longer period of time, since many prepayments in full do not occur until after the sixth year of the mortgage term.

2. *HUD's estimates of the problem are inaccurate.* The commenters challenged the accuracy of the percentages ascribed by HUD to the number of FHA-insured mortgages placed in GNMA–MBS pools and to the number of prepaying mortgagors charged extra interest. HUD set forth, in extensive detail, the methodology it followed in developing its estimates. HUD was careful not to suggest that the figures were precise, stating several times that the figures represented an *average* drawn from the Department's analysis of data reflecting single family mortgage activity. Although current estimates indicate that a higher percentage of FHA-insured mortgages are placed in GNMA–MBS pools than was indicated in the proposed rule, HUD believes that its estimates are reasonable and sufficient to show that prepaying mortgagors are currently being treated in an inequitable manner with regard to the collection of extra interest for the month following the GNMA pass-through period.

3. *HUD and GNMA require mortgagees to absorb other costs.* Several of the commenters asserted that HUD and GNMA already require mortgagees to absorb other expenses relating to foreclosures, interest on advances to GNMA pools, and interest and penalties on MIP premiums, if HUD does not receive them on a timely basis. Some commenters also argued that the current regulations are appropriate because they permit mortgagees to subsidize losses caused by the VA requirements. The Department believes that the costs of doing business should not be absorbed by prepaying mortgagors, but is a burden best carried by the lending industry itself. Moreover, HUD experience suggests that mortgagees are granted sufficient financial inducement to make their operations profitable without having individual prepaying mortgagors subsidize their operations.

4. *The rule would impact adversely on first-time and low- and moderate-income buyers.* A number of commenters suggested that the proposed rule would have an adverse effect on the cost of housing, most particularly on first-time and on low- and moderate-income buyers. They pointed out that mortgagees, in anticipation of placing the mortgages in the GNMA–MBS program, establish interest rates and related costs at levels lower than would otherwise be the case, a factor that is most helpful to homebuyers on the lower end of the income scale. The commenters stated that the proposed rule could result in fewer mortgages being placed in the GNMA–MBS pool, because the MBS yield is already 75–100 basis points below the FNMA yield. Such a move away from GNMA could lead to higher financing costs for homebuyers.

HUD acknowledged in the proposed rule that it was likely that interest costs absorbed by GNMA issuers would be passed on to new mortgagors through points, fees, or similar devices. HUD indicated that, since most prepayments occur in connection with the purchase of another home, a sizable portion of such interest cost would be borne by mortgagors who had accomplished a "savings" in prepaying their FHA-insured mortgages, and that such mortgagors could better assume the extra costs in financing new mortgages going into a GNMA–MBS pool.

However, in light of the strong arguments made by the commenters, HUD has amended the proposed rule to permit the mortgagee, in the case of prepayment in full on other than an installment due date, to collect interest through the last day of the month in which the prepayment is made, if the mortgagee has advised the mortgagor in writing of its prepayment policies. Consequently, mortgagees will not be required to absorb the cost of GNMA pass-through interest or to pass on such extra costs to prepaying mortgagors in other ways.

5. *Mortgagees have objected to VA's prepayment policies.* HUD had noted in the proposed rule that, for many years, MBS pools have included about 50 percent of all VA-guaranteed mortgages and that such VA mortgages include the prepayment rule that HUD was seeking to adopt. HUD suggested that mortgagees placing VA-guaranteed mortgages in MBS pools have borne any interest-penalty risks attendant upon the prepayment of VA mortgages, without any apparent serious effort to change the VA rule. Consequently, HUD suggested that there was little basis for such mortgagees to object to HUD's efforts to adopt the same rule.

Special exception was taken to HUD's statements that mortgagees have taken little, if any, action, to have the VA amend its rules regarding prepayment policies and the requirement that payments be credited as of the date that they are received. The commenters stated that, on the contrary, numerous efforts had been made by individual mortgagees and the mortgage bankers association to influence the VA to change its policies. The commenters noted that many mortgagees experienced significant losses on their VA mortgages in 1983 because of the high number of mortgages that were

refinanced, and some noted that they were able to offset VA losses because of HUD regulations that permit them to require prepaying mortgagors to pay the extra interest.

Several of the commenters took issue with the HUD assertion that the rule was needed in order to conform its policies with those of the VA. The commenters also pointed out that there are a number of current HUD practices that do not conform with the VA, and that it was unfair for HUD to focus on a single issue.

HUD regrets its apparently incorrect suggestion that mortgagees had acquiesced in VA policies that were the same as the policies HUD was proposing. However, the major basis for HUD's proposing the rule was not in fact the VA issue; it was the inequity of the burden placed on prepaying mortgagors. Therefore, HUD does not accept the comments that maintenance of HUD's current procedure is necessary, *so that mortgagees can offset VA losses by imposing extra interest costs on mortgagors who prepay FHA-insured mortgages.* The inappropriateness of such an argument is obvious. Mortgagees should find other, more valid, vehicles for dealing with VA losses than by imposing extra costs on prepaying mortgagors who, by the commenters' own description (first-time, low- and moderate-income homebuyers), are least able financially to subsidize the mortgagees' losses.

After careful consideration of all of the comments, as well as an analysis of the effect of the current prepayment policy on mortgagors and mortgagees, HUD has decided to implement a change in the regulations to eliminate the inequitable interest burden currently placed upon mortgagors who prepay their mortgages in full.

IV. HUD's Disposition of the Issues Raised by the Commenters

A. Elimination of the 30-Day Written Notice Requirement

In the absence of more substantive arguments, HUD believes that changed conditions permit lenders to determine close-out balances and to develop reinvestment strategies in a very short time, and, thus, have negated the need for the 30-day notice. The Department notes also that the 30-day notice requirement is not common practice or policy in the conventional mortgage market. This suggests that mortgagees themselves recognize the lack of need for such a notice. HUD has, therefore, decided to eliminate the 30-day notice requirement in the final rule.

B. Crediting Prepayments in Full as of the Date Payment Is Received

The commenters raised some valid points relative to mortgages placed in MBS pools, but failed to address the amount of unearned interest that mortgagees retain and do not pass through to GNMA. HUD data indicates that most prepaying mortgagors are now charged one and one-half months of extra interest (estimated to equal $804 for each prepaying mortgagor). Mortgagees participating in the GNMA-MBS program pass through only a portion of this unearned interest. MBS issuers retain at least a month's portion of the extra interest, or approximately $30.3 million annually (based upon the average monthly interest cost of $538 times the average number of prepaid mortgages in GNMA MBS pools). The amount of extra interest retained by mortgagees on mortgages that were not placed in the GNMA-MBS program is even higher.

To address the valid issues raised by the commenters and the legitimate interests of prepaying mortgagors, HUD has decided to make the following changes from the proposed rule: (1) Permit a mortgagee, with regard to a mortgagor making prepayment in full on other than an installment due date, to collect interest through the last day of the month in which the payment is made; (2) require a mortgagee to disclose, in a form approved by the Commissioner, its policies regarding prepayments at the time the mortgagor indicates an intention to prepay the mortgage; and (3) subject a mortgagee who violates the full disclosure requirements to forfeiture of interest received for the period after the date of prepayment in full, and to other sanctions permitted under Part 25 of this title. The disclosure provisions will clarify existing HUD policy and practice.

These changes benefit both mortgagees and prepaying mortgagors by: (1) Preventing mortgagees from having to absorb the pass-through interest costs imposed by GNMA for participation in the MBS program; and (2) freeing prepaying mortgagors from the burdens of having to pay interest for the month following the month in which the prepayment is made.

V. Summary of Changes in the Final Rule

For ease of identification, the principal changes in the final rule are listed below.

1. In the case of prepayments of mortgages insured after the effective date of this rule, if prepayment is offered on other than an installment due date, mortgagees may refuse to accept the payment until the next installment due date, or require payment of interest to that date, but only if the mortgagee meets disclosure requirements. The mortgagee may no longer require payment of interest for the month after the month in which prepayment is made.

2. New provisions are added to § 203.558 to (a) require full disclosure, in a form approved by the Commissioner, by the mortgagee of its prepayment policies at the time the mortgagor indicates an intention to prepay the mortgage in full, and (b) subject mortgagees who violate the disclosure requirements to (i) forfeiture of that portion of the interest collected for the period beyond the date of prepayment in full, and (ii) such other administrative actions as are authorized against mortgagees by the Mortgagee Review Board under 24 CFR Part 25. The current regulations require that the mortgagor be advised of the mortgagor's prepayment policy. The amendment is intended to clarify how the mortgagor must be advised of the mortgagor's prepayment policy and what actions the Department may take if the mortgagee fails to provide the required disclosure.

3. Section 234.39 is amended to conform to changes made with regard to application of a monthly payment to late charges made in Parts 203, 213 and 222. The amendment was inadvertently left out of the proposed rule.

VI. Findings and Other Matters

This rule does not constitute a "major rule" as that term is defined in section 1(b) of Executive Order 12291 on Federal Regulations. Analysis of the rule indicates that it does not: (1) Have an annual effect on the economy of $100 million or more; (2) cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local governmental agencies, or geographic regions; or (3) have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

It is estimated that an average of 9,000 FHA-insured single family mortgages are prepaid each month, and that 75 percent of these mortgages are currently subjected to 1½ months of extra interest. HUD data also indicates that the largest number of FHA-insured single family mortgages are prepaid in the 6th year of their term. A typical 30-year mortgage having a principal balance of $55,000 and an interest rate

of 12 percent costs the mortgagor approximately $536 per month in interest costs in the sixth year of the mortgage term. Under this rule, mortgagors will be required to pay interest only through the end of the month in which prepayment is made (to cover GNMA pass-through requirements), and, thus, will save one month's extra interest that mortgagees may now collect. In a 12-month period, it is estimated that the total savings on such prepaid mortgages would be about $43,416,000, an amount which is well below the $100 million threshold.

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations in 24 CFR Part 50 which implement section 102(2)(C) of the National Environmental Policy Act of 1969. The Finding of No Significant Impact is available for public inspection during regular hours in the office of the Rules Docket Clerk, Office of the General Counsel, Room 10278, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410-5000.

Under 5 U.S.C. 605(b) (the Regulatory Flexibility Act), the undersigned hereby certifies that this rule does not have a significant impact on a substantial number of small entities, because adequate means exist for mortgagees, including small mortgagees, to adjust their procedures to account for any economic impacts of this rule in advance of its effect on their business obligations.

Paperwork Reduction Act. The information collection requirement contained in this rule has been submitted to the Office of Management and Budget for review under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501-3520). No person may be subjected to a penalty for failure to comply with these information collection requirements until they have been approved and assigned an OMB control number. The OMB control number, when assigned, will be announced by separate notice in the Federal Register.

This rule was listed as sequence number 39 (H-9-79; FR 1028) in the Department's Semiannual Agenda of Regulations, published on April 29, 1985 (50 FR 17286, 17301) under Executive Order 12291 and the Regulatory Flexibility Act.

The following numbers identify the programs, as listed in the Catalog of Federal Domestic Assistance, affected by the regulatory changes: 14.108, 14.117, 14.119, 14.120, 14.121, 14.122, 14.123, 14.130, 14.132, 14.133, 14.140, 14.159, 14.161, 14.163, 14.165, 14.168, 14.172, and 14.175.

List of Subjects

24 CFR Part 203

Home improvement, Loan programs: Housing and community development, Mortgage insurance, Solar energy.

24 CFR Part 213

Mortgage insurance, Cooperatives.

24 CFR Part 222

Condominiums, Military personnel, Mortgage insurance.

24 CFR Part 234

Condominiums, Mortgage insurance, Homeownership, Projects, Units.

Accordingly, 24 CFR Parts 203, 213, 222 and 234 are amended as follows:

PART 203—MUTUAL MORTGAGE INSURANCE AND REHABILITATION LOANS

1. The authority citation for 24 CFR Part 203 continues to read as follows:

Authority: Secs. 203 and 211, National Housing Act (12 U.S.C. 1709, 1715b); Sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

2. By revising § 203.22, paragraph (b), to read as follows:

§ 203.22 Payment of insurance premiums or charges; prepayment privilege.

* * * * * *

(b) *Prepayment privilege.* The mortgage shall contain a provision permitting the mortgagor to prepay the mortgage in whole or in part on any installment due date, but shall not provide for the payment of any charge on account of such prepayment.

3. By revising § 203.24, paragraphs (a)(1) through (a)(4), to read as follows:

§ 203.24 Application of payments.

(a) * * *

(1) Premium charges under the contract of insurance (other than a one-time mortgage insurance premium paid in accordance with § 203.280), charges for open-end advances, ground rents, taxes, special assessments, flood insurance premiums, if required, and fire and other hazard insurance premiums;

(2) Interest on the mortgage;

(3) Amortization of the principal of the mortgage; and

(4) Late charges, if permitted under the terms of the mortgage and subject to such conditions as the Commissioner may prescribe.

* * * * * *

4. By revising § 203.558 to read as follows:

§ 203.558 Handling prepayments.

(a) Notwithstanding the terms of the mortgage, the mortgagee may accept a prepayment at any time and in any amount. Except as set out below, monthly interest on the debt must be calculated on the actual unpaid principal balance of the loan.

(b) With respect to mortgages insured before August 2, 1985, if a prepayment is offered on other than an installment due date, the mortgagee may refuse to accept the prepayment until the first day of the month following expiration of the 30-day notice period as provided in the mortgage, or may require payment of interest to that date, but only if the mortgagee so advises the mortgagor, in a form approved by the Commissioner, in response to the mortgagor's inquiry, request for payoff figures, or tender of prepayment.

(c) With respect to mortgages insured on or after August 2, 1985, the mortgagee shall not require 30 days' advance notice of prepayment, even if the mortgage instrument purports to require such notice. If the prepayment is offered on other than an installment due date, the mortgagee may refuse to accept the prepayment until the next installment due date (the first day of the month), or may require payment of interest to that date, but only if the mortgagee so advises the mortgagor, in a form approved by the Commissioner, in response to the mortgagor's inquiry, request for payoff figures, or tender of prepayment.

(d) If the installment due date (the first day of the month) falls on a nonworking day, the mortgagor's notice of intention to prepay under paragraph (b) or the prepayment shall be timely if received on the next working day.

(e) If the mortgagee fails to meet the full disclosure requirements of subparagraphs (b) and (c) of this section, the mortgagee may be subject to forfeiture of that portion of the interest collected for the period beyond the date that prepayment in full was received and to such other actions as are provided in Part 25 of this title.

PART 213—COOPERATIVE HOUSING MORTGAGE INSURANCE

5. The authority citation for 24 CFR Part 213 continues to read as follows:

Authority: Secs. 211, 213, National Housing Act (12 U.S.C. 1715b, 1715e); Sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

6. By revising § 213.513, paragraph (b), to read as follows:

§ 213.513 Payment of insurance premiums or charges; prepayment privilege.

(b) *Prepayment privilege.* The mortgage shall contain a provision permitting the mortgagor to prepay the mortgage in whole or in part on any installment due date, but shall not provide for the payment of any charge on account of such prepayment.

7. By revising § 213.515 to read as follows:

§ 213.515 Payments, how applied.

(a) All monthly payments to be made by the mortgagor to the mortgagee shall be added together and the aggregate amount of the payment shall be paid by the mortgagor each month in a single payment. The mortgagee shall apply the monthly payment to the following items in the order set forth:

(1) Premium charges under the contract of insurance (including insurance charges for open-end advances), ground rents, taxes, special assessments, flood insurance premiums, if required, and fire and other hazard insurance premiums;

(2) Interest on the mortgage;

(3) Amortization of the principal of the mortgage; and

(4) Late charges, if permitted under the terms of the mortgage and subject to such conditions as the Commissioner may prescribe.

(b) Any deficiency in the amount of any such monthly payment, unless made good by the mortgagor on or before the due date of the next monthly payment, shall constitute an event of default under the mortgage.

PART 222—SERVICEMEN'S MORTGAGE INSURANCE

8. The authority citation for 24 CFR Part 222 is revised to read as set forth below and any authority citation following any section in Part 222 is removed.

Authority: Secs. 211, 222, National Housing Act (12 U.S.C. 1715b, 1715m); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

9. By revising § 222.6, by removing the word "and" after the semicolon at the end of paragraph (a)(3), removing the period at the end of paragraph (a)(4) and adding in its place a semicolon and the word "and" and by adding a new paragraph (a)(5), to read as follows:

§ 222.6 Application of payments.

(a) * * *

(5) Late charges, if permitted under the terms of the mortgage and subject to such conditions as the Commissioner may prescribe.

PART 234—CONDOMINIUM OWNERSHIP MORTGAGE INSURANCE

10. The authority citation for 24 CFR Part 234 continues to read as follows:

Authority: Secs. 211, 234, National Housing Act (12 U.S.C. 1715b, 1715y); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

11. By revising § 234.37, paragraph (b), to read as follows:

§ 234.37 Prepayment of insurance premium or charges; prepayment privilege.

(b) *Prepayment privilege.* The mortgage shall contain a provision permitting the mortgage to prepay the mortgage in whole or in part on any installment due date, but shall not provide for the payment of any charge on account of such prepayment. Prepayments offered or made on other than an installment due date shall be subject to the provisions of § 203.558.

12. By revising § 234.39 to read as follows:

§ 234.39 Application of payments.

(a) All monthly payments to be made by the mortgagor to the mortgagee shall be added together and the aggregate amount of the payment shall be paid by the mortgagor each month in a single payment. The mortgagee shall apply the monthly payment to the following items in the order set forth:

(1) Premium charges under the contract of insurance (including insurance charges for open-end advances), ground rents, taxes, special assessments, and such fire and hazard insurance premiums as may be required by the mortgagee;

(2) Interest on the mortgage;

(3) Amortization of the principal of the mortgage; and

(4) Late charges, if permitted under the terms of the mortgage and subject to such conditions as the Commissioner may prescribe.

(b) Any deficiency in the amount of the monthly payment, unless made good by the mortgagor on or before the due date of the next monthly payment, shall constitute an event of default under the mortgage.

Authority: (Sec. 211 of the National Housing Act (12 U.S.C. 1709, 1715).)

Dated: June 14, 1985.

Janet Hale,

Acting General Deputy Assistant Secretary for Housing-Deputy Federal Housing Commissioner.

[FR Doc. 85-15070 Filed 6-21-85; 8:45 am]

BILLING CODE 4210-27-M

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24 CFR Parts 207 and 255

[Docket No. R-85-0953; FR-1391]

Coinsurance for the Purchase or Refinancing of Existing Multifamily Housing Projects

AGENCY: Office of Assistant Secretary for Housing-Federal Housing Commissioner, HUD.

ACTION: Final rule.

SUMMARY: This rule promulgates, in the form of a final rule, the numerous interim revisions to 24 CFR Part 255 which have been made since its original publication on July 2, 1980. Part 255 deals with Coinsurance for the Purchase or Refinancing of Existing Multifamily Housing Projects. A companion rule, 24 CFR Part 251, dealing with Coinsurance for the Construction or Substantial Rehabilitation of Multifamily Housing Projects, was promulgated as a final rule on August 9, 1984. In addition to setting forth the various substantive revisions that have been made to Part 255 since its inception, this final rule also reflects the organization and structure of its companion Part 251 rule. The two rules are designed to work in tandem as parts of a coordinated multifamily coinsurance program.

EFFECTIVE DATE: August 2, 1985.

FOR FURTHER INFORMATION CONTACT: James Hamernick, Office of Multifamily Housing Development, Room 6132, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410, telephone (202) 755-6500. (This is not a toll-free number).

SUPPLEMENTARY INFORMATION: On May 25, 1983, the Department published, in the form of an interim rule (48 FR 23386), a major revision of 24 CFR Part 255 entitled "Coinsurance for the Purchase or Refinancing of Existing Multifamily Housing Projects". Changes contained in that revision included (1) further extension of program eligibility to State Housing Agencies, (2) provisions for reinsurance of a lender's coinsurance risk, (3) revision of the maximum repair limits permitted under the program, (4)

Mr. REYES. I have got one question that I asked the previous panel, and let me just read it. Are you aware of any situations in which a veteran who was totally disabled due to a cold-related injury under current regulations would not have been rated as totally disabled prior to the issuance of the July 14, 1998, revised rating? Could any of you offer any information?

Mr. FISCHL. I don't have any specifics that I could quote you right now, but I would be happy to go back and search it out and see if I could submit that for the record.

Mr. DANIELS. The same here, sir. I would be happy to go back and check with the staff and submit it for the record.

Mr. REYES. Very good. I would appreciate that.

[No cases identified.]

Mr. REYES. Thank you, Mr. Chairman.

Mr. SIMPSON. Mr. Evans?

Mr. EVANS. No questions.

Mr. SIMPSON. Ms. Davis?

Mrs. DAVIS. No, thank you.

Mr. SIMPSON. We thank you all for your being here today. We thank you for your testimony, your support of veterans, and we look forward to working with you and continuing to work with you on these and other issues as they come up. Thank you all very much.

I am going to ask—we have with us Mr. Larry St. Laurent. If you would come to the witness table for just a couple of minutes to talk to us about the draft cold weather DIC bill, if that is okay with the Members.

Welcome, Mr. St. Laurent.

STATEMENT OF LARRY ST. LAURENT, DIRECTOR, OCEAN COUNTY VETERANS SERVICE BUREAU

Mr. ST. LAURENT. I thank you for this privilege, Mr. Chairman and members of the subcommittee. I thank you for allowing me to testify before your subcommittee on behalf of the surviving spouses of those 100 percent total and permanent war-related veterans. I am here today to tell you why cold weather injured veterans should be entitled for DIC compensation.

Those veterans were denied recognition and compensation for over 50 years. This is for injuries that happened over 50 years ago, but thanks to Chairman Chris Smith and your committee, this injustice was corrected in 1998. Thank you. Most who were teenagers then are now in their seventies or eighties. How many do you expect to qualify for a 10-year clause after receiving their 100 percent?

As director of the Ocean County Veterans Service Bureau, I deal with widows every week who go without DIC. Many live in poverty and need assistance. They were dependent on the Veterans Service-connected checks. These men gave their blood, live with pain, many losing their fingers, toes, entire extremities due to frostbite. Please consider the pain and suffering of those forgotten warriors. If it were not for them, we would not be living in freedom today. Freedom is not free, and the veterans paid for it. And please do the right thing.

And I was going to say, and I will say, God bless you, and God bless America. But thanks to Mr. Reyes and yourself—and you have asked the questions that nobody here could answer. I am sure I could answer most of them. I was very instrumental in working with Chris Smith, working on the cold injury bill after all those years. I am an survivor of the "Chosin Few," and I have—excuse me. I will answer your questions.

Mr. SIMPSON. Thank you for your comments. We appreciate your being here, Mr. St. Laurent.

Mr. ST. LAURENT. I just—Mr. Reyes asked the question, and nobody could answer it. I am sure I can answer that question.

Mr. REYES. Please go ahead, sir.

Mr. ST. LAURENT. The reason why these people should get it now is they were never recognized by the U.S. Government the same as Agent Orange. And I know people ask questions about other names being put into this. I have no objection about all 100 percent service-connected veterans who have had it or were injured back in them days. They were never compensated by this government for these injuries. They suffered. So, how could they be expected to live 10 more years when they received these benefits after their 70th birthday?

How could they— before, their claims, they could never get more than 10 percent. They were never unilateral; they could only be bilatereral 10 percent for their feet, 10 percent for their hands, not left hand, right hand, right foot, left foot. Now they can account for 30 percent for left foot, 30 percent for your right foot, 30 percent for your right hand, 30 percent left hand, and your peripheral neuropathy. You can have 140 percent and still not get 100 percent with the rating schedules of the VA in this country.

They have been recognized in England and other countries before this. Thanks to England Surgeon General's most renowned cold injury specialist who attended the Chosin Few reunion and examined all these veterans that we are getting this, no thanks to our own doctors and our own VA. And I don't know how they can stand here and say we don't deserve it. Thank you.

Mr. SIMPSON. Mr. Evans.

Mr. EVANS. We might need an explanation about what the Frozen Chosin was and is.

Mr. ST. LAURENT. What it is?

Mr. EVANS. I happen to know that, but if you would talk a little bit about your experience. We salute you for your dedicated service to our country, and to make sure all of us here today know what the Frozen Chosin is.

Mr. ST. LAURENT. The Frozen Chosin is a battle in Korea where 150,000 Chinese—excuse me.

Mr. SIMPSON. It is okay.

Mr. ST. LAURENT. Let me catch my breath.

Mr. SIMPSON. That is okay.

Mr. ST. LAURENT. We were surrounded. We escaped. As the Marine General says, we didn't retreat; we fought our way out. We lost over 6,000 men due to cold injury. This will not be put in the history books because we went there without—I think I am getting my composure now. We landed there with summer clothing; we were never issued winter clothing. We had ammunition that was

training ammunition. You know, you are talking about you don't have enough money; you have enough money for everybody else. I am not saying you, but this is how all of my friends feel. But we didn't have the right equipment. We had—they called them waterproof shoes. You know, the old combat boot with straps in it? Now I am getting my composure, you are going to hear it. Okay? They were waterproof: Water got in and could never get out.

That is what happened. Forty degrees below zero. I have proof here. I have medical reports in here. It is a time bomb injury. You never know you had it until your later years, when you would sweat all day, retreat, not retreat, and find your way. You couldn't have no fire at night or they would shell. You never went into a building from October 28, and I was one of the last ones to get on the ship on December 23. The only way you got evacuated were if you couldn't walk and you couldn't fire a gun. And if you were not severely wounded, you would be ashamed to complain that you would leave the few survivors that were left.

There is so much about it I could tell you, and I know—I thank you. Last night I was told about this, and I wanted to testify because I knew this part of the bill would not be known to you or what happened or why you were doing it now. It was impossible. It was against the law.

I will tell you another thing that happened. Any time you file a claim with the VA, that from the date you file it, if it is 10 years ago and you win it, you get back pay for that date. But, no, not with this cold injury. The bill was passed in 1998; the claims were passed in 1992. Mine was put in 1992; I only went back to 1998. I never asked or regret it. I was happy to be recognized for it. And I think the spouses should be, because they were their caretakers. We are not denying the 8-year marriage clause. I lost 5 friends in the last 4 months, friends of mine, went to their funerals.

I could tell you some horror stories that happened 20 years after, like pulling a digit out of your foot because it was black, and the VA never recognized it. I had to take it to the VA to show it and threatened to go to Sixty Minutes with it. I don't want to get into that one, but—I thank you for listening to me. I really do.

Mr. SIMPSON. Kind of hard to follow that.

Well, I thank everyone that came to testify today, and I appreciate the working relationship we have, both with all of the organizations that testified today, with the VA, and also with the minority party here in working on those issues.

If there is no other business to come before the subcommittee, we stand adjourned.

[Whereupon, at 12:05 p.m., the subcommittee was adjourned.]

APPENDIX

I

107TH CONGRESS
1ST SESSION

H. R. 3173

To amend the Soldiers' and Sailors' Civil Relief Act of 1940 and title 38, United States Code, to improve benefits for veterans.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 25, 2001

Mr. GUTIERREZ (for himself and Mr. EVANS) introduced the following bill; which was referred to the Committee on Veterans' Affairs

A BILL

To amend the Soldiers' and Sailors' Civil Relief Act of 1940 and title 38, United States Code, to improve benefits for veterans.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Servicemembers and Military Families Financial Protection Act of 2001".

SEC. 2. INCREASE IN MAXIMUM MONTHLY LEASE AMOUNT FOR PROTECTIONS UNDER SOLDIERS' AND SAILORS' CIVIL RELIEF ACT OF 1940.

(a) INCREASE IN MAXIMUM MONTHLY LEASE AMOUNT FOR SSCRA PROTECTION.—Subsection (a) of

1 section 300 of the Soldiers' and Sailors' Civil Relief Act
2 of 1940 (50 U.S.C. 530) is amended by striking "$1,250"
3 and inserting "$1,950".
4 (b) TECHNICAL AMENDMENTS.—Such section is fur-
5 ther amended—
6 (1) in subsection (a), by striking "wife" and in-
7 serting "spouse"; and
8 (2) in subsection (d)—
9 (A) by striking "he" and inserting "the
10 Secretary"; and
11 (B) by striking "wife" and inserting
12 "spouse".
13 (c) EFFECTIVE DATE.—The amendment made by
14 subsection (a) shall apply with respect to actions of evic-
15 tion or distress that are commenced on or after the date
16 of the enactment of this Act and to such actions that are
17 commenced before such date that are not final as of such
18 date.

19 **SEC. 3. AUTHORITY FOR OPTIONAL INCREASE IN MAXIMUM**
20 **COVERAGE UNDER SERVICEMEMBERS'**
21 **GROUP LIFE INSURANCE AND VETERANS'**
22 **GROUP LIFE INSURANCE.**

23 (a) MAXIMUM UNDER SERVICEMEMBERS' GROUP
24 LIFE INSURANCE.—(1) Section 1967(a)(3) of title 38,
25 United States Code, is amended—

1 (A) in subparagraph (A), by striking "subpara-
2 graphs (B) and (C)" and inserting "subparagraphs
3 (B), (C), and (D)"; and
4 (B) by adding at the end the following new sub-
5 paragraph:
6 "(D) A member may elect in writing to be insured
7 in an amount greater than the amount provided for under
8 subparagraph (A). The amount of insurance so elected
9 shall be in the amount of $500,000, $750,000, or
10 $1,000,000. Any such election must be made within 30
11 days of becoming eligible for insurance under this sub-
12 chapter, except that such an election may be made later,
13 while eligible for such insurance, upon written application,
14 proof of good health, and compliance with such other
15 terms and conditions as may be prescribed by the Sec-
16 retary.".
17 (2) Section 1969 of such title is amended—
18 (A) by redesignating subsection (h) as sub-
19 section (i); and
20 (B) by inserting after subsection (g) the fol-
21 lowing new subsection (h):
22 "(h)(1)During any period in which a member has in-
23 surance coverage under this chapter in an amount greater
24 than the amount provided for under subparagraph (A) of
25 section 1967(a)(3) of this title by reason of an election

1 under subparagraph (D) of that section and the member
2 is on active duty, there shall be deducted each month from
3 the member's basic or other pay until separation or release
4 from active duty an amount determined by the Secretary
5 as the premium allocable to the pay period for providing
6 that insurance coverage.

7 "(2)(A) The Secretary shall determine the premium
8 amounts to be charged for life insurance coverage de-
9 scribed in paragraph (1).

10 "(B) The premium amounts shall be determined on
11 the basis of sound actuarial principles and shall include
12 an amount necessary to cover the administrative costs to
13 the insurer or insurers providing such insurance.

14 "(C) Each premium rate for the first policy year shall
15 be continued for subsequent policy years, except that the
16 rate may be adjusted for any such subsequent policy year
17 on the basis of the experience under the policy, as deter-
18 mined by the Secretary in advance of that policy year.".

19 (b) EFFECTIVE DATE.—The amendments made by
20 this section shall take effect at the end of the 60-day pe-
21 riod beginning the date of the enactment of this Act. In
22 the case of any person covered by Servicemembers Group
23 Life Insurance on the date of the enactment of this Act,
24 the 30-day period specified in section 1967(a)(3)(D) of
25 title 38, United States Code, as added by subsection

1 (a)(1)(B), shall be deemed to begin at the end of such
2 60-day period.

○

I

107TH CONGRESS
2D SESSION

H. R. 3735

To amend title 38, United States Code, to extend the time for application for a waiver of recovery of claims of overpayments of veterans benefits and to otherwise improve the administration of overpayments of veterans benefits.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 13, 2002

Mr. REYES (for himself, Mr. EVANS, and Ms. BROWN of Florida) introduced the following bill; which was referred to the Committee on Veterans' Affairs

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A BILL

To amend title 38, United States Code, to extend the time for application for a waiver of recovery of claims of overpayments of veterans benefits and to otherwise improve the administration of overpayments of veterans benefits.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Department of Veterans Affairs Overpayment Administration Improvement Act of 2002".

1 **SEC. 2. TIME FOR APPLICATION FOR WAIVER OF RECOV-**
2 **ERY OF OVERPAYMENTS.**

3 (a) PERIOD FOR APPLICATION WHEN APPEAL OF
4 OVERPAYMENT DECISION IS PENDING.—Subsection (a)
5 of section 5302 of title 38, United States Code, is amend-
6 ed—

7 (1) by inserting "(1)" after "(a)";

8 (2) by designating the second sentence as para-
9 graph (2); and

10 (3) in paragraph (1), as designated by para-
11 graph (1) of this subsection, by striking "is made"
12 and all that follows through the period and inserting
13 "is made—

14 "(A) within 180 days from the date of notifica-
15 tion of the indebtedness by the Secretary to the
16 payee (except that, in a case in which the payee
17 demonstrates to the satisfaction of the Secretary
18 that notification of the indebtedness was not actually
19 received by the payee within a reasonable period
20 after such date, within such longer period as the
21 Secretary determines is reasonable); or

22 "(B) within 180 days from the date of final de-
23 termination of the amount of the overpayment, in a
24 case in which a timely appeal of the overpayment de-
25 cision is filed, if later than the limit otherwise appli-
26 cable under subparagraph (A).".

1 (b) ADMINISTRATIVE CONVENIENCE WAIVERS.—
2 Such subsection is further amended by adding at the end
3 the following new paragraph:
4 "(3) Pursuant to regulations that the Secretary shall
5 prescribe, the Secretary may for the convenience of the
6 Government waive any overpayment of any benefit under
7 laws administered by the Secretary if the Secretary deter-
8 mines that recovery of the amount of the overpayment
9 would impede the efficient or effective administration of
10 veterans benefits due to the small amount involved and
11 the costs of assessment and collection of the overpay-
12 ment.".
13 (c) EFFECTIVE DATES.—(1) The amendment made
14 by subsection (a) shall apply to overpayment determina-
15 tions made by the Secretary of Veterans Affairs on or
16 after the date of the enactment of this Act.
17 (2) The amendment made by subsection (b) shall
18 apply to any overpayment determination made by the Sec-
19 retary of Veterans Affairs, whether made before, on, or
20 after the date of the enactment of this Act.

○

107TH CONGRESS
2D SESSION

H. R. 3771

To amend title 38, United States Code, to provide that monetary benefits paid to veterans by States and municipalities shall be excluded from consideration as income for purposes of pension benefits paid by the Secretary of Veterans Affairs.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 14, 2002

Mr. CROWLEY introduced the following bill; which was referred to the Committee on Veterans' Affairs

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A BILL

To amend title 38, United States Code, to provide that monetary benefits paid to veterans by States and municipalities shall be excluded from consideration as income for purposes of pension benefits paid by the Secretary of Veterans Affairs.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. EXCLUSION OF CERTAIN AMOUNTS FROM CON-**
4 **SIDERATION AS INCOME FOR PURPOSES OF**
5 **VETERANS PENSION BENEFITS.**

6 (a) EXCLUSION.—Section 1503(a) of title 38, United
7 States Code, is amended—

1 (1) by striking "and" at the end of paragraph
2 (9);
3 (2) by redesignating paragraph (10) as para-
4 graph (11); and
5 (3) by inserting after paragraph (9) the fol-
6 lowing new paragraph (10):
7 "(10) payment of a monetary amount to a vet-
8 eran from a State or municipality that is paid as a
9 veterans' benefit; and".
10 (b) EFFECTIVE DATE.—The amendments made by
11 subsection (a) shall apply with respect to determinations
12 of income for calendar years beginning after the date of
13 the enactment of this Act.

○

I

107TH CONGRESS
2D SESSION

H. R. 4042

To amend title 38, United States Code, to prohibit additional daily interest charges following prepayment in full of housing loans guaranteed by the Department of Veterans Affairs.

IN THE HOUSE OF REPRESENTATIVES

MARCH 20, 2002

Mr. EVANS (for himself, Ms. CARSON of Indiana, Mr. TOM DAVIS of Virginia, and Mr. SIMPSON) introduced the following bill; which was referred to the Committee on Veterans' Affairs

---

A BILL

To amend title 38, United States Code, to prohibit additional daily interest charges following prepayment in full of housing loans guaranteed by the Department of Veterans Affairs.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the "Veterans Home Loan
5 Prepayment Protection Act of 2002".

1 **SEC. 2. PROHIBITION OF ADDITIONAL DAILY INTEREST**
2 **CHARGES FOLLOWING PREPAYMENT IN FULL**
3 **OF HOUSING LOANS GUARANTEED BY THE**
4 **SECRETARY OF VETERANS AFFAIRS.**

5 (a) IN GENERAL.—Section 3703 of title 38, United
6 States Code, is amended by adding at the end the fol-
7 lowing new subsection:

8 "(g)(1) In the case of prepayment in full by a veteran
9 of a loan guaranteed under this chapter, such prepayment
10 shall be credited on the date of receipt of the prepayment
11 at the business location of a residential mortgage lender,
12 and no interest may be charged to the veteran with respect
13 to that loan thereafter.

14 "(2) For purposes of paragraph (1), in determining
15 the date of receipt of a prepayment, a prepayment received
16 on a calender day during any business hour of a residen-
17 tial mortgage lender shall be treated as being received on
18 that day.

19 "(3) For purposes of this subsection, a business hour
20 of a residential mortgage lender includes any business
21 hour during which—

22 "(A) the lender offers any services to customers
23 or for the convenience of the public, and

24 "(B) any officer of the lender is present in an
25 official capacity.

1 "(4) An officer of a residential mortgage lender that
2 receives prepayment in full from a veteran of a loan guar-
3 anteed under this chapter during business hours shall, im-
4 mediately upon receipt of the prepayment, stamp or other-
5 wise record the date of receipt in the records of the lender.
6 "(5) Any cutoff hour established by a residential
7 mortgage lender for purposes of determining the date of
8 receipt of prepayment in full of a loan shall not apply to
9 prepayment in full by a veteran of a loan guaranteed
10 under this chapter.
11 "(6) The manner in which a prepayment may be re-
12 ceived by a residential mortgage lender shall include elec-
13 tronic transfer of funds.".
14 (b) EFFECTIVE DATE.—The amendments made by
15 subsection (a) shall apply to loans guaranteed by the Sec-
16 retary of Veterans Affairs on or after the date of the en-
17 actment of this Act.

○

107TH CONGRESS
2D SESSION

H. R. _____

IN THE HOUSE OF REPRESENTATIVES

M. introduced the following bill; which was referred to the Committee on

A BILL

To amend title 38, United States Code, to enact into law eligibility requirements for burial in Arlington National Cemetery, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Arlington National Cemetery Burial Eligibility Act".

1 **SEC. 2. PERSONS ELIGIBLE FOR BURIAL IN ARLINGTON NA-**
2 **TIONAL CEMETERY.**
3 (a) IN GENERAL.—Chapter 24 of title 38, United
4 States Code, is amended by adding at the end the fol-
5 lowing new section:
6 **"§ 2412. Arlington National Cemetery: persons eligi-**
7 **ble for burial**
8 "(a) PRIMARY ELIGIBILITY.—The remains of the fol-
9 lowing individuals may be buried in Arlington National
10 Cemetery:
11 "(1) Any member of the Armed Forces who
12 dies while on active duty.
13 "(2)(A) Any retired member of the Armed
14 Forces.
15 "(B) Any member or former member of a re-
16 serve component of the Armed Forces who at the
17 time of death was under 60 years of age and who,
18 but for age, would have been eligible at the time of
19 death for retired pay under chapter 1223 of title 10.
20 "(3) Any former member of the Armed Forces
21 separated for physical disability before October 1,
22 1949, who—
23 "(A) served on active duty; and
24 "(B) would have been eligible for retire-
25 ment under the provisions of section 1201 of
26 title 10 (relating to retirement for disability)

had that section been in effect on the date of separation of the member.

"(4) Any former member of the Armed Forces whose last active duty military service terminated honorably and who has been awarded one of the following decorations:

"(A) Medal of Honor.

"(B) Distinguished Service Cross, Air Force Cross, or Navy Cross.

"(C) Distinguished Service Medal.

"(D) Silver Star.

"(E) Purple Heart.

"(5) Any former prisoner of war who dies on or after November 30, 1993.

"(6) Any member of a reserve component of the Armed Forces who dies in the line of duty while on active duty for training or inactive duty training.

"(7) The President or any former President.

"(b) ELIGIBILITY OF FAMILY MEMBERS.—The remains of the following individuals may be buried in Arlington National Cemetery:

"(1) The spouse, surviving spouse (which for purposes of this paragraph includes any remarried surviving spouse, section 2402(5) of this title notwithstanding), minor child, and, at the discretion of

1 the Superintendent, unmarried adult child of a per-
2 son listed in subsection (a), but only if buried in the
3 same gravesite as that person.
4 "(2)(A) The spouse, minor child, and, at the
5 discretion of the Superintendent, unmarried adult
6 child of a member of the Armed Forces on active
7 duty if such spouse, minor child, or unmarried adult
8 child dies while such member is on active duty.
9 "(B) The individual whose spouse, minor child,
10 and unmarried adult child is eligible under subpara-
11 graph (A), but only if buried in the same gravesite
12 as the spouse, minor child, or unmarried adult child.
13 "(3) The parents of a minor child or unmarried
14 adult child whose remains, based on the eligibility of
15 a parent, are already buried in Arlington National
16 Cemetery, but only if buried in the same gravesite
17 as that minor child or unmarried adult child.
18 "(4)(A) Subject to subparagraph (B), the sur-
19 viving spouse, minor child, and, at the discretion of
20 the Superintendent, unmarried adult child of a
21 member of the Armed Forces who was lost, buried
22 at sea, or officially determined to be permanently ab-
23 sent in a status of missing or missing in action.
24 "(B) A person is not eligible under subpara-
25 graph (A) if a memorial to honor the memory of the

1 member is placed in a cemetery in the national cem-
2 etery system, unless the memorial is removed. A me-
3 morial removed under this subparagraph may be
4 placed, at the discretion of the Superintendent, in
5 Arlington National Cemetery.
6 "(5) The surviving spouse, minor child, and, at
7 the discretion of the Superintendent, unmarried
8 adult child of a member of the Armed Forces buried
9 in a cemetery under the jurisdiction of the American
10 Battle Monuments Commission.
11 "(c) DISABLED ADULT UNMARRIED CHILDREN.—In
12 the case of an unmarried adult child who is incapable of
13 self-support up to the time of death because of a physical
14 or mental condition, the child may be buried under sub-
15 section (b) without requirement for approval by the Super-
16 intendent under that subsection if the burial is in the same
17 gravesite as the gravesite in which the parent, who is eligi-
18 ble for burial under subsection (a), has been or will be
19 buried.
20 "(d) FAMILY MEMBERS OF PERSONS BURIED IN A
21 GROUP GRAVESITE.—In the case of a person eligible for
22 burial under subsection (a) who is buried in Arlington Na-
23 tional Cemetery as part of a group burial, the surviving
24 spouse, minor child, or unmarried adult child of the mem-
25 ber may not be buried in the group gravesite.

1 "(e) EXCLUSIVE AUTHORITY FOR BURIAL IN AR-
2 LINGTON NATIONAL CEMETERY.—(1) Eligibility for bur-
3 ial of remains in Arlington National Cemetery prescribed
4 under this section is the exclusive eligibility for such bur-
5 ial.

6 "(2)(A) In the case of an individual not otherwise eli-
7 gible for burial under subsection (a) whose acts, service,
8 or contributions to the Armed Forces are so extraordinary,
9 the President may deem such individual eligible for burial
10 under subsection (a).

11 "(B) If the President deems an individual eligible for
12 burial in Arlington National Cemetery under subpara-
13 graph (A), the Secretary of the Army shall immediately
14 notify the chairmen and the ranking members of the Com-
15 mittee on Veterans' Affairs of the Senate and House of
16 Representatives.

17 "(C) The President may only delegate the authority
18 under subparagraph (A) to the Secretary of the Army.

19 "(f) APPLICATION FOR BURIAL.—A request for bur-
20 ial of remains of an individual in Arlington National Cem-
21 etery made before the death of the individual may not be
22 considered by the Secretary of the Army or any other re-
23 sponsible official.

24 "(g) REGISTER OF BURIED INDIVIDUALS.—(1) The
25 Secretary of the Army shall maintain a register of each

1 individual buried in Arlington National Cemetery and
2 shall make such register available to the public.
3 "(2) With respect to each such individual buried on
4 or after January 1, 1998, the register shall include a brief
5 description of the basis of eligibility of the individual for
6 burial in Arlington National Cemetery.
7 "(h) DEFINITIONS.—For purposes of this section:
8 "(1) The term 'retired member of the Armed
9 Forces' means—
10 "(A) any member of the Armed Forces on
11 a retired list who served on active duty and who
12 is entitled to retired pay;
13 "(B) any member of the Fleet Reserve or
14 Fleet Marine Corps Reserve who served on ac-
15 tive duty and who is entitled to retainer pay;
16 and
17 "(C) any member of a reserve component
18 of the Armed Forces who has served on active
19 duty and who has received notice from the Sec-
20 retary concerned under section 12731(d) of title
21 10, of eligibility for retired pay under chapter
22 1223 of title 10, United States Code.
23 "(2) The term 'former member of the Armed
24 Forces' includes a person whose service is considered
25 active duty service pursuant to a determination of

1 the Secretary of Defense under section 401 of Public
2 Law 95–202 (38 U.S.C. 106 note).
3 "(3) The term 'Superintendent' means the Su-
4 perintendent of Arlington National Cemetery.".
5 (b) PUBLICATION OF UPDATED PAMPHLET.—Not
6 later than 180 days after the date of the enactment of
7 this Act, the Secretary of the Army shall publish an up-
8 dated pamphlet describing eligibility for burial in Arling-
9 ton National Cemetery. The pamphlet shall reflect the pro-
10 visions of section 2412 of title 38, United States Code,
11 as added by subsection (a).
12 (c) CLERICAL AMENDMENT.—The table of sections
13 at the beginning of chapter 24 of title 38, United States
14 Code, is amended by adding at the end the following new
15 item:

"2412. Arlington National Cemetery: persons eligible for burial.".

16 (d) TECHNICAL AMENDMENT.—Section 2402(5) of
17 title 38, United States Code, is amended by inserting ",
18 except section 2412(b)(1) of this title," after "which for
19 purposes of this chapter".
20 (e) CONFORMING REPEAL.—Section 1176 of the Na-
21 tional Defense Authorization Act for Fiscal Year 1994
22 (Public law 103-160; 38 U.S.C. 2402 note) is repealed.
23 (f) EFFECTIVE DATE.—(1) Except as provided in
24 paragraph (2), section 2412 of title 38, United States
25 Code, as added by subsection (a), shall apply with respect

1 to individuals dying on or after the date of the enactment
2 of this Act.
3 (2) In the case of an individual buried in Arlington
4 National Cemetery before the date of the enactment of
5 this Act, the surviving spouse of such individual is deemed
6 to be eligible for burial in Arlington National Cemetery
7 under subsection (b) of such section, but only in the same
8 gravesite as such individual.

9 **SEC. 3. PERSONS ELIGIBLE FOR PLACEMENT IN THE COL-**
10 **UMBARIUM IN ARLINGTON NATIONAL CEME-**
11 **TERY.**

12 (a) IN GENERAL.—Chapter 24 of title 38, United
13 States Code, is amended by adding after section 2412, as
14 added by section 2(a) of this Act, the following new sec-
15 tion:

16 **"§ 2413. Arlington National Cemetery: persons eligi-**
17 **ble for placement in columbarium**

18 "The cremated remains of the following individuals
19 may be placed in the columbarium in Arlington National
20 Cemetery:
21 "(1) A person eligible for burial in Arlington
22 National Cemetery under section 2412 of this title.
23 "(2)(A) A veteran whose last period of active
24 duty service (other than active duty for training)
25 ended honorably.

1 "(B) The spouse, surviving spouse, minor child,
2 and, at the discretion of the Superintendent of Ar-
3 lington National Cemetery, unmarried adult child of
4 such a veteran.

5 (b) CLERICAL AMENDMENT.—The table of sections
6 at the beginning of chapter 24 of title 38, United States
7 Code, is amended by adding after section 2412, as added
8 by section 2(c) of this Act, the following new item:

"2413. Arlington National Cemetery: persons eligible for placement in columbarium.".

9 (c) CONFORMING AMENDMENT.—Section
10 11201(a)(1) of title 46, United States Code, is amended
11 by inserting after subparagraph (B), the following new
12 subparagraph:

13 "(C) Section 2413 (relating to placement
14 in the columbarium in Arlington National Cem-
15 etery).".

16 (d) EFFECTIVE DATE.—Section 2413 of title 38,
17 United States Code, as added by subsection (a), and sec-
18 tion 11201(a)(1)(C), as added by subsection (c), shall
19 apply with respect to individuals dying on or after the date
20 of the enactment of this Act.

21 **SEC. 4. MONUMENTS IN ARLINGTON NATIONAL CEMETERY.**

22 (a) IN GENERAL.—Chapter 24 of title 38, United
23 States Code, is amended by adding after section 2413, as

1 added by section 3(a) of this Act, the following new sec-
2 tion:

3 **"§ 2414. Arlington National Cemetery: authorized**
4 **headstones, markers, and monuments**

5 "(a) GRAVESITE MARKERS PROVIDED BY THE SEC-
6 RETARY.—A gravesite in Arlington National Cemetery
7 shall be appropriately marked in accordance with section
8 2404 of this title.

9 "(b) GRAVESITE MARKERS PROVIDED AT PRIVATE
10 EXPENSE.—(1) The Secretary of the Army shall prescribe
11 regulations for the provision of headstones or markers to
12 mark a gravesite at private expense in lieu of headstones
13 and markers provided by the Secretary of Veterans Affairs
14 in Arlington National Cemetery.

15 "(2) Such regulations shall ensure that—

16 "(A) such headstones or markers are of simple
17 design, dignified, and appropriate to a military cem-
18 etery;

19 "(B) the person providing such headstone or
20 marker provides for the future maintenance of the
21 headstone or marker in the event repairs are nec-
22 essary;

23 "(C) the Secretary of the Army shall not be lia-
24 ble for maintenance of or damage to the headstone
25 or marker;

1 "(D) such headstones or markers are aesthetic-
2 ally compatible with Arlington National Cemetery;
3 and
4 "(E) such headstones or markers are permitted
5 only in sections of Arlington National Cemetery au-
6 thorized for such headstones or markers as of Janu-
7 ary 1, 1947.
8 "(c) MONUMENTS.—(1) No monument (or similar
9 structure as determined by the Secretary of the Army in
10 regulations) may be placed in Arlington National Ceme-
11 tery except pursuant to the provisions of this subsection.
12 "(2) A monument may be placed in Arlington Na-
13 tional Cemetery if the monument commemorates—
14 "(A) the service in the Armed Forces of the in-
15 dividual, or group of individuals, whose memory is to
16 be honored by the monument; or
17 "(B) a particular military event.
18 "(3) No monument may be placed in Arlington Na-
19 tional Cemetery until the end of the 25-year period
20 beginning—
21 "(A) in the case of commemoration of service
22 under paragraph (1)(A), on the last day of the pe-
23 riod of service so commemorated; and

1 "(B) in the case of commemoration of a par-
2 ticular military event under paragraph (1)(B), on
3 the last day of the period of the event.
4 "(4) A monument may be placed only in those sec-
5 tions of Arlington National Cemetery designated by the
6 Secretary of the Army for such placement.".
7 (b) CLERICAL AMENDMENT.—The table of sections
8 at the beginning of chapter 24 of title 38, United States
9 Code, is amended by adding after section 2413, as added
10 by section 3(b) of this Act, the following new item:

"2414. Arlington National Cemetery: authorized headstones, markers, and monuments.".

11 (c) PLACEMENT OF MEMORIAL IN ARLINGTON NA-
12 TIONAL CEMETERY HONORING THE VICTIMS OF THE
13 ACTS OF TERRORISM PERPETRATED AGAINST THE
14 UNITED STATES ON SEPTEMBER 11, 2001.—
15 (1) AUTHORIZATION TO PLACE MEMORIAL.—
16 The Secretary of the Army is authorized to con-
17 struct and place in Arlington National Cemetery a
18 memorial marker honoring the victims of the acts of
19 terrorism perpetrated against the United States on
20 September 11, 2001.
21 (2) CONSULTATION WITH FAMILIES OF VICTIMS
22 BEFORE USE OF AUTHORITY.—The Secretary of the
23 Army shall consult with the families of victims of

1 such acts of terrorism prior to the exercise of the
2 authority provided for under paragraph (1).
3 (d) EFFECTIVE DATE.—The amendment made by
4 subsection (a) shall apply with respect to headstones,
5 markers, or monuments placed in Arlington National
6 Cemetery, other than the memorial authorized under sub-
7 section (c), on or after the date of the enactment of this
8 Act.

9 **SEC. 5. PUBLICATION OF REGULATIONS.**

10 Not later than one year after the date of the enact-
11 ment of this Act, the Secretary of the Army shall publish
12 in the Federal Register any regulation proposed by the
13 Secretary under this Act.

107TH CONGRESS
2D SESSION

H. R. _____

IN THE HOUSE OF REPRESENTATIVES

Mr. SMITH of New Jersey introduced the following bill; which was referred to the Committee on _____

A BILL

To amend title 38, United States Code, to provide for payment by the Secretary of Veterans Affairs of dependency and indemnity compensation to the surviving spouse of a deceased veteran who for at least one year preceding death had a service-connected disability rated totally disabling that was due to a service-connected cold-weather injury.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

SECTION 1. DEPENDENCY AND INDEMNITY COMPENSATION FOR SURVIVING SPOUSES OF CERTAIN VETERANS WHO INCURRED SEVERE COLD-WEATHER INJURIES WHILE IN SERVICE.

(a) DISABILITY RATED TOTALLY DISABLING FOR ONE YEAR PRECEDING DEATH.—Section 1318(b) of title 38, United States Code, is amended by adding at the end the following new paragraph:

"(4) The veteran's last discharge or other release from active duty was before August 13, 1998, and the disability—

"(A) was continuously rated totally disabling for a period of not less than one year immediately preceding death; and

"(B) was due to cold-weather injuries determined by the Secretary after August 13, 1998, to be service-connected.".

(b) TECHNICAL AMENDMENTS.—Such section is further amended—

(1) by striking "if—" in the matter preceding paragraph (1) and inserting "if any of the following applies:";

(2) by striking "the" at the beginning of paragraphs (1), (2), and (3) and inserting "The";

(3) by striking the semicolon at the end of paragraph (1) and inserting a period; and

1 (4) by striking "; or" at the end of paragraph
2 (2) and inserting a period.

Opening Statement of
The Honorable Silvestre Reyes
Ranking Democrat - Subcommittee on Benefits
June 11, 2002

Thank you Chairman Simpson. I'd like to thank you for holding this hearing and in particular for considering H.R. 3735, which I introduced to simplify and improve the processing of requests for waivers of overpayments. I also want to welcome my friend and our colleague on the full Committee, Luis Gutierrez of Illinois, who will be discussing H.R. 3173, his proposal to increase the maximum rental amount under the Soldiers' and Sailors' Civil Relief Act and to provide additional optional insurance under the Servicemembers' Group Life Insurance program.

I support the provisions of H.R. 3173, but recognize the concerns raised by the Department of Veterans Affairs (VA) and the Department of Defense. I hope rather than "just saying no", VA will be able to provide some constructive suggestions for amending the

legislation to assure that its objectives can be achieved within the parameters of a reasonable insurance program.

I will devote most of my time to my bill concerning overpayments. The first section of H.R. 3735 would provide veterans and their beneficiaries with an opportunity to wait until a final decision is made on the existence and amount of an overpayment until requesting a waiver. I am surprised by VA's opposition to this bill. Filing a request for waiver of an overpayment implies that an overpayment does in fact exist and the amount of the overpayment is not in dispute. The extension of time provided by the bill would only extend the time period for beneficiaries who in fact contest the overpayment, since it does not change the 180 day time limit for those who do not appeal.

The General Accounting Office (GAO) recently reviewed the clarity of the Veterans' Benefits Administration's (VBA) correspondence to beneficiaries. GAO found that about "half of VBA's compensation letters did not clearly explain pertinent financial information

concerning the claimants' benefits." Although the sample of pension claims reviewed was smaller, 15 percent of those letters reviewed by GAO were unclear. Asking a beneficiary to request a waiver of an overpayment before a final determination as to the existence and amount of the overpayment has been made seems patently unfair to me. I strongly urge my colleagues to support this provision.

Section Two of the bill is intended to give the Secretary explicit authority to waive small overpayments for administrative convenience. This is similar to the authority routinely exercised by the Social Security Administration (SSA). Given the large backlog of claims pending before the VA, my intention is to provide a means of dealing with small overpayments in a cost efficient fashion. I would expect this authority to be exercised in a manner similar to that used by the SSA.

Under SSA's policy, if an overpayment is less than $30.00, recognizing the cost associated with notification, SSA will send a notice to the claimant only in "very rare

conditions." The overpayment is ordinarily administratively waived without further action. If the overpayment is more than $30.00, but less than $500.00 and the individual requests a waiver or reconsideration, SSA will presume the overpayment is "without fault" and grant the waiver without further action.

H.R. 3735 would allow the Secretary to similarly set an amount below which overpayments would not be pursued at all. Such policies are an effective and cost efficient manner of dealing with small overpayments with minimal governmental action. At a time when VA is struggling to keep up with a large number of claims, we cannot afford to spend time pursuing overpayments where the cost of collection exceeds the amount collected.

I also support H.R. 3771, introduced by Mr. Crowley, which would exclude certain veterans' benefits paid by State and local governments from income for purposes of the pension program. I also support H.R. 4042, introduced by Mr. Evans, which would require lenders to credit payment of VA loans on the date the

payment is received, if received while the lender is open for business.

I agree that some reforms are needed in the eligibility for burial in Arlington National Cemetery and I am interested in hearing what our witnesses have to say on that proposal. While I agree that we need to look at the issues concerning the criteria for Dependency and Indemnity Compensation (DIC), I am concerned about the proposal which would provide a shortened period of total disability for cold related injuries, but not for veterans disabled by reason of exposure to radiation, Agent Orange or other conditions. I hope that the witnesses will explain the justification for such a distinction. Since the regulation date referenced in the bill provided for a maximum rating of 30 percent for cold related injuries, I expect that the bill would benefit an extremely small number of surviving spouses. I hope that the witnesses will address this concern.

I look forward to the testimony of all the witness who will be testifying today. Thank you Mr. Chairman.

PREPARED STATEMENT OF CONGRESSMAN EVANS

June 11, 2002

I thank Subcommittee Chairman Simpson and Ranking Member Reyes for holding this hearing.

I am pleased that we are considering H.R. 4042. I introduced this bill to prevent duplicate payments of interest when VA home loans are paid off during the hours when the lender is open for business.

In these days of increasing electronic transfers of payments, it is unconscionable for veterans to be charged additional interest while their

payments are earning money for the lender.

I am an original cosponsor of H.R. 3175, the Servicemembers and Military Fairness Financial Protection Act, and H.R. 3735, the Department of Veterans Affairs Overpayment Administration Improvement Act of 2002.

I am also a cosponsor of H.R. 3731 introduced by Mr. Crowley.

While I generally support increased benefits for veterans, I am concerned that a different standard be established for veterans who have been disabled by cold injuries

compared to veterans disabled by the effects of radiation or Agent Orange.

Perhaps we need to review the criteria for DIC in general.

I am pleased to extend a warm welcome to Luis Gutierrez a Member of our full Committee.

I particularly look forward to his testimony on his bill to provide additional benefits for our servicemembers called to the front in the war on terrorism

I yield back the balance of my time.

Statement of Representative Jeff Miller
House Veterans Affairs Committee
Subcommittee on Benefits
Hearing on H.R. 3173, H.R. 3735, H.R. 3771, and H.R. 4042, the Veterans' Major Medical Facilities Construction Act of 2002
June 11, 2002

Thank you Mr. Chairman.

I would like to thank the members of our panels present today. I appreciate your testimony and your assistance with these issues.

H.R. 3173, the Service Members and Military Families Financial Protection Act of 2002, would provide for increased Service Members Group Life Insurance and Veterans Group Life Insurance coverage up to one million dollars, should a servicemember so choose at his or her expense. This is quadruple the current maximum coverage of $250,000, well in excess of the recommended coverage of ten times' one's salary, and is significantly more coverage than is needed by most servicemembers. More than likely, this coverage will only be purchased by those going to war and who are at significantly greater risk of injury and death than the average servicemembers, and wealthier National Guardsmen in an effort to subsidize other coverage provided by their employer. As a result, SGLI and VGLI premiums, which are currently lower than the industry average, will become unaffordable rates for the servicemembers they are designed to cover.

We must ensure that those who are securing our freedom and safety continue to have access to affordable life insurance coverage.

I would like to thank the Chairman for calling this hearing today to discuss this important issue. I look forward to the testimony.

Congressman Joseph Crowley
Statement for the Record
Committee on Veterans Affairs – Subcommittee on Benefits
June 11, 2002

I would like to express my sincere gratitude to Chairman Mike Simpson and Ranking Member Silvestre Reyes for conducting this important hearing of the Benefits Subcommittee

I would like to comment in support of legislation HR 3771, known as the Justice for America's Veterans Act which would exclude monetary veterans' benefits paid to a veteran from a State or municipality from consideration as income for purposes of pension benefits paid by the VA

I drafted this legislation after learning from several of my blinded veterans constituents in Queens, New York who were experiencing the equivalent of their New York State's Blinded Veterans Annuity -- an annuity of $87 a month paid to all blinded veterans residing in New York State regardless of whether their blindness was service or non-service connected -- being deducted from their Federal VA pensions

One of those veterans is Regis Quirin of Sunnyside, Queens who fought for his country abroad and is now blinded. He has experienced these deductions in his Federal VA pension. I thank him for bringing this problem to my attention, and we are both grateful for this Committee's swift action on this issue

As the recipients of this state entitlement who I have met are working and middle class people who fought for their nation in a time of war, I was particularly disturbed to see their small VA pension be deducted by an equal amount due to payment of a non-Federal pension

That is why I introduced this legislation

I have recently received word from the Congressional Budget Office that the cost of this bill would be considered insignificant, as it is only New York State that provides a veterans annuity, such as the Blinded Annuity, to all of its resident veterans regardless of whether it is service or non-service connected

For example, the other states that offer Blinded Annuities to veterans -- Massachusetts, New Jersey, and Pennsylvania -- offer it solely for service connected veterans who are receiving compensation, and thus not effected by the offset

While the cost of this bill is stated as insignificant, it is not to the veterans who have been penalized over the years

That is why the Veterans of Foreign Wars and the Blinded Veterans Association as well as the New York State American Legion have endorsed this legislation

During future consideration of this legislation, I would like to clarify one point, and that is to ensure that this legislation would not only protect veterans but also their families from these deductions in benefits. I have heard concerns that it may not cover surviving spouses, though that is the intent

Again, I would like to reiterate that when calculating the costs of his legislation, CBO did take into account my intent for coverage extending to surviving spouses. Therefore, I would support any action by the Committee to this legislation to ensure that surviving spouses are, in fact, covered

Congress calls many of these veterans programs "entitlements" for a reason. It I because these people are entitled to this money for their sacrifice to our nation

As America fights another war – the War of Terrorism – we will again be creating another generation of veterans

With this bill, we have the opportunity to again ensure that both new and old veterans will not see their pensions cut because of the generosity of their state or local governments

Again, I thank Chairman Simpson and Ranking Member Reyes for holding this hearing today and I look forward to working with you on this and other legislation of importance to America's veterans

TESTIMONY PRESENTED BEFORE
THE COMMITTEE ON VETERANS' AFFAIRS
SUBCOMMITTEE ON BENEFITS
REGARDING H.R. 3173
"Servicemembers and Military Families Financial Protection Act"

PRESENTED BY CONGRESSMAN LUIS V. GUTIERREZ
TUESDAY, JUNE 11, 2002, 10:00 A.M.
334 CANNON HOUSE OFFICE BUILDING

Mr. Chairman, I thank you for this opportunity to testify before this Subcommittee on H.R. 3173, the Servicemembers and Military Families Financial Protection Act.

These are enormously challenging times for our country. We are doing what we can to meet these challenges. We are reaching across party lines to show national unity. Together, we have worked hard and accomplished much to improve out nation's national security. We are united in our efforts to confront and eradicate terrorism.

However, no group of Americans has made—or will make, as long as this effort lasts— as valuable a contribution, or as great a sacrifice, or will have as much to be proud of, as the people who are the men and women of our armed forces.

Among the many hazards and challenges faced by men and women in uniform, not all of them are found on the battlefield, or foreign soil, or the high seas. Some of their challenges originate here at home-- even though they are far from home. And, to make matters worse, these are challenges that not only the men and women who sign up for duty must face-- but that their family members must face as well.

Many of these challenges are financial. In various ways, members of the armed forces-- and in particular, members of the National Guard and the Reserves who leave jobs, homes, and families at a moment's notice-- face tremendous economic burdens as a result of their willingness to serve. It is at least within my power, and the power of this Committee, to do something about that.

The bill I introduced in October 2001 would provide men and women called up for duty and their families new financial protection and peace of mind. It does this in a few ways.

First, H.R. 3173 will help ensure that members of the military who are called away from home still have a home to which they can return.

When members are deployed and separated from their jobs, their household income levels often drop dramatically. Yet, there are still bills to pay-- in particular, the monthly rent or mortgage payment.

H.R. 3173 would amend 50 U.S.C. App. § 530 as established by the Soldier's and Sailor's Relief Act of 1940. My bill would prohibit the eviction of an activated military member's family from their place of residence due to a failure to meet monthly housing payments. This protection would be in place during the term of active duty and continue for up to an additional three months after active duty is over.

If a landlord initiates eviction proceedings during that period, a judge would be directed to first rule on whether the family's income has been "materially affected" by the military service. An eviction can only occur only if a judge finds that the family's income has not been so impacted. This relief would apply to a service member's family whose monthly housing payment is $1,950 per month or less.

Under current law, such relief is limited to families whose monthly housing payments are $1,200

or less. I seek to increase this threshold by about 37.5 percent. The Congressional Budget Office (CBO) has determined that this provision of the bill would not increase federal spending.

My proposal is not only reasonable, it is fair and just. If you have given up your bed, the comforts of home and the security of having your own roof over your head... and have traded that in for an army cot in a pup tent or a barracks— you are certainly entitled, when your service is completed, to return to your home. And, just as important, you deserve the peace of mind to know that even if you cannot be there, at least your family is safely and securely at home.

I would like to make note at this point of the need for a couple of technical changes in H.R. 3173. Please note that the amount in Section 2(a) of the bill should read $1200 and not $1250. Further, the citation in this same section should read that it would amend 50 United States Code Appeals Section 530 [and not 50 U.S.C. Section § 530]. I ask that this Committee make these technical changes to the bill as it proceeds through the legislative process.

The second major element of my proposal, as outlined in section three of my bill, ensures that a family will be well provided for in the event-- the very rare event, I hope-- that something unfortunate occurs and the service member dies while serving this nation.

Again, our country's reliance on members of the guard and reserves helps illustrate the need for a change in current law. Our military cannot operate without the contributions of civilian soldiers—medical personnel, academics familiar with foreign countries and languages, engineers and people from a vast array of fields—who agree to give up good jobs and good salaries here at home to serve where and when they are needed.

The economic needs of full-time uniformed personnel are just as great, and only increase with more years of service. As it stands right now, however, significant barriers prohibit these men and women from knowing with confidence that their families will be adequately safeguarded if something should happen to them.

Today, armed services personnel are eligible for life insurance paid through an affordable monthly premium, and administered through the Servicemembers' Group Life Insurance program, or SGLI. However, current law caps payouts at $250,000. This amount is far too low and would not meet the needs of a family that would face the loss of income due to a wage-earners death in the line of duty.

Likewise, it is standard practice for private life insurance policies to include clauses that deny payouts for deaths resulting from incidents occurring as part of war-related service. My bill would enable personnel covered by SGLI to opt for considerably higher payouts for their beneficiaries—if they so desire and if they are willing to pay for it.

Under my bill, military personnel could opt for coverage in increments of $250,000 above the current ceiling, up to a total of $1 million.

This represents a potential increase of $750,000 above the current limits for members of the Guard and Reserves.

This life insurance would be funded by premiums paid by servicemembers by way of deductions made from their military paychecks. Currently, life insurance coverage costs approximately 8 cents per month per every thousand dollars of coverage. The Congressional Budget Office (CBO) is unable to predict if there would be future government reimbursements necessary in addition to servicemembers' premiums. Let us also keep in mind that should this added incentive increase the number of policy holders, it would lead to greater revenues for the program itself, and for government coffers.

We know that military service is dangerous. But, the already significant risk should not be compounded by additional financial risks to one's dependents.

My hope would be that no family ever has the need to take advantage of this increased level in benefits. But, even if that is the case-- it still will have done some good for all of us.

A member of the military can carry out duties better if there are fewer worries about what could happen to his or her family.

And finally—as long as we are updating current law to reflect the true needs of members of the military— I think it is crucial that the law better reflects the true composition of the military.

As we all know, the military includes women. And they are enlisting in even greater numbers to serve in the armed forces

The same holds true for our country's economy and the earnings of the typical family. A family's loss of income does not simply occur when a father or husband leaves his regular job for service—but when a mother or wife does so. Unfortunately, current law archaically uses the word "wife" to describe dependents eligible for protection while a member is on duty. My bill replaces such references with gender-neutral language.

Such a change has practical value. Let's make certain that no court or agency denies a family relief on the basis that a mother or wife serves her country. Yet, if some people think that changing the language in this manner is mostly "symbolic"—so be it. This is a time when symbolism matters.

I am confident that my colleagues will join me in agreeing that risking life and limb for one's nation should never be compounded by a family's potential loss of shelter or economic security.

I thank the Chairman and Subcommittee members' for your attention and I would be happy to answer any questions.

Statement of

Daniel L. Cooper

Under Secretary for Benefits

Before the

Subcommittee on Benefits

House Committee on Veterans' Affairs

June 11, 2002

*****

Mr. Chairman and Members of the Subcommittee, thank you for the opportunity to testify today on several legislative items of interest to veterans.

H.R. 3173

Section 2 of H.R. 3173, the "Servicemembers and Military Families Financial Protection Act of 2001," would prohibit eviction or distress of a servicemember's spouse, children, and other dependents during the member's military service if rent for the premises does not exceed $1950 per month, which is an increase from the current $1200. The Department of Veterans Affairs (VA) defers to the views of the Department of Defense on this provision.

Section 3 of H.R. 3173 would permit a servicemember to elect within 30 days after becoming eligible for Servicemembers' Group Life Insurance (SGLI) additional SGLI coverage in increments of $250,000, with total coverage, including basic SGLI, aggregating up to $1 million. An insured servicemember would be able to elect additional SGLI coverage after this 30-day period if proof of good health is provided. VA opposes section 3 of H.R. 3173. The Secretary is charged with preserving the actuarial soundness and financial well being of the SGLI program and for that reason offers the following comments.

The amount of optional SGLI that would be provided by section 3(a)(2) would be inconsistent with sound actuarial principles. One of the primary purposes of insurance is to compensate for an untimely loss. Accordingly, the amount of insurance available is normally commensurate to the expected amount of loss. Commercial insurers generally determine the maximum amount of insurance that an insured can purchase based on multiples of income. Typically, insureds who are 25 years of age and younger are able to purchase insurance at 18 times their current income. Persons 65 years of age and older are usually able to buy insurance at 4 times their current income.

The amounts that would be offered by section 3 of H.R. 3173 far exceed these industry norms. For example, the current annual pay for a 22-year old enlisted member grade E-3 is approximately $17,000. If an enlisted member grade E-3 were insured for the current maximum amount of SGLI, $250,000, and purchased $500,000 of optional SGLI coverage, the member would be insured at 44 times his or her annual income, which is more than twice as much as suggested by commercial underwriting principles. If a 48-year old officer grade 0-4 with 10 years of service and earning $53,000 purchased $500,000 of optional SGLI coverage, the officer would be insured at 14 times his or her annual income, rather than 10 times as recommended by commercial underwriting guidelines.

In addition, for several reasons, we believe that the availability of the optional coverage may well result in premium costs to the insured servicemembers so high as to be prohibitive. As noted above, those with higher incomes can be expected to have higher insurance coverage. Because higher incomes also tend to be correlated with higher age, we would expect those purchasing optional SGLI coverage to be older. They would also therefore experience higher mortality rates. Accordingly, it would not be financially viable

to charge a flat premium for this coverage; premiums would have to be age based.

Moreover, it must be recognized that the 30-day open season, by permitting servicemembers to obtain optional coverage without evidence of good health, would undoubtedly lead servicemembers with adverse medical conditions to purchase the optional coverage. Similarly, servicemembers assigned to hazardous duty also would be likely to opt for this coverage. Under these circumstances, VA would have two options to meet the expected substantial financial losses that could result in the program. First, VA could raise premiums on basic coverage. We believe, however, aside from the inequity involved, that this might result in basic SGLI premiums becoming so high that servicemembers would look elsewhere for insurance. Alternatively, VA could set premiums for the optional SGLI based on experience. If this option were selected, the cost of the optional coverage might be so high that only those in ill health or hazardous duty locations might opt for coverage. Such adverse selection would have a spiral effect and might eventually force the elimination of optional coverage. Such an outcome, however, would obviously eviscerate the intent of H.R. 3713.

Another concern we have is that the optional SGLI that would become available upon enactment of H.R. 3173 might require amendment of 38 U.S.C. § 1969(b), which requires the service departments to reimburse the SGLI program for amounts traceable to the extra hazard of duty in the uniformed services. The cost of SGLI that is traceable to the extra hazard of duty is currently determined by the Secretary on the basis of excess mortality of SGLI insureds. Now extra hazard of duty costs are triggered when the mortality of servicemembers exceed what their mortality would have been under peacetime conditions. SGLI coverage is nearly universal, and virtually all members carry the maximum coverage. The fact that many members involved in hazardous duty or who have adverse medical conditions may opt for maximum optional

coverage may warrant a change in the way the extra hazard of duty is measured from measuring on the basis of the number of deaths to measuring on the basis of the monetary amounts paid as claims. The most significant application of section 1969(b) occurred during the Vietnam War. At that time, military appropriations reimbursed the SGLI program $508 million, at a time when SGLI coverage levels were considerably lower than now. Reimbursement costs today would be considerably higher.

Another troubling aspect of H.R. 3173 is that the SGLI program would not be authorized to investigate the reason why an insured wants to purchase optional SGLI, unlike the commercial insurance industry which may investigate an insured's character and financial standing prior to increasing coverage in order to assure the proper motivation of the purchase. Statistics reviewed while implementing the Veterans' Survivor Benefits Improvements Act of 2001, Pub. L. No. 107-14, § 5, 115 Stat. 25, 30, which made the increase in SGLI coverage to $250,000 retroactive with regard to servicemembers who died in the performance of duty between October 1, 2000, and March 31, 2001, indicated a high rate of suicide among servicemembers during that period. Based on this data, we believe that the inability of the SGLI program to further inquire as to why a servicemember would purchase the additional SGLI that would be authorized by this legislation could jeopardize the financial stability of the program.

Finally, section 3(b) of H.R. 3173 would provide that the amendments made by section 3(a) would be effective 60 days after enactment of this legislation. However, based on our recent experience implementing section 4 of the Veterans' Benefit Survivors Improvements Act of 2001, providing SGLI coverage for spouses and children of SGLI insureds, we believe that it would require more than 60 days to implement the optional SGLI coverage provided under H.R. 3173.

For the above reasons, VA opposes section 3 of this bill.

Enactment of this legislation would not result in PAYGO or administrative costs.

H.R. 3735

Section 2 of H.R. 3735, the "Department of Veterans Affairs Overpayment Administration Improvement Act of 2002" would make two substantive amendments to VA's waiver statute, 38 U.S.C. § 5302. First, subsection 2(a) of the bill would extend the time during which a debtor could request a waiver of recovery of an overpayment of VA benefits, other than under the chapter 37 VA home loan program. Under current law, a debtor may request waiver within 180 days from the date of notification of the overpayment, or such additional time as the Secretary may grant should the debtor provide satisfactory evidence that the notification of overpayment was not received within a reasonable period from the date it was issued. The proposed amendment would give a debtor who timely appeals the debt an additional 180-day period from the date of a final determination on the amount of the overpayment within which to request a waiver. (We assume the drafter intended the final determination to be that of the Board of Veterans' Appeals upon administrative appeal, and further intended a broad reading of that determination as covering all issues of indebtedness, not merely the amount thereof.)

Significantly, this bill would reverse the direction Congress took when it last amended VA's waiver statute in this regard. Section 407 of the Veterans' Compensation, Education, and Employment Amendments of 1982, Pub. L. No. 97-306, 96 Stat. 1429, reduced the time period to request waiver from two years to the current 180 days. A review of the legislative history of that amendment indicates Congress agreed with VA that the two-year time limit

hampered collection efforts and that 180 days was sufficient opportunity to request a waiver.

Arguably, subsection 2(a) of H.R. 3735 does not so much extend the time for a debtor to request a waiver, as it grants the debtor a second opportunity to request a waiver, following appeal of the indebtedness. In any event, it is not clear what ill that subsection seeks to remedy. We are aware of no pattern of preclusion or denial of waiver claims over the past 20 years indicating the current waiver period is inadequate. (As previously mentioned, the Department has the flexibility to grant an extension for filing in those rare instances when a debtor does not receive timely notice of the indebtedness.)

Moreover, the current single 180-day filing period for waiver has several advantages. First, the statutory test for waiver is whether collection of the debt would be against equity and good conscience (subject to a bar for fraud in connection with the waiver request). 38 U.S.C. § 5302(a) and (c). We would suggest such factors are best considered and determined when the facts and circumstances are fresh. Further, it is most efficient and economical for all concerned to have the question of waiver resolved within reasonably close proximity to the establishment of the debt. Should waiver then be granted, it could altogether obviate the need to initiate or prosecute what could be a lengthy administrative appeal. The instant measure, to the contrary, would remove incentive for prompt resolution of the waiver issue.

Currently, if VA denies a waiver request, the debtor may appeal that decision together with the validity of the underlying debt. See 38 C.F.R. § 1.911. Thus, unlike the consequences of this bill, which could defer consideration and resolution of waiver for several years until a final appellate decision is made on the amount of the debt, the existing provisions promote economy along with fairness.

In sum, the existing waiver statute provides a reasonable period for a debtor to request waiver and does not require any change.

Next, subsection 2(b) of H.R. 3735 would add a new administrative-convenience waiver to 38 U.S.C. § 5302. The provision would grant the Secretary authority, pursuant to new regulations, to waive any benefit overpayment if collection would impede the efficient and effective administration of veterans benefits, due to the small amount involved, where the cost to collect would be greater than the amount of the debt. We note, however, that this would merely duplicate authority already available under current VA and government-wide debt collection standards.

The Departments of Treasury and Justice have issued revised Federal Claims Collection Standards (31 C.F.R. pts. 900-904), conforming with statutory changes enacted by the Debt Collection Improvement Act of 1996, Pub. L. No. 104-134, § 31001, 110 Stat. 1321-358. These standards recognize the need for an efficient debt-collection process, which includes permitting termination of collection efforts when the costs of collection are anticipated to exceed the amount recoverable after pursuing all appropriate means of collection (31 C.F.R. § 903.3). Likewise, VA's regulations permit termination of a collection action if the cost of collection exceeds the amount recoverable from the debtor. As a matter of policy, VA will terminate further collection action on de minimus amounts (e.g., under $25) after sending one collection letter when the debtor does not respond and benefit offset is not available. This policy is consistent with the Federal Claims Collection Standards.

Thus, while we appreciate the interest in giving VA an efficient means of avoiding cost-ineffective collection action by disposing of certain benefit debt, we believe the existing uniform Federal authority is sufficient for such purpose.

In sum, VA does not support H.R. 3735, because we believe the bill's provisions are unnecessary and would not improve the administrative debt collection process.

We are unable to estimate the costs associated with section 2 of H.R. 3735 due to insufficient data. However, we believe the costs would be insignificant.

H.R. 3771

H.R. 3771 would exclude monetary veterans' benefits paid by States and municipalities to veterans from consideration as income for purposes of VA pension benefits. Prior to 1979, statutes governing VA's pension program included a similar income exclusion provision. However, in 1978, in an attempt to restructure the needs-based pension program to provide greater assistance to those truly in need and create a more equitable program, Congress eliminated this and other exclusions by enacting Public Law 95-588. Reintroduction of this exclusion would authorize the provision of additional monetary benefits to those whose need may be diminished due to the receipt of State monetary benefits. VA wishes to maintain the goal of the current pension program to provide the greatest pension benefit to those with the greatest financial need. Enactment of this bill would be inconsistent with that goal.

The bill would exclude from pension income computation benefits paid by certain states to severely disabled veterans. However, the improved pension program currently takes into account the greater needs of severely disabled veterans by providing a higher pension rate (over $6,000 in additional annual benefits) to those who are helpless or blind or so nearly helpless or blind as to require the regular aid and attendance of another person. See 38 U.S.C. §§ 1502(b), 1521(d). Thus, because such severely disabled veterans already

receive a higher rate of VA pension, excluding from consideration as income veterans' benefits paid to such veterans by States and municipalities is not necessary to provide for the needs of these veterans.

Because this bill is inconsistent with the goal of the improved pension program, VA cannot support this bill.

We will provide at a later date our estimate of the costs associated with this bill.

H.R. 4042

H.R. 4042, entitled the "Veterans Home Loan Prepayment Protection Act of 2002," would prohibit additional daily interest charges following prepayment in full of housing loans guaranteed by VA. It would require that, if a veteran prepaid his or her VA-guaranteed home loan in full, the prepayment be credited by the loan holder on the calendar date the holder actually receives the payment. The bill explicitly states that any cut-off hour established by the mortgage lender shall not apply.

Currently, VA has provided by regulation that if a veteran prepays a loan in full, the loan holder must credit the debt with such payment "on the date received, and no interest may be charged thereafter." 38 C.F.R. § 36.4310. It has been the position of the Department that since this regulation does not define the term "date received," the VA regulations should be interpreted under the legally- or commercially-understood definition of that term. Section 4-108 of the Uniform Commercial Code (UCC), which VA believes has been adopted in some form by every State, permits a bank to establish a cutoff hour. Generally this hour must be 2:00 P.M. or later, although some states permit the cutoff hour to be noon or 1:00 P.M. A bank may treat an item received after its cutoff hour as

being received at the opening of business on the next banking day. We understand that the purpose of this UCC provision is to permit financial institutions to reconcile their books at the close of their normal business day.

VA does not believe that it is appropriate to override accepted State commercial law and practice regarding a cutoff hour solely with regard to VA-guaranteed loans. Such legislation would likely require large commercial loan servicers to give special handling to VA loan payments they receive. That, in turn, would likely increase the costs to these entities in servicing VA loans. Any increased costs would no doubt be passed along to veterans in the form of higher interest rates or discount points. In contrast, the benefit to veterans of this legislation would be minimal. For example, a veteran with an outstanding balance of $50,000 on a loan with an interest rate of 7.25 percent per annum whose payoff was credited one day sooner would save less than $10.00. For this reason, we are unable to support this measure.

VA estimates that enactment of this legislation would have insignificant costs.

Arlington National Cemetery Burial Eligibility Act

The "Arlington National Cemetery Burial Eligibility Act" would specify the classes of persons eligible for burial in Arlington National Cemetery and the classes of persons whose cremated remains may be placed in the columbarium in Arlington National Cemetery. It would also establish parameters for the provision of headstones or markers at private expense to mark gravesites in Arlington National Cemetery in lieu of headstones and markers provided by the Secretary of Veterans Affairs. Finally, it would prescribe the circumstances under which monuments may be placed in Arlington National Cemetery and would authorize the Secretary of the Army to construct and place in Arlington National Cemetery a memorial marker honoring the victims of the acts of

terrorism perpetrated against the United States on September 11, 2001. This bill moves these provisions to title 38, United States Code.

Arlington National Cemetery is under the control of the Department of the Army. Therefore, we defer to the Department of the Army with regard to this bill.

Dependency and Indemnity Compensation to Survivors of Veterans Disabled by Cold-Weather Injuries

The Committee is considering a bill to amend 38 U.S.C. § 1318(b) to authorize payment of dependency and indemnity compensation (DIC) in the same manner as if a veteran's death were service connected in certain cases where the veteran, at the time of death, was in receipt of or entitled to receive compensation for disability due to cold-weather injury that was continuously rated totally disabling for at least one year immediately preceding death. VA does not support this legislation.

DIC has historically been paid for deaths caused by service-connected disease or injury. In 1978, Congress authorized payment of DIC in cases of non-service-connected death if the veteran, at the time of death, was receiving compensation for a service-connected disability rated totally disabling for a continuous period of at least ten years (or at least five years from service separation) immediately preceding death. This legislation provided a source of continued income to families that had necessarily come to rely upon VA benefits over a prolonged period of a veteran's total disability.

In 1999, the Veterans Millennium Health Care and Benefits Act authorized payment of DIC to survivors of former prisoners of war who died after September 30, 1999, if the veteran's disability was rated totally disabling for just one year or more immediately preceding death.

In similar fashion, this bill would shorten, from ten years to one year, the period of total disability necessary to support an award of DIC to survivors of veterans totally disabled by cold-weather injuries. This provision would apply only to veterans released from active duty before August 13, 1998.

VA does not support this legislation because it would accord significantly preferential treatment to survivors of veterans who had cold-weather injuries. Except in cases of certain former prisoners of war, VA may not pay DIC to any individual unless the veteran's death was service connected or the veteran's service connected disability was rated totally disabling for at least ten years immediately preceding death. The one-year total disability period in this legislation would accord to survivors of veterans with cold-weather injuries preferential treatment available to no other class of survivors other than survivors of former prisoners of war who died after September 30, 1999.

We are aware of no basis for according such preferential treatment to cold-weather injuries. Although such injuries may cause severe disability, there is no apparent justification for singling them out from other injuries capable of producing total disability, including, for example, gunshot wounds, paralysis, amputations, or cancers. We have no basis for concluding that the impact on veterans and their families of total disability due to cold injuries is substantially different from the impact of total disability due to other types of injuries or diseases. In the absence of any compelling justification for such a distinction, we cannot support legislation that would require disparate treatment of similarly situated claimants.

We will provide at a later date our estimate of the costs associated with this bill.

TESTIMONY OF
CRAIG W. DUEHRING
PRINCIPAL DEPUTY ASSISTANT SECRETARY OF DEFENSE
RESERVE AFFAIRS

BEFORE THE
SUBCOMMITTEE ON BENEFITS
COMMITTEE ON VETERANS' AFFAIRS
HOUSE OF REPRESENTATIVES

THE SERVICEMEMBERS AND MILITARY FAMILIES FINANCIAL PROTECTION
ACT OF 2001
H.R. 3173

JUNE 11, 2002

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Mr. Chairman and members of the Subcommittee, thank you for giving me the opportunity to come before you this morning to discuss H.R. 3173, the Servicemembers and Military Families Protection Act of 2001.

The Department of Defense supports section 2 of H.R. 3173, which would amend the Soldiers' and Sailors' Civil Relief Act to prohibit, absent a court order, eviction or distress of a servicemember's spouse, children, and other dependents during the member's military service if rent for the premises does not exceed $1,950 per month. This is an increase from the current maximum rent of $1,200, which has been in effect since 1991. This increase is needed to reflect that some servicemembers, especially those with families living in high cost areas, pay rents in excess of the current maximum.

The Department of Defense does not support section 3 of H.R. 3173, which would permit a servicemember to elect within 30 days after becoming eligible for Servicemembers' Group Life Insurance (SGLI) additional coverage in increments of $250,000 up to $1 million. An insured servicemember would be able to elect this additional coverage after this 30-day period if proof of good health is provided. We concur with the Department of Veteran Affairs' concerns that the bill would be inconsistent with sound actuarial principles and may jeopardize the financial stability of the SGLI program.

The Department of Defense is also concerned that increasing the coverage to the levels proposed by the bill would have a negative impact on the cost of the SGLI program, which now offers very affordable insurance at a flat rate for everyone, regardless of medical condition. If the higher coverage is approved, we are concerned that the basic rate would increase. In order to maintain the financial integrity of the program and keep premiums at an affordable level, premiums for optional coverage would have to be based on age and physical examinations would have to be required in order to provide proof of good health for those who elect additional SGLI coverage after the close of the thirty-day period. We are also concerned about a possible impact on child coverage, which is currently offered at no cost, and on spouse coverage. Finally, the Department is concerned that the higher levels of coverage, which many servicemembers will not elect, will increase the burden on commanders to document that servicemembers were aware of the higher levels of coverage and opted not to purchase them. Such documentation is necessary because survivors are often reluctant to believe that a deceased servicemember knowingly chose to be covered by less than the maximum amount of SGLI.

We appreciate this opportunity to discuss these matters with you.

RECORD VERSION

STATEMENT BY

THURMAN HIGGINBOTHAM

DEPUTY SUPERINTENDENT

ARLINGTON NATIONAL CEMETERY

BEFORE

BENEFITS SUBCOMMITTEE ON VETERANS AFFAIRS

UNITED STATES HOUSE OF REPRESENTATIVES

SECOND SESSION, 107TH CONGRESS

JUNE 11, 2002

PROPOSED CHANGES IN BURIAL ELIGIBILITY

NOT FOR PUBLICATION UNTIL
RELEASED BY THE HOUSE
VETERANS COMMITTEE

I appreciate the opportunity to appear before this committee to discuss eligibility for burial at Arlington National Cemetery and the "Arlington National Cemetery Burial Eligibility Act."

Arlington National Cemetery is America's most prominent national cemetery and serves as a shrine honoring the men and women who have served in the Armed Forces. It is a visible reflection of America's appreciation for those individuals whose acts and accomplishments reflect the highest service to the country.

Since its' founding in 1864, the cemetery has functioned primarily as a military burial ground. Over the years, the symbolic significance of Arlington National Cemetery has evolved. The cemetery has become recognized as the Nation's foremost national memorial to it military members and is the final resting place of Presidents and other leading public figures. It has also become the site of major memorial events and ceremonies, as well as a significant attraction for visitors to the Washington area.

In Fiscal Year 2001, there were 3,727 interments and 2,212 inurnments. In Fiscal Year 2002, we estimate there will be 3,800 interments and 2,500 inurnments. Looking ahead to Fiscal Year 2003, we estimate there will be 3,925 interments and 2,700 inurnments.

Title 32 of the Code of Federal Regulations sets forth the criteria for burial eligibility in Arlington National Cemetery. The Army, as the Executive Agent for the Cemetery, strives to implement these regulations fairly and consistently. We must endeavor to preserve Arlington as a National Shrine honoring the men and women who have served in the Armed Forces and those Americans who have made extraordinary public contributions to our Nation and our Armed Forces.

Although we acknowledge that the "Arlington National Cemetery Burial Eligibility Act" provides exception authority, we nonetheless object to the legislation. We believe that burial eligibility standards at Arlington should continue to be governed through regulations promulgated by the Secretary of the Army, rather than by statute. We believe that these procedures have been effective in attaining the goals of fairness, consistency and efficient use of space. The current regulatory regime provides the Army, as Executive Agent, the framework and flexibility needed to address unusual cases in a timely, fair and appropriate manner.

We note that the "Arlington National Cemetery Burial Eligibility Act" would expand burial eligibility to several categories that are not now recognized under the regulations in effect. These include members of a reserve component who at the time of death were under 60 years of age and who, but for age, would have been eligible for retired pay; members of the Armed Forces who die in the line of duty while on active duty for training; and certain remarried surviving spouses.

The Army is very concerned that expanding burial eligibility to new categories of individuals will create inequities. While the Army appreciates the actions of the Congress and this Committee in making additional land available to the Cemetery, space will eventually run out. In light of these constraints, expanding burial eligibility will eventually cause the denial of the privilege to other eligible persons. Expanding burial eligibility may also create difficulties for those families whose loved ones had been denied burial privileges prior to the changes.

For these reasons, the Army opposes legislation that would expand categories of eligible individuals beyond those contained in the regulations now in effect. In December 2001, the Army provided testimony to this Subcommittee expressing concern with H.R. 3423, which would extend burial privileges in Arlington National Cemetery to certain current and former reserve component members of the Armed Forces and their dependents. While the long-term impact of the proposed expansions is uncertain, we objected to H.R. 3423 based on the impact on space availability and the fact that the expansion would eventually require denial of this privilege to eligible persons in categories that have existed for decades. At the same time, the Army values greatly the major contribution being made by members of our reserve components each and every day. The over 30,000 members currently serving on active duty in the Reserves and the Guard are eligible for burial in Arlington National Cemetery, if they should die while they are currently serving.

We also note that the "Arlington National Cemetery Burial Eligibility Act" would eliminate burial eligibility for several narrowly defined categories. The Army believes that these individuals, including top leadership in the Department of Defense and other high-level government officials, should continue to receive, by virtue of their service to Nation, the special honor afforded by burial in Arlington.

Thank you for providing me with the opportunity to present our views on the "Arlington National Cemetery Burial Eligibility Act." I look forward to answering your questions.

STATEMENT OF
BRIAN E. LAWRENCE
ASSOCIATE NATIONAL LEGISLATIVE DIRECTOR
OF THE
DISABLED AMERICAN VETERANS
BEFORE THE
COMMITTEE ON VETERANS' AFFAIRS
SUBCOMMITTEE ON BENEFITS
UNITED STATES HOUSE OF REPRESENTATIVES
JUNE 11, 2002

Mr. Chairman and Members of the Subcommittee:

On behalf of the more than one million members of the Disabled American Veterans (DAV), I appreciate the opportunity to present testimony regarding the following bills and draft bills: H.R. 3173, the Servicemembers and Military Families Financial Protection Act of 2001; H.R. 3735, the Department of Veterans Affairs Overpayment Administration Improvement Act of 2002; H.R. 3771, to exclude monetary benefits, paid to veterans by states and municipalities, from consideration as income for purposes of pension benefits; H.R. 4042, the Veterans Home Loan Prepayment Protection Act of 2002; the Arlington National Cemetery Burial Eligibility Act; and legislation providing dependency and indemnity compensation to the surviving spouse of a veteran with a totally disabling service-connected cold weather injury for at least one year preceding death.

In accordance with its Constitution and Bylaws, the DAV's legislative focus is on benefits and services for service-connected disabled veterans, their dependents, and survivors. Our legislative agenda is determined by mandates in the form of resolutions adopted by our membership.

Section 2 of H.R. 3173, the Servicemembers and Military Families Financial Protection Act of 2001, increases the maximum monthly lease amount for the Soldiers' and Sailors' Civil Relief Act (SSCR) protection from $1,250 to $1,950. This important act prevents families of Armed Forces men and women from being evicted from their home for inability to pay full rent. Raising the amount of protection reflects contemporary cost of living rates.

Section 3 of H.R. 3173, provides authority for an optional increase in the maximum coverage under Servicemembers' Group Life Insurance (SGLI) and Veterans' Group Life Insurance (VGLI). A qualified member would be able to elect coverage in the amounts of $500,000, $750,000, or $1,000,000. Currently, the maximum coverage is $250,000. The DAV has no resolution pertaining to the SSCR, SGLI or VGLI. We recognize that the provisions of this bill are commendable and we would not oppose its enactment.

H.R. 3735, the Department of Veterans Affairs Overpayment Administration Improvement Act of 2002, extends the period for application for a waiver of overpayment of Department of Veterans Affairs (VA) benefits, and grants the Secretary authority to waive overpayments in which the cost of recovery would be higher than the amount recovered. The DAV has no resolution regarding waiver of overpayment. The provisions of this bill would enhance the fairness of overpayment recovery and we would not oppose its enactment.

H.R. 3771 would exclude monetary benefits, paid to veterans by states and municipalities, from consideration as income for purposes of pension benefits. Pension provides a supplemental income to keep recipients above the level of poverty. The amount of pension is based on the recipient's annual income level. The ratio of pension to annual income is an inverse equation. Higher income results in lower pension. In determining annual income, this bill would not require that pension be reduced by the amount of income from local governments. Because the DAV is an organization devoted to the well being of service-disabled veterans, we have no resolutions regarding pension programs, which are nonservice connected. It appears this legislation would benefit a large number of veterans, and we will not oppose its passage.

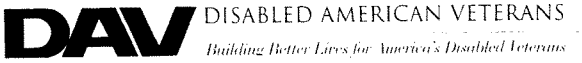
H.R. 4042, the Veterans Home Loan Prepayment Protection Act of 2002, would not allow interest to be charged to veterans once they have made a prepayment in full, on a VA loan guarantee. The DAV would not oppose enactment of this legislation.

Draft legislation would entitle veterans' surviving spouses to receive dependency indemnity compensation (DIC) if the veteran was totally disabled for at least one year prior to death as a result of cold-weather injuries. The DAV would not oppose enactment of this legislation.

The Arlington National Cemetery Burial Eligibility Act, would reform rules regarding eligibility for burial at Arlington, reform rules regarding eligibility for placement in the Columbarium at Arlington, establish regulations for private markers, and authorize a memorial in honor of victims of the terrorist attacks on September 11, 2001. The DAV has no resolutions regarding burial at Arlington. We would not oppose enactment of this legislation.

Mr. Chairman, thank you for the opportunity to present our views on this bill. We appreciate The Subcommittee's efforts to improve the lives of disabled veterans and their dependents.

I will be glad to answer any questions this statement may have inspired.



DISCLOSURE OF FEDERAL GRANTS OR CONTRACTS

The Disabled American Veterans (DAV) does not currently receive any money from any federal grant or contract.

During fiscal year (FY) 1995, DAV received $55,252.56 from Court of Veterans Appeals appropriated funds provided to the Legal Service Corporation for services provided by DAV to the Veterans Consortium Pro Bono Program. In FY 1996, DAV received $8,448.12 for services provided to the Consortium. Since June 1996, DAV has provided its services to the Consortium at no cost to the Consortium.

National Service and Legislative Headquarters • 807 Maine Avenue, S.W. • Washington, D.C. 20024-2410 • Phone (202) 554-3501 • Fax (202) 554-3581

STATEMENT OF

CARL BLAKE, ASSOCIATE LEGISLATIVE DIRECTOR

PARALYZED VETERANS OF AMERICA

BEFORE THE

HOUSE COMMITTEE ON VETERANS' AFFAIRS

SUBCOMMITTEE ON BENEFITS

CONCERNING

H.R. 3173, THE "SERVICEMEMBERS AND MILITARY FAMILIES FINANCIAL PROTECTION ACT"

H.R. 3735, THE "DEPARTMENT OF VETERANS AFFAIRS OVERPAYMENT ADMINISTRATION IMPROVEMENT ACT"

H.R. 3771, A BILL TO PROVIDE THAT MONETARY BENEFITS PAID TO VETERANS BY STATES AND MUNICIPALITIES SHALL BE EXCLUDED FROM CONSIDERATION AS INCOME FOR PURPOSES OF PENSION BENEFITS

H.R 4042, THE "VETERANS HOME LOAN PREPAYMENT PROTECTION ACT"

AND OTHER LEGISLATION

JUNE 11, 2002

Chairman Simpson, Ranking Member Reyes, members of the Subcommittee, PVA would like to thank you for the opportunity to testify on H.R. 3173, the "Servicemembers and Military Families Financial Protection Act," H.R. 3735, the "Department of Veterans Affairs Overpayment Administration Improvement Act," H.R. 3771, a bill to provide that monetary benefits paid to veterans by States and municipalities shall be excluded from consideration as income for purposes of pension benefits, H.R 4042, the "Veterans Home Loan Prepayment Protection Act," and other legislation.

H.R. 3173

H.R. 3173, the "Servicemembers and Military Families Financial Protection Act of 2001," provides important improvements to benefits for veterans. Section 1 of the bill would increase the maximum monthly lease amount, protected under the Soldiers' and Sailors' Civil Relief Act (SSCRA) of 1940, from $1,200 to $1950. Currently, under 50 U.S.C. § 530, landlords are limited in their ability to evict active-duty personnel or their dependent families from a family dwelling if a military tenant pays $1,200 a month or less for the dwelling. This amount last increased to $1200 in P.L. 102-12 in 1991. Due to ever increasing costs-of-living, rental rates in many localities have gone up; therefore, this protection should mirror the increase. Men and women called to active duty, who often take a reduction in pay when drawing active duty pay instead of their civilian paycheck, should not have to suffer the threat of being evicted from their homes. PVA supports Section 1 of the bill.

Section 2 of the bill would provide for an optional increase in maximum coverage under Servicemembers' Group Life Insurance (SGLI) and Veterans' Group Life Insurance (VGLI). It would allow for incremental increases in insurance coverage up to $1 million. This "buy-up" option would be available by paying a premium equivalent to the rate that soldiers currently pay for SGLI. This provision would allow servicemen and women to be sure that their families are provided for in the event of an unfortunate event. PVA supports Section 2 of the bill.

H.R. 3735

H.R. 3735, the "Department of Veterans Affairs Overpayment Administration Improvement Act of 2002," would extend the time for application for a waiver of recovery of claims of overpayments of veterans benefits to 180 days from the date of final determination of the overpayment amount, if such date is later than the date that is 180 days from the date of payee notification of the indebtedness. The bill would also allow the Secretary of Veterans Affairs (VA) to waive recovery of an overpayment if that recovery would impede the efficient and effective administration of veterans' benefits due to the small amount involved and the costs of assessing and collecting such amount.

Veterans cannot be held responsible when the Administration makes a mistake and issues an overpayment of benefits. Although PVA fully supports the right of the VA to recover overpayments, the recovery process should not take advantage of a veteran. Therefore, PVA supports H.R. 3735.

H.R. 3771

PVA applauds the intent behind H.R. 3771, a bill that would provide that monetary benefits paid to veterans by States and municipalities shall be excluded from consideration as income for purposes of pension benefits. Veterans who receive pension benefits should not face reduction of those benefits simply because their states choose to recognize their service to this country with similar payments. PVA fully supports H.R. 3771.

Similarly, there are many examples in federal policy whereby low-income disabled veterans are placed at a disadvantage relative to beneficiaries of other disability support programs. Department of Housing and Urban Development (HUD) regulations offer earnings disregards to Social Security Income (SSI) or Temporary Assistance to Needy Families (TANF) recipients in HUD-subsidized housing. Unfortunately, veterans receiving pension benefits, who attempt to go to work, do not receive the same assistance. The same can be said of a new Social Security law that denies access to VA vocational rehabilitation services for veterans on Social Security disability benefits who want to attain greater economic self-sufficiency. PVA would like to work with the committee to explore in greater detail the ways in which many federal programs designed to help persons with disabilities overlook the disabled veteran population.

H.R. 4042

H.R. 4042, the "Veterans Home Loan Prepayment Protection Act of 2002," would prohibit mortgage lenders from charging additional interest following prepayment in full of VA Guaranteed Home Loans. Mortgage lenders currently have a means to determine their own cutoff time for receipt of a loan prepayment. This allows the mortgage lender to charge additional interest for an extra day or in some cases several days. Ultimately,

the veteran ends up paying additional interest on a loan that he or she has already prepaid in full. This is an issue of basic fairness. PVA supports the provisions of H.R. 4042.

Arlington National Cemetery Burial Eligibility Act

PVA does not oppose the "Arlington National Cemetery Burial Eligibility Act" draft legislation. We recognize the importance of clarifying burial eligibility within this national shrine. We would recommend, however, that the limitation on presidential waiver authority be broadened somewhat to not only include extraordinary "acts, service, or contributions to the Armed Forces," but, with proper notification to the Chairmen and Ranking Members of both the House and Senate Committees on Veterans' Affairs, to include extraordinary "acts, service, or contributions to our Nation" as a whole.

Dependency and Indemnity Compensation

PVA has no objection to the provisions of the proposed bill that would provide for the payment of Dependency and Indemnity Compensation (DIC) to the surviving spouse of a deceased veteran who for at least one year preceding death had a service-connected disability rated totally disabling that was due to a service-connected cold-weather injury.

I would like to thank the Subcommittee for its commitment to improve the benefits four our servicemen and women. We look forward to working with the subcommittee in the future. I would be happy to answer any questions that you might have.

Information Required by Rule XI 2(g)(4) of the House of Representatives

Pursuant to Rule XI 2(g)(4) of the House of Representatives, the following information is provided regarding federal grants and contracts.

Fiscal Year 2002

Court of Appeals for Veterans Claims, administered by the Legal Services Corporation—National Veterans Legal Services Program—$179,000 (estimated).

Fiscal Year 2001

Court of Appeals for Veterans Claims, administered by the Legal Services Corporation—National Veterans Legal Services Program—$242,000.

Fiscal Year 2000

General Services Administration—Preparation and presentation of seminars regarding implementation of the Americans With Disabilities Act, 42 U.S.C. §12101, and requirements of the Uniform Federal Accessibility Standards—$30,000.

Federal Aviation Administration—Accessibility consultation--$12,500.

Court of Appeals for Veterans Claims, administered by the Legal Services Corporation—National Veterans Legal Services Program—$200,000.

SERVING
WITH
PRIDE

AMVETS

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TESTIMONY

of

RICHARD JONES
AMVETS NATIONAL LEGISLATIVE DIRECTOR

before the

COMMITTEE ON VETERANS' AFFAIRS
SUBCOMMITTEE ON BENEFITS
U.S. HOUSE OF REPRESENTATIVES

on

H.R. 3173, the Servicemembers and Military Families Financial Protection Act of 2001, H.R. 3735, the Department of Veterans Affairs Overpayment Act of 2002, H.R. 3771, legislation that would provide that monetary benefits paid to veterans by States and municipalities shall be excluded from consideration as income for purposes of pension benefits paid by the Secretary of Veterans Affairs, H.R. 4042, the Veterans Home Loan Prepayment Act of 2002, and two draft bills: the Arlington National Cemetery Burial Eligibility Act, and legislation providing dependency and indemnity compensation to the surviving spouse of a veteran with a totally disabling service-connected cold-weather injury.

Tuesday, June 11, 2002
10:00 am., Room 334
Cannon House Office Building

MR. CHAIRMAN, RANKING MEMBER REYES, AND MEMBERS OF THE SUBCOMMITTEE:

On behalf of National Commander Joseph W. Lipowski, I am pleased to present the views of AMVETS regarding H.R. 3173, the Servicemembers and Military Families Financial Protection Act of 2001, H.R. 3735, the Department of Veterans Affairs Overpayment Act of 2002, H.R. 3771, legislation that would provide that monetary benefits paid to veterans by States and municipalities shall be excluded from consideration as income for purposes of pension benefits paid by the Secretary of Veterans Affairs, H.R. 4042, the Veterans Home Loan Prepayment Act of 2002, and two draft bills; the Arlington National Cemetery Burial Eligibility Act, and legislation providing dependency and indemnity compensation to the surviving spouse of a veteran with a totally disabling service-connected cold-weather injury.

Neither AMVETS nor I have been the recipient of any federal grants or contracts during the current fiscal year or the previous two years.

Mr. Chairman, AMVETS has been a leader since 1944 in helping to preserve the freedoms secured by America's Armed Forces. Today, our organization continues its proud tradition, providing not only support for veterans and the active military in procuring their earned entitlements but also an array of community services that enhance the quality of life for this nation's citizens.

Throughout our more than fifty-year history, our focus and indeed our passion have been to represent the interests of veterans as their advocates. In this regard, you and our organization share a common purpose – we support veterans in their efforts to receive the benefits that a grateful nation intended them to have in recognition of their dedicated service to our country.

As a nation, we owe veterans an enormous debt of gratitude – for their service, their patriotism, and their sacrifices. The benefits to which they are legally entitled are not the product of some social welfare program, as some might arguement. Rather they are yet another cost of freedom that unfortunately is too often forgotten.

As a national service organization, AMVETS is committed to assisting veterans in their times of need. For example, during the past sixteen years, we, together with DAV, PVA, and VFW, have co-authored a document titled *The Independent Budget* in which we identify the funding requirements necessary to support the Department of Veterans Affairs.

We believe that America's promises made to veterans for their military service need to be recognized and honored as our forebears intended. We believe that veteran's benefits should be provided in a timely and compassionate manner. We believe that to do less dishonors those whose service in defense of this nation provides a central underpinning for the prosperity and freedoms we all enjoy.

Regarding the matters before the Subcommittee:

H.R. 3173, the Servicemembers and Military Families Financial Protection Act of 2001:

H.R. 3173 would increase the monthly lease amount protected by the Soldiers' and Sailors' Civil Relief Act (SSCR) to $1,950 from its current level of $1,250. The SSCR is critical to our fighting men and women. When duty calls, the last thing our servicepeople need to worry about is whether their families will have a home when they are gone. H.R. 3173 also increases the maximum coverage under the Servicemembers' Group Life Insurance (SGLI) and the Veterans' Group Life Insurance (VGLI) to up to as much as $1 million from its current ceiling of $250,000. Both of these provisions in H.R. 3173 recognize the ever-increasing cost of living, and AMVETS offers its full support of this legislation.

H.R. 3735, the Department of Veterans Affairs Overpayment Act of 2002:

H.R. 3735 would extent the period of application for a waiver for overpaid benefits to 180 days. Additionally, this legislation would allow the Secretary to waive reclamation of an overpayment if the Secretary deems the recovery more costly than the overpayment. AMVETS believes H.R. 3735 enhances the fairness of the overpayment recovery process and supports this legislation.

H.R. 3771, legislation that would provide that monetary benefits paid to veterans by States and municipalities shall be excluded from consideration as income for purposes of pension benefits paid by the Secretary of Veterans Affairs:

H.R. 3771 would exclude those monetary benefits paid to veterans by a State or municipality from being included in the income calculations for federal veterans' pension benefits. As currently formulated, veterans' pension benefits paid by the VA are based on taxable income and therefore are reduced for those veterans with larger incomes. This legislation would require that benefits paid by State or municipal agencies would be excluded from calculations that reduce federal pension payments. AMVETS believes that veterans have earned the benefits promised by the federal government, and these benefits should not be compromised by the actions of State or municipal governments. AMVETS fully supports H.R. 3771.

H.R. 4042, the Veterans Home Loan Prepayment Act of 2002:

H.R. 4042 would prevent interest to accrue on a prepayment of a VA guaranteed loan during refinancing due to lender and mortgage company accounting and "business day" practices. While the monetary amounts charged in these instances may be small, AMVETS believes America's veterans should not be penalized for seeking to refinance their home. AMVETS fully supports H.R. 4042.

Arlington National Cemetery Burial Eligibility Act:

Arlington National Cemetery is America's most prominent national cemetery. It serves as a national shrine and a tangible reminder of our heritage and an inspiration for our future. It honors the men and women who have served in our armed forces and those Americans who have

made extraordinary contributions to the Nation. This site, on a hillside overlooking the Potomac, has become a land of veneration and symbol of reverence for Americans everywhere.

We fully recognize that Arlington has been governed by eligibility standards for burial for more than 30 years. These rules were put in place because land available for burial was limited and part of the Army's plan was designed to ensure that Arlington would remain active as our Nation's foremost national cemetery. The rules establish who gets honored with burial at Arlington.

These rules governing burial at Arlington are strict, as they should be. Past rules have served us well to uphold the sanctity of Arlington as a final resting place and tribute to those Americans who have served our country with distinction. We must recognize, however, that times change and as America moves forward, and we should recognize the changing missions of our military forces and incorporate and update policy as appropriate.

In this regard, we believe it is appropriate to eliminate the requirement for retired reservists to be 60 years old before being admitted to Arlington. Burial in this most hollowed ground should not be hinged to a point in the life when a retired reservist begins to collect his retirement pay. The strict standards for burial at Arlington should be amended in this regard. The change would maintain the integrity of the strict standards for interment at Arlington while also recognizing the need to address potential problems as they apply to an entire category of individuals.

AMVETS would also support legislation to recognize that members of the reserves who die in active duty training or inactive duty training should be allowed burial in Arlington National Cemetery. Often mixed flight crews of reserves and active duty personnel work together to fly in troops, materiel, and related supplies. If such a plane were to unfortunately fall from the sky and its crew be killed, current code holds active duty personnel eligible for Arlington burial but reservists not. This is a peculiar outcome, based solely on the reservist's "paperwork" describing an individual's status as "in training." We trust the panel agrees.

Draft legislation providing dependency and indemnity compensation to the surviving spouse of a veteran with a totally disabling service-connected cold-weather injury:

AMVETS does not oppose the provisions in this proposed legislation that would pay dependency and indemnity compensation (DIC) to surviving spouses of veterans who where totally disabled for at least one year prior to their death as a result of a service-connected cold-weather injury.

As a matter of our advocacy, AMVETS believes that totally disabled veterans are under compensated, and we urge Congress to understand that service-connected needs of veterans should be given the highest priority, and that service-connected compensation and death benefits should be liberal and generous.

This concludes my statement. I would be pleased to address any questions or comments that you or other members of the panel may have and thank you, again, for the opportunity to present our remarks.

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Testimony of

VIETNAM VETERANS OF AMERICA

presented by

Patrick G. Eddington
Associate Director of Government Relations

Before the

Subcommittee on Benefits

House Veterans Affairs Committee

Regarding

H.R. 3173, H.R. 3735, H.R. 3771, H.R. 4042, and related bills

June 11, 2002

Chairman Simpson, Ranking Member Reyes, and other distinguished members of the subcommittee, Vietnam Veterans of America (VVA) is pleased to have this opportunity to provide testimony on a number of bills of interest to our membership. Let me address each bill in turn.

H.R. 3173, the Servicemembers and Military Families Financial Protection Act of 2001

Our understanding is that this bill would:

- Provide for an increase in the maximum monthly lease amount for protections under the Soldiers' and Sailors' Civil Relief Act of 1940, and

- Provide authority for optional increase in maximum coverage under Servicemembers' Group Life Insurance and Veterans' Group Life Insurance

VVA is pleased to endorse both measures. During this time of war, it is imperative that the federal government ensure that Guard and Reserve members called to active duty have their homes and their livelihoods protected even as they protect us from our terrorist enemies. If we hope to recruit and retain the best citizen-soldier all-volunteer force, we must demonstrate as a society that we will do all in our power to protect the financial interests of our Guard and Reserve members. VVA urges the committee to favorably report out this bill to the full committee.

H.R. 3735, Department of Veterans Affairs Overpayment Administration Improvement Act of 2002

Our understanding is that this bill would amend title 38, United States Code, to extend the time for the application for a waiver of recovery of claims of overpayments of veterans benefits, and to otherwise improve the administration of overpayments of veterans benefits.

We agree that the VA should be in the position to recover overpayments when they occur. However, VVA has heard from veterans in the past about VA overpayment collection practices that were overzealous and heavy-handed, even when the overpayment was due to mistakes by the VA. H.R. 3735 would help even the playing field by giving the Secretary the option to waive recovery of minimal overpayments to veterans, a common sense approach that VVA wholeheartedly endorses.

H.R. 3771

Our reading of this measure indicates that it would amend title 38, United States Code, to provide that monetary benefits paid to veterans by States and municipalities shall be excluded

from consideration as income for purposes of pension benefits paid by the Secretary of Veterans Affairs.

VVA has long argued that all limits on additional monies payable to VA pensioners should be lifted, and VVA is delighted to fully endorse this measure. We hope the subcommittee will swiftly and favorably report out this bill to the full committee.

H.R. 4042, Veterans Home Loan Prepayment Protection Act of 2002

This bill would prohibit the levying of additional daily interest charges following prepayment in full of housing loans guaranteed by the Secretary of Veterans Affairs. Mr. Chairman, this bill would help to end a practice that VVA considers a form on loan sharking by unscrupulous lenders. We applaud the subcommittee for moving to protect veteran home owners from this practice, and we urge the subcommittee to favorably report out this bill to the full committee.

Arlington National Cemetery Burial Eligibility Act

Our understanding is that this bill would further codify and refine the eligibility criteria for burial at Arlington National Cemetery. VVA testified last year on this topic, giving our unqualified support to H.R. 3423, offered by Chairman Smith. We support this draft bill for exactly the same reasons.

The Arlington National Cemetery Burial Eligibility Act is partly a response to the tragedy that affected the family of Captain Charles Burlingame (the pilot of flight 77 which crashed into the Pentagon on September 11th) from receiving full burial rights at Arlington. We concur fully with Chairman Smith's view that reservists like Captain Burlingame who die as a result of enemy action should be accorded burial at Arlington, if that is their choice or the choice of their survivors.

While we understand that this bill only addresses Arlington, we would like to take this opportunity to reiterate to the subcommittee our view that the VA must consider creating a new national cemetery in the city of Washington. We are aware that there are unused tracks of land in need of redevelopment within the District, including space near the Battleground National Cemetery in Washington, D.C.. Turning this unused or underutilized spaces into one or more appropriately landscaped and maintained national cemeteries would create new national shrines to provide final homes for our honored dead.

Outside of the national capitol region, we would respectfully suggest that sites identified as excess by the Base Closure and Realignment Commission be evaluated for their suitability for conversion to national cemeteries. We understand that Congress often prefers to see such excess property sold to private developers as a way of enhancing revenues. However, given the expected increase in veteran burials over the next 15 years, we believe each facility slated for

closure under BRAC should be carefully evaluated for its suitability for conversion to a national cemetery.

Spousal Dependency and Indemnity Compensation

This bill would provide for payment by the Secretary of Veterans Affairs of dependency and indemnity compensation to the surviving spouse of a deceased veteran who for at least one year preceeding death had a service-connected disability rated totally disabling that was due to a service-connected cold-weather injury.

VVA is happy to lend our full support to this legislation, Mr. Chairman. However, we are curious as to the rationale for only including claims involving veterans with cold-weather injuries. Surely other service-connected conditions should be treated in the same fashion. We hope the subcommittee will modify the language of the bill to allow for the inclusion of all service-connected conditions, and subsequently favorably report out this bill to the full committee.

Mr. Chairman, this concludes my written statement. On behalf of our national president, Tom Corey, please accept my thanks for allowing VVA the opportunity to share our views on these very important legislative measures.

VIETNAM VETERANS OF AMERICA
Funding Statement
June 11, 2002

Vietnam Veterans of America (VVA) is a national non-profit veterans membership organization registered as a 501(c)(19) with the Internal Revenue Service. VVA is also appropriately registered with the Secretary of the Senate and the Clerk of the House of Representatives in compliance with the Lobbying Disclosure Act of 1995.

VVA is not currently in receipt of any federal grant or contract, other than the routine allocation of office space and associated resources in VA Regional Offices for outreach and direct services through its Veterans Benefits Program (Service Representatives). This is also true of the previous two fiscal years.

For Further Information, Contact:

Director of Government Relations
Vietnam Veterans of America
(301) 585-4000, extension 127

Testimony of
Mr. Thomas H. Miller

Executive Director
Blinded Veterans Association

Before the House Veterans Affairs Committee
Subcommittee on Benefits

Regarding
H.R. 3771

June 11, 2002

Mr. Simpson, Ranking Member Reyes, and other members of this Subcommittee, thank you for the invitation to express the views of the Blinded Veterans Association on H.R. 3771. This bill would amend title 38, United States Code, to provide that monetary benefits paid to veterans by States and municipalities shall be excluded from consideration as income for purposes of pension benefits paid by the Secretary of Veterans Affairs. BVA enthusiastically supports this important legislation. We extend our deepest thanks to Mr. Crowley of New York for introducing this legislation.

Blinded veterans in receipt of non-service connected pensions generally have very limited incomes and are clearly penalized by current pension laws requiring all income to count for pension purposes. When states and municipalities honor their veterans who served America by providing annuities or other benefits, those veterans unfortunately lose the full benefit of those annuities. Several states have provided annuities for blinded veterans and have even been willing to increase those annuities, but have hesitated because the veterans would not receive the full benefit due to current pension law. Unfortunately, many veterans chose not to take advantage of this gift because it would affect their federal pension received from the Department of Veterans Affairs. Annuities, bonuses, and benefits are meant to be GIFTS from a state or municipality to a veteran for their service to this great Nation. In actuality, this gift is truly a hindrance for those that receive a VA pension. Furthermore, the current law serves as a disincentive for states and municipalities to establish such annuities or other monetary benefits honoring veterans who served America.

BVA feels it is long overdue to amend Title 38 in order to exclude monetary benefits paid by states and municipalities to veterans as income for pension purposes. Thanks to the research of Regis Quirin, BVA's New York State Regional Group Legislative Liaison, BVA discovered that the VA General Counsel ruled on this issue over 30 years ago. In 1966, the VA General Counsel held that "The New York State Annuity for blind war veterans and widows of such veterans (and any similar benefit provided by any other state) is a "bonus or similar cash gratuity" and thus excludable (effective January 1, 1967) from income, for VA purposes, in pension, compensation, and dependency and indemnity compensation cases."

Mr. Chairman, it clearly is time to rectify this inequity in VA Pension Law and not penalize severely disabled veterans from receiving all monetary benefits provided by states and municipalities for honorable service to America. Severely disabled veterans are at highest risk for being unable to obtain meaningful and productive employment. People who are blind or severely visually impaired are especially vulnerable in this regard. The unemployment rate among people who are blind and of working age is 70 per cent. The potential impact on those blind and severely visually impaired receiving non-service connected pension is potentially significant if the monetary benefits paid by states or municipalities to blinded veterans must be reported as income.

Again, Mr. Chairman, BVA appreciates this opportunity to present our views on H.R. 3771. I would be pleased to respond to any questions you or other members of the Subcommittee might have.

STATEMENT OF
JAMES FISCHL, DIRECTOR
NATIONAL VETERANS AFFAIRS AND REHABILITATION COMMISSION
THE AMERICAN LEGION
BEFORE THE
SUBCOMMITTEE ON BENEFITS
COMMITTEE ON VETERANS' AFFAIRS
UNITED STATES HOUSE OF REPRESENTATIVES
ON
VETERANS' BENEFIT ISSUES

June 11, 2002

Mr. Chairman and Members of the Subcommittee:

The American Legion appreciates the opportunity to provide testimony to the distinguished members of this subcommittee on the following bills that seek to improve benefits for America's veterans.

HR 3173

Servicemembers and Military Families Financial Protection Act of 2001

H.R. 3173, the Servicemembers and Military Families Financial Protection Act of 2001 seeks to amend the Soldier's and Sailors' Civil Relief Act (SSCRA) of 1940 to increase the maximum monthly lease amount for SSCRA protection from $1,250 to $1,950. Additionally, H.R. 3173 would increase the available amount covered under the Servicemembers' Group Life Insurance (SGLI) and the Veterans' Group Life Insurance from $200,000 to $500,000, $750,000, or $1,000,000.

The American Legion has long supported the goal of improving the quality of life benefits for members of the Reserve and National Guard. While The American Legion does not have a specific resolution supporting this bill, the provisions outlined in H.R. 3173 are a solid step toward reaching that goal.

HR 3735

Department of Veterans Affairs Overpayment Administration Improvement Act of 2002

When an overpayment is made on a VA compensation or pension, the VA places in motion a complex set of rules and procedures for recovering the alleged overpayment. By statute, the veteran is entitled to request a waiver of the overpayment on grounds of equity and good conscience. The Request for Waiver of Recovery of Overpayment must be filed with the VA Regional Office within 180 days of the first notice of the existence of the overpayment. This first notice merely notifies the veteran that a debt has been determined to exist and that he or she will be advised of the exact amount at a later date. In many cases, the veteran files a notice of disagreement (NOD) with the RO, putting the overpayment decision into appellate status at the Board of Veterans Appeals (BVA) in Washington, DC.

Section 2(a) of this bill distinguishes between overpayments that have been appealed and those that have not. For appealed decisions, the 180-day clock will begin to run when the veteran is formally notified of the final determination of the amount of the overpayment to be recovered. The American Legion supports this provision in its current form. However, the 180-day waiver request period should always begin with the final determination of the amount of the overpayment. The veteran will then be able to make an informed decision on how to proceed. Further, under the doctrine of exhaustion of administrative remedy, a decision of the RO Committee on Waivers and Compromises (CWC) should be required before a NOD may be filed. Many waiver

requests will be resolved in favor of the veteran locally, thereby precluding remand by the BVA to the RO for a CWC decision.

Section 2(b) allows the VA to establish guidelines to administratively waive recovery of overpayments when the amounts involved are so small and the costs of assessment and collection so great as to impede the efficient or effective administration of benefits. We note that authority exists in 38 CFR 1.942(d) to terminate collection activity when the cost of further collection effort is likely to exceed the amount recoverable. This bill will allow the VA to waive such debts "for the convenience of the Government" without the time and resource consuming requirement of a formal determination. The American Legion supports this effort to streamline the administration of veterans' benefits.

HR 3771

Exclusion of veterans' benefits paid by States and localities from consideration as income for the purposes of non-service-connected disability pension.

Veterans who have served their country during a period of war, and are permanently and totally disabled from non-service-connected (NSC) disability and who have incomes below the limits established by law may be entitled to a pension. To be eligible, a veteran must be subsisting at or below the poverty level. The current NSC pension maximum for a single veteran with no dependents and no countable income is $9556.00 per year. This amount is reduced by the veteran's income from any other source, except those excluded under 38 USC § 1503(a) such as public and private assistance, unreimbursed medical expenses and casualty losses. This legislation would add money paid to the veteran from local and State governments to the list of excluded income, so long as the funds are paid as a veteran's benefit.

The American Legion fully supports this bill. Those receiving NSC pension are among this nation's poorest veterans and The American Legion favors any measure which will raise the standard of living for this population. Further, The American Legion believes that the purpose of monetary benefits paid by States and localities to deserving veterans should not be defeated by counting against Non Service Connected pension. That purpose is to reward veterans' honorable service in the Armed Forces of the United States as citizens of the State, county, parish or municipality providing the benefit.

HR 4042

Veterans Home Loan Prepayment Protection Act of 2002

The Home Loan Guaranty Program was a critical component of the "Servicemen's Readjustment Act of 1944", the original GI Bill written by The American Legion. Over the years, 16.5 million veterans have benefited from this visionary program, and both the home building industry and the financial community prospered as well. Clearly, the success of this program is well documented and must be continued for future veterans and their families.

At the outset, The American Legion is pleased with the operation of the Home Loan Guaranty Program. The American Legion believes VA has done its best to keep this program accessible and user friendly, while at the same time keeping the interests of veterans as the primary focus of its decision-making process.

H.R. 4042, entitled the "Veterans Home Loan Prepayment Protection Act of 2002" proposes to amend title 38, United States Code, to prohibit additional daily interest charges following prepayment in full of housing loans guaranteed by the Department of Veterans Affairs. Currently, according to Section 4-108 of the Uniform Commercial Code (UCC), states allow banks to institute a cutoff hour for processing payments. These cutoff hours range from noon to 2:00 P.M. Payments received later incur interest charges and are credited to the next banking day, thereby allowing the banking institution to reconcile their books at the conclusion of their normal business day.

While this bill provides an obvious benefit for veterans, The American Legion is concerned that it could have an unintentional, detrimental effect. The additional expense incurred by the lender could be passed on to the veteran in the form of higher interest rates or possibly discourage lenders from participating in the VA Home Loan Guarantee Program.

DRAFT LEGISLATION

Arlington National Cemetery Burial Eligibility Act

Mr. Chairman, The American Legion has supported mandating the eligibility for burial in Arlington National Cemetery for a number of years. Arlington National Cemetery was established to recognize those individuals who have distinguished themselves through honorable military service. Arlington National Cemetery is our Nation's most sacred shrine representing an embodiment of the sacrifices that were made to secure and preserve the nation's ideals and freedoms. More than 250,000 veterans and their dependents are buried on these 612 acres of hallowed ground. Arlington National Cemetery is one of more than 100 National Cemeteries designated for America's servicemembers, but, unlike the others, the Department of the Army administers Arlington Cemetery.

In spite of restrictive regulations (Title 32, CFR), there have been numerous requests for waivers, falsification of military records, a presidential waiver and reservation request used to gain interment. The American Legion supports a clearly defined eligibility criterion for burials at Arlington National Cemetery in order to assure compliance and fairness and to assure that the remaining space is judiciously used.

As mentioned in the bill, such burial should be restricted to servicemembers who die on Active duty; highly decorated veterans to include recipients of the Purple Heart; former members of the armed forces separated from the military with a physical disability of 30 percent or more before October 1, 1949; qualified retired veterans and their spouses and eligible children; former Prisoners of War; and for the President or former Presidents as Commanders in Chief of the Armed Forces. The American Legion believes there should be no waivers for unqualified persons except under unique and compelling circumstances that comport with codified non-partisan waiver procedures as established by the Congress. Finally, eligibility for interment of cremated remains of honorably discharged veterans in the Columbarium at Arlington National Cemetery should also be codified.

To provide for payment of Dependency and Indemnity Compensation to the surviving spouse of a veteran who for at least one year preceding death had a service-connected disability rated totally disabling that was due to a service-connected cold-weather injury.

In July 1998, the VA published a final rule in the Federal Register (63 FR 37779) that revised the rating criteria for residuals of cold injuries. Prior to this change, such injuries were referred to simply as "frozen feet". The new rating criteria now reflect the current state of medical knowledge in assessing and treating the effects of exposure to extreme cold. It is well known that the effects of cold injuries can be debilitating, especially in severe cases where anatomical loss or loss of use of extremities are involved and where cancers develop at the injury sites. This bill will grant Dependency and Indemnity Compensation (DIC) to surviving spouses of veterans who die from a non-service-connected cause while totally disabled as a result of service-connected residuals of cold injury.

The American Legion supports this legislation and applauds its intent to provide for the spouses of veterans who served in World War II and Korea under the most extreme conditions.

Mr. Chairman, this concludes our testimony.

STATEMENT OF

SIDNEY DANIELS, ASSISTANT DIRECTOR, VETERANS BENEFITS POLICY
NATIONAL VETERANS SERVICE
VETERANS OF FOREIGN WARS OF THE UNITED STATES

BEFORE THE

SUBCOMMITTEE ON BENEFITS
COMMITTEE ON VETERANS' AFFAIRS
UNITED STATES HOUSE OF REPRESENTATIVES

WITH REGARDS TO

PENDING VETERANS' BENEFITS LEGISLATION

WASHINGTON, DC JUNE 11, 2002

MR. CHAIRMAN AND MEMBERS OF THE SUBCOMMITTEE:

On behalf of the 2.7 million members of the Veterans of Foreign Wars of the United States (VFW) and our Ladies Auxiliary, I would like to thank you for the opportunity to present our views on the following legislation:

H.R. 3173

The *Servicemembers and Military Families Financial Protection Act of 2001* is supported by the VFW. This bill will amend three facets of the Soldiers' and Sailors' Civil Relief Act of 1940 by:

- Increasing the monthly housing payment protection from $1,200 or less, to a maximum of $1,950. We agree this 38% increase is very reasonable given present monthly rental and/or mortgage payments.
- Allowing personnel covered by the Servicemembers' Group Life Insurance (SGLI) to opt for and pay for increased coverage in increments of $250,000 up to a maximum of $1 million. This would be an increase of $900,000 for active duty personnel and an increase of $750,000 for members of the Guard and Reserve. The way the bill is written, there will be no additional cost to the government.
- Making primarily an administrative change by replacing the word "wife" with the word "spouse". This change reflects the fact that a greater portion of military persons are women and therefore the word "spouse" better describes the dependent eligible for protection while the military member is on duty.

H.R. 3735

The VFW supports H.R. 3735, the *Department of Veterans Affairs Overpayment Administration Improvement Act of 2002*. This measure would bring about two important changes in the administration of overpayments of veterans benefits. It would extend the time that the veteran has to make an application for a waiver of an overpayment in instances where a timely appeal of the overpayment decision has been filed. Secondly, H.R. 3735 would authorize the Secretary to waive certain debt for the convenience of the government, particularly in cases where the cost of recovery could exceed the amount of the original overpayment.

We believe this measure will be of immense benefit to both the veteran and the Department of Veterans Affairs (VA).

H.R. 3771

We are pleased to lend our support to H.R. 3771; a measure that provides that monetary benefits paid to veterans by states and municipalities shall be excluded from consideration as income for purposes of pension benefits paid by the Secretary of Veterans Affairs.

H.R. 4042

The VFW strongly supports H.R. 4042, the Veterans Home Loan Prepayment Act of 2002. This measure would prohibit residential mortgage lenders from collecting additional daily interest charges once prepayment in full of housing loan guaranteed by VA has been made.

This measure seeks to correct a long standing practice used by many mortgage lenders of deferring or recording payments made after 12:00 noon to the next business day. Thus, a Friday payment is recorded as being made on Monday or perhaps Tuesday in cases where a bank holiday is being observed on a Monday. The practice of deferring payments to the next business day can result in additional cost a payee who is often unaware of the policy.

We believe the provisions of H.R. 4042 will effectively address the problem of daily interest charges being unfairly billed to veterans.

H.R. _____

This draft bill, cited as the *Arlington National Cemetery Burial Eligibility Act*, is strongly supported by the VFW. For the past several years, we have supported all legislative attempts to codify

the rules for interment in Arlington National Cemetery and to clearly limit any policy of exceptions to these rules. Those primarily eligible in this bill are:

- Any member of the Armed Forces who dies while on active duty;
- Any retired members of the Armed Forces;
- Any member or former member of a reserve component of the Armed Forces who at time of death was under 60 years of age and who, but for age, would have been eligible at time of death for retired pay;
- Any former member of the Armed Forces separated for physical disability before October 1, 1949, and who served on active duty and would have been eligible for disability retirement;
- Any former member of the Armed Forces who served honorably and received an award for valor or the Purple Heart medal;
- Any former prisoners of war who dies on or after November 30, 1993;
- Any member of a reserve component of the Armed Forces who dies in the line of duty while on active duty for training or inactive duty for training;
- The President or any former President.

The only exception to those categories mentioned would be made by the President for an individual whose acts, service, or contributions to the Armed Forces are so extraordinary he/she could become eligible after the Secretary of the Army immediately notifies the Chairman and Ranking members of both the House and Senate Committees on Veterans' Affairs.

The VFW believes this bill, if enacted into law, will reassure the American public that the rules for Arlington National Cemetery are clearly defined, properly codified and published for all to see.

H.R. _____

Finally, Mr. Chairman, we support the draft bill that provides for payment by the Secretary of Veterans Affairs of Dependency and Indemnity Compensation to the surviving spouse of a deceased veteran who for at least one year preceding death had a service-connected disability rated totally disabling that was due to a service-connected cold weather injury.

Mr. Chairman, this concludes my testimony. I will be happy to answer any questions the subcommittee may have.

Testimony of Daniel Borinsky Before the Subcommittee on Benefits of the Veterans Committee of the House of Representatives (6/11/02)

I am Daniel Borinsky, president and owner of Esquire Settlement Services. I have performed residential real estate settlement transactions in Prince William County, Virginia since 1975. Prince William County is the home of the Marine Corps Base at Quantico. Northern Virginia has many other military facilities. Therefore, a large part of my practice involves the origination and payoff of residential home loans that are guaranteed by the Veteran's Administration. I am honored and grateful to have the opportunity of giving this subcommittee my comments with respect to H.R. 4042. This bill would require lending institutions to credit mortgage payoffs on the date paid if received during normal business hours. It would prohibit an institution from setting arbitrary and unreasonable cutoff times earlier in the day.

Historically, banks needed to cut off the receipt of transactions with the public before the end of the day to give bank personnel an opportunity to reconcile and post transactions before the close of the bank's business day. This practice led to the term "banker's hours." Accordingly, the practice of deferring to the next business day the posting of a payment received after a reasonable cutoff time at one time had a rational economic basis. However, with the advent of computers and twenty-four hour operation centers, banks no longer have a reasonable basis for imposing artificial deadlines. In fact, banks are able use a deadline to enhance their revenue in a way that effectively avoids a borrower's scrutiny.

This practice can be extremely costly for a veteran borrower. For example, if a payoff is received after the cutoff time on a Friday, especially before a holiday weekend, the extra interest charges to the veteran can be several hundred dollars. As far as I can determine, cutoff times vary from institution to institution and are arbitrarily selected. (A few lenders' payoff letters-with cutoff times-are attached for reference: Charter One Mortgage, 2:00 p.m. ET; National City Mortgage, 3:00 p.m. ET; and Homeside Lending and Wells Fargo, 2:00 p.m. CT.)

One now defunct bank, InterCity Savings of Washington, DC actually set a cutoff of 8:30 a.m. but did not open until 9:00 a.m., thereby insuring that every payment received on a particular day would not be credited until the next business day. In another instance, I wired funds to Crestar Bank (now SunTrust) to pay off a Crestar Mortgage Company loan at approximately 11:00 a.m. The payoff statement established a cutoff time of 2:00 p.m. When I inquired as to why that payment was not credited the day it was wired I was told that Crestar Bank had not credited the Crestar Mortgage account soon enough. The harm to individual veteran borrowers is relatively small. In the aggregate, however, it amounts to a huge abuse of American veterans.

Banks' cutoff rules, of course, apply to all payoffs, not just those by veterans. However, because of the limited pay offered to military personnel, frequently the financial impact of these rules have a disproportionately negative impact on veterans. I wrote the Veteran's Administration some time ago concerning this issue. They advised me that " . . . neither the V.A. regulations nor the servicing guide define the terms 'date received.'" How inappropriate it is that the V.A. lacks authority to prevent this financial abuse of the very people that the V.A. program was established to benefit. H.R. 4042 gives the V.A. the tools they need to prevent V.A. lenders from taking unfair advantage of our veterans.

Americans are grateful to those who serve in the armed forces. The public supports giving the benefits of a V.A. loan to those who serve in the military. The favorable terms which govern the granting of a V.A. loan enable those who serve to participate in the American dream of home ownership. Many veterans would not otherwise qualify because their income often does not match that of the general public. The passage of H.R. 4042 would improve what is already a remarkably effective veteran benefit.

Statement of Daniel Borinsky

This is to state that I have never received any federal grant or contract relative to the subject matter of my testimony on H.R. 4042 for the subcommittee on benefits of the Committee on Veteran's Affairs.

DANIEL BORINSKY
ATTORNEY AT LAW

2080 OLD BRIDGE ROAD, SUITE 203
LAKE RIDGE, VIRGINIA 22192-2335

703-490-8800
FACSIMILE 703-490-6600
EVENINGS 703-323-5000

April 8, 1996

Keith Pedigo
Director of Loan Guaranty
Services
Veterans Administration
Department of Veterans Benefits
Washington, D.C. 20420

Dear Mr. Pedigo:

GE Mortgage Corporation charges interest to the next business day if a loan payoff is received after noon central time. This frequently imposes little noticed but expensive charge to a veteran. The one day (during the week, or three days if received after noon on Friday) additional costs can approach or exceed $100.00 especially on the large loans being paid off. Has the Veterans Administration promulgated any rules limiting the right of a VA loan servicer to terminate payoff rights before the end of a working day?

I look forward to hearing from you.

Very truly yours,

Daniel H. Borinsky

DHB/rep

Enclosure

DEPARTMENT OF VETERANS AFFAIRS
Veterans Benefits Administration
Washington DC 20420

MAY 29 1996

Mr. Daniel Borinsky
Attorney at Law
2080 Old Bridge Road, Suite 203
Lake Ridge, VA 22192-2335

In Reply Refer To: 261

Dear Mr. Borinsky:

This is in response to your recent inquiry regarding interest charges by loan holders on payoffs of home loans guaranteed by the Department of Veterans Affairs (VA).

VA regulation 38 CFR 36.4310 is specific regarding prepayments in full. It states that "any prepayment in full of the indebtedness shall be credited on the date received, and no interest may be charged thereafter." These instructions may also be found in the VA Servicing Guide (VA Handbook H26-94-1, par.1.07). However, neither the VA regulations nor the servicing guide define the term "date received." If a loan holder is able to establish that State law and the loan instruments consider payments received after the holder's cutoff time as being legally "received" on the next business day, VA regulations would not appear to bar the holder from charging the additional day's interest.

Sincerely yours,

Keith Pedigo
Director, Loan Guaranty Service

PAYOFF STATEMENT

TO: Fax#: 703-490-6600
Phone No: 703-490-8800

April 23, 2001
Loan No: [redacted]
Loan Type: VA
Investor No: 426
VA Guaranty No: [redacted]
Property Address:
[redacted]
STAFFORD VA 22554
Phone No: 703-490-8800

RE:
[redacted]

405 POTOMAC HILLS DR
STAFFORD VA 22554

These figures are valid to May 4, 2001.
This loan is due for the May 1, 2001 payment.

The current total unpaid Principal Balance is:	$93,521.82
Interest at 00.00000%	567.24
RECORDING FEE	16.00
Amount to pay off the loan:	$94,105.06
FAX FEES	5.00
* * * * TOTAL AMOUNT DUE * * * *	$94,110.06

$94,250

Funds received after 2:00 P.M. ET on May 4, 2001 will require an additional $16.97 per Day.

****
ONLY CERTIFIED FUNDS, CASHIER'S CHECK OR ATTORNEY'S ESCROW CHECK WILL BE ACCEPTED FOR THE PAYOFF. PAYOFF CHECKS RECEIVED BY 2:00 P.M. ET, WILL BE PROCESSED THE SAME DAY. CHECKS RECEIVED AFTER 2:00 P.M. WILL REQUIRE ADDITIONAL INTEREST.
NOTE: WE REQUIRE 3 BUSINESS DAYS AFTER RECEIPT OF A WRITTEN REQUEST FOR AN **UPDATED PAYOFF STATEMENT.
WE DO NOT ACCEPT VERBAL REQUESTS NOR GIVE VERBAL FIGURES OVER THE PHONE.
****

Figures are subject to change if any check/money order previously received is rejected by the institution upon which it is drawn. These figures are subject to final verification by the Noteholder.

If short payoff funds are received and the shortage is less than $50.00, COMC will deduct the required amount from escrow funds, if available. Shortages exceeding $50.00 MUST be received within 3 calander days after notification or payoff funds will be returned.

Issuance of this statement does not suspend the contract requirement to make the mortgage payments when due. A late charge of $32.40 will be assessed days after a current payment is due and should be added to the payoff total if received after that time.

If the loan has remaining escrow funds, we will mail the monies directly to the mortgagor(s) within 30 days of loan payoff. The escrow balance is subject to change due to receipts and/or payments from the escrow account. Taxes and insurance will be paid as normal. All escrow advances must be repaid for the loan to be paid in full.

XP061/@@@

NATIONAL CITY MORTGAGE
PAYOFF STATEMENT

TO:
Cindy (703)551-4177
Nem Woodbridge

March 16, 2001

Loan No: [redacted]
Loan Type: VA

RE:
[redacted]
Woodbridge VA 22192

Property Address:
[redacted]
Woodbridge VA 22192

THIS STATEMENT REFLECTS IMPORTANT INFORMATION OF THE PAYOFF PROCESS. PLEASE READ THOROUGHLY. **NATIONAL CITY MORTGAGE WILL PAY ALL ESCROWED TAX AND INSURANCE PAYMENTS UNTIL RECEIPT OF PAYOFF FUNDS.**
YOUR CURRENT ESCROW BALANCE IS $ 626.76.

These figures are good through March 30, 2001
This loan is due for the April 01, 2001 payment.

The current total unpaid Principal Balance is:	$	181,698.64
Interest at 8.000000%		1,194.73
Recordation Fee		16.00
Outstanding Corporate Advances		.00
* * * TOTAL AMOUNT TO PAY LOAN IN FULL * * * * * * $		182,909.37

Funds received after March 30, 2001 will require interest of $ 39.82 per Day.

****
* Payoff checks received by 3:00 p.m. ET, Monday-Friday, will be *
* processed the same day. Payoff checks must be mailed to: *
* 3232 Newmark Dr., Miamisburg, Ohio 45342 Attn: Payoff Dept. *
* National City will not be responsible for additional interest *

$183,100

* that may accrue as a result of payoff funds being mailed to *
* other departments or processed by National City Bank branches. *
* NATIONAL CITY MORTGAGE DOES NOT ACCEPT FUNDS BY WIRE TRANSFER. *
****

Issuance of this statement does not suspend the contractual requirement to make mortgage payments when due. A late charge of $ 61.91 will be assessed according to the terms of the note and mortgage and must be added to the payoff remittance. All figures are subject to the clearance of funds in transit and final audit by the noteholder. National City Mortgage holds the right to collect from the requestor or mortgagor any disbursements made on or following the statement date.

If payoff funds received are inadequate and sufficient funds are not in the escrow account to complete the payoff, the check will be returned with a new statement. Any remaining funds including escrow will be returned to the mortgagor ten (10) business days after payoff date.

If payment is made by Electronic Funds Transfer, the Payment Services Department must be notified in writing eight (8) days prior to payoff. Any payments drafted at time of payoff will be held for ten (10) business days after payoff date.

Written updates are available by calling 1-877-729-6337.

Buying A Home? Call HomeSide First!
Save hundreds or thousands of dollars with HomeSide customer benefits. We make home buying fast, easy and affordable!
Call 1-888-OWN-HOME

March 13, 2001

7034908800

PAYOFF STATEMENT

9/6 payment
3/1 payment NOT MADE

Loan Number: [redacted]
Mortgagor(s): [redacted]
Property Address: [redacted] LN
DUMFRIES, VA 22026
Loan Type: VA LOAN
VA Case Number: [redacted]

Payment Due Date 03/01/01		
Principal Balance	$	111,792.00
Interest From 02/01/01 TO 04/01/01		1,325.67
Mortgage Ins. Premium		.00
Deficit Escrow Balance		.00
Late Charge Balance		37.27
Property Inspection Fees		.00
Return Item Fees		.00
Misc. Fees Due		.00
Sub Total		113,154.94
FAX FEE		15.00
RECORD FEES		16.00
PAYOFF STMT		.00
MISC. FEES		.00
FC/BK FEES		.00
TOTAL	$	113,185.94

Late Charge Amount: $37.86 (assessed after the 16th day)
Per Diem: $21.43 Escrow Balance: $713.44

TO EXPEDITE THE LIEN RELEASE PROCESS:
Closing Agents - Please provide a copy of the **Schedule B or Recorded Mortgage** on the loan that is being paid in full to us **PROMPTLY** with the payoff funds. This will help ensure that the Lien Release/Satisfaction is prepared correctly and recorded, or returned to you timely.

SPECIAL REQUIREMENTS

1) **NOTE THAT THIS PAYOFF IS SUBJECT TO FINAL AUDIT.** Payoff funds must be submitted in the form of a cashier's check, certified funds or wired funds. Homeowner's name, property address and loan number must be included with payoff check. Please do not stop payment on any checks for regular payments due. **Personal checks will not be accepted for payoff.**
2) **Short Payoff Checks:**
If we receive an insufficient amount for payoff, we will notify you of the shortage amount. We must receive funds to cover the deficiency on the following business day.

PF5A

P.O. Box 47524 San Antonio TX 78265-7524
1-800-435-7587

WELLS FARGO HOME MORTGAGE

1 Home Campus
Des Moines, IA 50328-0001

PAYOFF STATEMENT FIGURES MUST BE VERIFIED 24 HOURS PRIOR TO PAYOFF
April 25, 2001

(000)000-0000

7034906600
Vru

Mortgagor: [redacted] Client 472
Property Address: [redacted]
Stafford VA 22554
VA Guaranty No.: [redacted]
Loan No.: [redacted] Loan Type: VA

- o FUNDS MUST BE RECEIVED AT THE ADDRESS LISTED ON PAGE 2 OF PAYOFF STATEMENT BY 2 P.M. CENTRAL STANDARD TIME FOR SAME-DAY PROCESSING
- o ALL FIGURES ARE SUBJECT TO FINAL VERIFICATION BY THE NOTEHOLDER

This loan is due for the May 01, 2001 payment.

The current total unpaid Principal Balance is:	$	129,637.51
Interest at 9.00000% from 04-01-01 to 04-30-01		927.00
Recording Fees		16.00
Fax Fee		10.00
* * TOTAL AMOUNT TO PAY LOAN IN FULL * *	$	130,590.51

This figure is good to April 30, 2001. Funds received after April 30, 2001 will require an additional $ 31.97 per Day. A late charge of $ 50.78 will be assessed 15 days after a current payment is due and should be added to the payoff total, if received after that time. The current escrow balance is $ 769.64.
Issuance of this statement does not suspend the borrower's contractual requirement to make the mortgage payments when due.