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LEGISLATIVE HEARING ON H.R. 4142, H.R. 4114, H.R. 2051, H.R. 2498, H.R. 2377, H.R. 2717, H.R. 4168, H.R. 4213

HEARING

BEFORE THE

SUBCOMMITTEE ON DISABILITY ASSISTANCE AND MEMORIAL AFFAIRS

OF THE

COMMITTEE ON VETERANS' AFFAIRS
U.S. HOUSE OF REPRESENTATIVES

ONE HUNDRED TWELFTH CONGRESS

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LEGISLATIVE HEARING ON H.R. 4142, H.R. 4114, H.R. 2051, H.R. 2498, H.R. 2377, H.R. 2717, H.R. 4168, H.R. 4213

Thursday, March 29, 2012

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON VETERANS' AFFAIRS,
SUBCOMMITTEE ON DISABILITY ASSISTANCE
AND MEMORIAL AFFAIRS,
Washington, D.C.

The Committee met, pursuant to notice, at 10:32 a.m., in Room 334, Cannon House Office Building, Hon. John Runyan, [Chairman of the Subcommittee] presiding.

Present: Representatives Runyan, Turner, McNerney, Barrow, Michaud, Walz.

OPENING STATEMENT OF CHAIRMAN JON RUNYAN

Mr. RUNYAN. Good morning. I know this is going to be a little bit hectic today having five panels, and I think we're voting probably every 45 minutes to an hour today, so I appreciate everybody's patience.

This hearing on H.R. 4142, H.R. 4114, H.R. 4213, H.R. 2051, H.R. 2498, H.R. 2377, H.R. 2717 and H.R. 4168 will come to order.

Obviously today we have a large number of witnesses present due to the high level of interest on some of the bills before us. Therefore, in the interest of time, I'm going to try to forego a lengthy opening statement, and just briefly touch on a couple of bills on today's agenda, which I personally have introduced.

H.R. 4114, the Veterans Compensation, which is usually called COLA Act of 2012 provides a cost in living adjustment to veterans, disability compensation rates and other benefits. H.R. 4142 is the American Heroes COLA Act, which is related to the previous mentioned COLA bill Act of 2012, except this bill seeks to make a permanent annual increase to veterans disability compensation rates and other benefits by trying to tie the increase to the cost of living adjustments for social security benefits.

This passage of the American Heroes COLA Act, veterans will never again have to depend on Congress to act to receive the increased cost of living adjustment they have earned through their service. Instead these increases will become automatic from year-to-year, just as the social security benefits increases are adjusted automatically every year.

The final bill I have co-sponsored is 4213, the United States Court of Appeals Veterans Claims Residency Bill, this piece of leg-

islation requires judges sitting on the United States Court of Appeals for veterans claims to reside within 50 miles of the District of Columbia. This bill will ensure a more efficiently ran Court of Appeals for veterans claims by requiring judges to fully engage their case load, and manage their offices by maintaining a household reasonably close to their work location. This will have the desired effect of ensuring veterans receive justice without the unneeded delay due to extended commutes of Federal judges.

Again, in the interest of time, I would like to reiterate my request that today's witnesses abide by the decorum of rules of this hearing, to summarize your statement in five minutes or less during your oral testimony. We have a large number of individuals ready to testify on legislation today, and I want to make sure everyone is heard in a timely manner.

I would also remind that all present without any objection, your written statement or your written testimony will be made part of the hearing record. I appreciate everyone's attendance at this hearing, and will now call on the Ranking Member Mr. McNerney for any opening statement he would have.

[THE PREPARED STATEMENT OF CHAIRMAN JON RUNYAN APPEARS IN THE APPENDIX]

OPENING STATEMENT OF HON. JERRY MCNERNEY, RANKING DEMOCRATIC MEMBER

Mr. MCNERNEY. Thank you, Mr. Chairman. The purpose of today's hearing will be to explore the policy implications of eight bills, ranging on issues as varied as the disability compensation COLA to the residency requirements of the judges of the Court of Appeals for Veterans Claims.

I support several of these bills, especially the disability compensation COLA offered by you Mr. Chairman. I'm glad to be a cosponsor of that bill, H.R. 4114. I also want to thank the Chairman for his support of two bills that I introduced this morning that will extend the temporary residence adaptation grant, as well as the VA work-study program.

I am encouraged by the Veterans Day Moment of Silence offered by Mr. Frank of Massachusetts, and by the American World War II City bill, offered by Mr. McIntyre of North Carolina. I think these bills—all of the bills before us today are worthy of consideration by this Subcommittee. However, I have reservations with some of the measures because they are duplicative or unnecessary, and hopefully this hearing helps to address some of those issues.

The Veterans Missing in America Act, H.R. 2051, sponsored by Mr. Tiberi is a good, well-meaning measure. The bill has support from some VSOs, but the VA has expressed some reservations, such as the unintended consequences of the confusion and uncertainty in benefits it may create for veterans and non-veterans alike. I look forward to further delving into this issue.

I also took note of the possible duplication and confusion concerns raised by the VA and the VSO witnesses regarding the provisions of the RAPID Claims, H.R. 2377. They noted that it might also thwart efforts already underway in a provision already en-

acted into law, the Veterans Benefits Improvement Act. I hope that we will gain additional insight into these concerns today.

I look forward to hearing more about H.R. 4168, introduced by Congressman Guinta, which would direct the ABMC to maintain Clark Veterans Cemetery in the Philippines. I believe proper justification, including diplomatic inputs, is needed to decide this issue.

While we discussed this topic briefly at our last hearing on cemeteries, the ABMC implied that it had serious reservations on this directive. I think we need to all work together to properly honor and remember the individuals who are laid to rest at Clark Veterans Cemetery.

I'm looking forward to hearing more about the CAVC residency bill, H.R. 4213, also sponsored by you Mr. Chairman, which would require CAVC judges to live within 50 miles of Washington. I concur with the stakeholders that there are probably better requirements upon which to base qualifications to serve on this Article I Court, especially given the advent of modern technological capabilities. At the very least, the distance limitation in the bill should be rethought.

I thank all the Members for their thoughtful legislation, and I thank our other esteemed witnesses for joining us today and look forward to hearing your testimonies. Thank you and I yield back.

[THE PREPARED STATEMENT OF HON. JERRY MCNERNEY APPEARS IN THE APPENDIX]

Mr. RUNYAN. Thank you, Mr. McNerney. And at this time, I would like to welcome my colleagues in the House, and thank you all for being here. First we will hear from the Honorable Frank Guinta from New Hampshire, who is sponsoring H.R. 4168, and then we will hear from the Honorable Barney Frank from Massachusetts who is sponsoring H.R. 2498. Then we will hear from Honorable Mike McIntyre from North Carolina, who is sponsoring H.R. 2717. And finally, we'll hear from the Honorable Joe Donnelly from Indiana, who is sponsoring H.R. 2377.

I'd like to welcome all of you to this legislative hearing. All of your complete written statements will be entered into the hearing record. Congressman Guinta, we will start with you. You are now recognized for five minutes.

STATEMENTS OF HONORABLE FRANK GUINTA, HOUSE OF REPRESENTATIVES; HONORABLE BARNEY FRANK, HOUSE OF REPRESENTATIVES; HONORABLE MIKE MCINTYRE, HOUSE OF REPRESENTATIVES; HONORABLE JOE DONNELLY, HOUSE OF REPRESENTATIVES

STATEMENT OF HON. FRANK GUINTA

Mr. GUINTA. Thank you and good morning, Chairman Runyan, Ranking Member McNerney and distinguished Members of this Subcommittee. Thank you for the opportunity to testify on H.R. 4168, the Caring for the Fallen Act of 2012.

Let me begin with a question, say a cemetery in one of our hometowns was overgrown with weeds, abused by vandals and littered with dumped trash. And say that same cemetery contained the graves of hundreds of U.S. Armed Service members stretching back

for a century. What would the people of our hometowns think and say about that particular situation?

I think in my hometown of Manchester, New Hampshire phones would be ringing off the hook. Hundreds of outraged veterans and their families would, I believe, demand immediate action. That would likely be the reaction I think in everyone else's hometown across the country.

But sadly, there are no outraged calls coming on behalf of Clark Veterans Cemetery in the Philippines. Left on its own for several years when the United States military was withdrawn from the area around 1991, it quickly fell into an appalling state of decline. "Out of sight, out of mind," the saying goes. And that's what's happened in this situation. It soon acquired the shameful nickname "The Cemetery America Forgot."

There are 2,200 United States veterans interred within Clark Veterans Cemetery and they deserve I think far better treatment. They answered when America called them, now we have it within our ability to answer when their resting place calls out for our attention.

H.R. 4168 is simple and to the point. It designates the American Battlefields Monuments Commission, the ABMC, with the responsibility of caring for the cemetery, and authorizes it to make necessary arrangements to ensure its ongoing maintenance. This legislation is budget neutral, with the ABMC paying for the maintenance through existing appropriations.

I'm grateful also to Representative Bill Owens, an Air Force veteran, who is the lead Democratic co-sponsor of the Caring for the Fallen Act. It's a reminder that Members can remove partisan labels and work side-by-side to honor those who wore our country's uniform. I'm also honored that this bill has the support of the Military Officers Association of America and the Air Force Sergeant's Association.

When visitors enter Clark Veterans Cemetery, they pass through a gate inscribed with the words "Served with Honor." Now it's time for Americans to honor that service by restoring the dignity these brave men and women so richly deserve. And I'm happy to answer any questions regarding this bill at this time.

[THE PREPARED STATEMENT OF HON. FRANK GUINTA APPEARS IN THE APPENDIX]

Mr. RUNYAN. Thank you, Congressman Guinta. Congressman Frank, you are now recognized for five minutes.

STATEMENT OF HON. BARNEY FRANK

Mr. FRANK. Mr. Chairman, this bill would establish a Veteran's Day Moment of Silence. It's an idea that was brought to me by constituents. I was sitting in my office in my regular office hours, and members of the Bendetson family came to see me. I believe they had been inspired by this in Israel, when they had seen the impact it had, and they came and suggested that we do it. I urged them to talk to some others to see if we could get a broad group of people who would support it. They did a very good job of that. And I appreciate the Committee accommodating my request to have Daniel Bendetson and Michael Bendetson, two brothers speak on behalf of

this. And it was their idea, and they are eloquent and passionate about it.

I completely agree with them, and in the interest of time and to thank the Committee for its accommodating them, I will defer for the rest of my comments. But I think this is an excellent idea. It's how our process is supposed to work. Citizens come to us, come with an idea, I responded favorably, as did many of my colleagues, and I am delighted they'll have a chance to advocate it before you. I think it's an idea that makes a great deal of sense, and hopefully we're able to adopt it.

Mr. RUNYAN. I thank the gentleman. Congressman McIntyre is now recognized.

STATEMENT OF HON. MIKE MCINTYRE

Mr. MCINTYRE. Thank you, Mr. Chairman, Mr. Ranking Members, and Members of the Committee. I'm pleased to appear before the House Veterans' Affairs Subcommittee today to testify on behalf of H.R. 2717, a bill I've introduced to direct the Secretary of Veterans Affairs to designate cities in the United States as "American World War II Cities."

As we all know, it was just a day after the infamous attack upon Pearl Harbor on December 7, 1941, that our country entered World War II. And by the end of that conflict, more lives had been taken, and more land and property destroyed around the globe than any previous war.

The main contributions of the United States to the Allied war effort comprised of money, industrial output, food, petroleum, technological innovation, and of course, our servicemen and women. By the end of the war, 16 million Americans had served in the conflict and more than 400,000 had been killed.

Here at home, the wartime efforts of our cities was apparent as Americans everywhere tolerated additional work, rationing, and a diminished quality of life because of their patriotism and the confidence that life would soon return to normal when the war was won. And many cities based and trained our military services, dispatched their sons and daughters to fight in the war, assist with the transport of goods, and the manufacturing of the necessary ammunition, equipment, and to make sure that we had the arsenal we needed to stand up for democracy.

And in some cities like Wilmington, North Carolina, in our congressional district, there were additional wartime efforts. The North Carolina Shipbuilding Company of Wilmington, the state's largest employer at the time, constructed 243 cargo vessels with which to provide goods and equipment to our soldiers. Wilmington provided the Atlantic Coast Line Railroad headquarters, three housing camps for German prisoners of war, a major training base for P–47 fighters, defense industries producing goods and equipment, a British patrol base, and a shipping point for the Lend Lease supplies to the Allies. These are but a few of the many, many examples that I could give, Mr. Chairman. And there are many other countless cities across this great Nation that also contributed to the World War II effort in more ways than one.

So now with so many members of the Greatest Generation passing on daily, it's time that we do recognize the contributions that

these cities gave before it is too late, and the lasting memories of the war continue to fade.

The bill I've introduced will do just this by directing the Secretary of the Veterans' Affairs to designate one city in the United States each year as an all "American World War II City", based on contributions to the war effort during World War II and efforts to preserve the history of such contributions, including the preservation of organizations or museums, restoration of World War II facilities, and recognition, of course, of our great World War II veterans.

With Wilmington being the first city so designated that others that may readily qualify and be allowed this similar designation that we recognize each city that would like to be able to apply to the Secretary of the VA for this type of recognition before we lose anymore of our World War II veterans.

Therefore, I respectfully request your support of H.R. 2717 which will ensure that, as appropriately granted, cities across this country who gave to this effort, can be recognized as "American World War II Cities."

And I am honored that in the next panel, my good friend, author and historian, Captain Wilbur Jones, a veteran, from Wilmington, North Carolina will be testifying before you in the next panel.

Thank you for your consideration and thank you for your honoring us with your time.

[THE PREPARED STATEMENT OF HON. MIKE MCINTYRE APPEARS IN THE APPENDIX]

Mr. RUNYAN. Thank you, Congressman McIntyre. Congressman Donnelly is now recognized.

STATEMENT OF HON. JOE DONNELLY

Mr. DONNELLY. Thank you, Mr. Chairman. Chairman Runyan, Ranking Member McNerney, Members of the Subcommittee, thank you for the opportunity to discuss this bill before the Subcommittee today.

A year ago, I reintroduced H.R. 2377, The Rating and Processing Individuals' Disability Claims Act, along with Representative Geoff Davis of Kentucky, which was put together last Congress, after closely working with the Iraq and Afghanistan Veterans of America, and the Disabled American Veterans.

The bill currently has 31 bipartisan cosponsors, and it received 105 cosponsors last Congress.

The goal of the RAPID Claims Act was to improve the disability claims process for our Nation's veterans, something we all agree is necessary. In 2008, Congress passed the Veterans' Benefits Improvement Act. Included in that law was the Fully Developed Claim pilot program, which allows veterans filing fully developed claims to waive the lengthy development period and receive expedited consideration. FDC was originally a one-year pilot program conducted at ten VA Regional Offices, and, due to its success, VA announced that it would implement the program nationwide.

I supported VA's decision to roll out this program nationwide, yet I wanted to see FDC become law with a few small changes. The RAPID Claims Act would codify FDC while also modifying it to pro-

tect a veteran's effective date for disability compensation, and ensuring a veteran who mistakenly files an unsubstantially complete claim in FDC, is given fair notice what further evidence is needed to complete the claim.

I was happy to see our bill pass the House in 2010, as part of H.R. 6132, the Veterans Benefits and Economic Welfare Improvement Act. And I'm glad I was able to be a part of the discussion about ensuring the FDC program best serves our veterans.

I appreciate the input provided today by our stakeholders on how we can continue to support this program, and now that another year has passed since the Rapid Claims Act was reintroduced, I see that the FDC program has continued successfully under VA's guidance, and at making VA change its course at this point may not be helpful to our veterans.

As such, I would like to focus on Section 3 of the bill, which has a provision targeted at the appeals process. The bill would require that the VA appeals form is included with the notice of decision letter. Instead of waiting for a veteran to exercise his or her appeal rights before sending the form to the veteran. I believe this is a simple courtesy the VA could extend to our Nation's veterans to help them move through the appeals process more quickly.

Once again, thank you, Chairman Runyan, Ranking Member McNerney, and to my Subcommittee colleagues for the opportunity today to highlight what I feel are simple solutions to help improve the disability claims process for our veterans.

While we have achieved much on behalf of our veterans in recent years, I think we all agree further steps are needed to reduce the wait times faced by veterans and to simplify the process. Thank you very much.

[THE PREPARED STATEMENT OF HON. JOE DONNELLY APPEARS IN THE APPENDIX]

Mr. RUNYAN. Thank you, Congressman Donnelly, We're going to move pretty quick. Thank you for that statement because obviously, and I think the Ranking Member feels the same way, there's a lot of duplicative stuff that we're already doing in our ability to move forward.

Mr. DONNELLY. Right.

Mr. RUNYAN. A look forward to the stakeholders coming up and having their testimony to really get a grasp of the benefits of it.

Mr. DONNELLY. The VA has done—since this was initially introduced a Congress ago, the VA has done great work in moving forward, the ideas encapsulated in this. And so it has, as you said, made some of the things in here redundant, but there are still some parts that are important to do.

Mr. RUNYAN. Very well. And the only question, Congressman Guinta, in dealing with this piece of legislation and for it to be taken over by one of our organizations, you are aware that there's a treaty we must reach with the Philippines.

Mr. GUINTA. Yes, I am.

Mr. RUNYAN. Is your office willing to work with the State Department to try to move that forward?

Mr. GUINTA. Yeah. We've done the necessary research, and we feel confident that we can work with the State Department and the

administration to put that treaty together. Work with the appropriate Members on the Senate side. We'd look forward to do that, and we would love to have the opportunity to see this legislation move forward while we're simultaneously working with the Department of State at the—for that treaty to occur. And we see no reason why it wouldn't.

Mr. RUNYAN. Okay. Thank you. Does the Ranking Member have any questions?

Mr. MCNERNEY. No questions.

Mr. RUNYAN. Well, I—on behalf of the Subcommittee, I thank each of you for your testimony and being here today, and you are all now excused. Thank you. Now, we'd like to ask the second panel to come to the witness table.

On this panel, first we will hear from Colonel Thomas Moe, the Director for the Ohio Department of Veterans Affairs on behalf of H.R. 2051. Next we will hear from Captain Wilbur Jones on behalf of H.R. 2717. And finally, we'll hear from Mr. Daniel Bendetson

Mr. MCNERNEY. They're brothers.

Mr. RUNYAN. Yes. And Michel Bendetson, who will testify on 2498. Thank you all for traveling to our Nation's capital today as the interested citizens actively working for the betterment of our veterans' community, and I welcome all of you here.

Colonel Moe, you are now recognized for five minutes for your testimony.

STATEMENT OF COLONEL THOMAS MOE, DIRECTOR, OHIO DEPARTMENT OF VETERANS SERVICE ON BEHALF OF H.R. 2051; CAPTAIN WILBUR JONES, ON BEHALF OF H.R. 2717; DANIEL BENDETSON, ON BEHALF OF H.R. 2498; AND MICHAEL BENDETSON, ON BEHALF OF H.R. 2498

STATEMENT OF COLONEL THOMAS MOE

Colonel MOE. Thank you, Chairman Runyan, and Ranking Member McNerney, and Members of the Subcommittee.

I appreciate this opportunity to testify in support of House Resolution 2051, the Veterans Missing in America Act of 2011, sponsored by Representatives Patrick Tiberi and Steve Stivers. I'm also excited to learn that Senators Portman and Begich have introduced a companion bill in the Senate.

At funeral homes and other entities across the country, an unknown number of veterans remains have been abandoned or unclaimed for a number of reasons. In response to this tragic situation, a handful of veteran service volunteers began the Missing in America Project.

When individuals pass away and there is no next of kin identified, the remains may stay at a funeral home indefinitely, without anyone laying them to rest. The Missing in America Project aims to identify veterans among those unclaimed remains, and provide a funeral and burial.

Sometimes these dedicated volunteers run into legal obstacles as they pursue this noble cause. H.R. 2051 serves to remove those obstacles so that these military veterans might receive the respect they have earned and a proper burial.

As Director of the Ohio Department of Veteran Services, I am pleased and honored to represent a state that has already taken action on this issue. The Ohio General Assembly passed the state component of this bill, which became law in 2010.

It provides an exception to the next of kin law, so that the Secretary of the U.S. Department of Veterans Affairs, the VA, is granted authority to determine if unidentified remains in funeral homes and hospitals across Ohio are those of a veteran. If so, the VA may take disposition of the remains.

The first burial of such veterans in Ohio under the Missing in American project will take place this May in the Dayton National Cemetery. It is our hope that other states will pass their own legislation to address issues that are outside Federal jurisdiction. Although we have made progress in Ohio, there's still much to be accomplished at the Federal level.

H.R. 2051 addresses issues that fall under Federal jurisdiction regarding veterans who are missing in America. This legislation recognizes the work and dedication of the Missing in America project and cooperation with numerous veteran service organizations in identifying the unclaimed remains of our veterans.

It also directs the VA Secretary to work with veteran service organizations to assist entities in identifying veterans eligible for burial in a national cemetery. The VA would cover the cost of those burials, if there is no next of kin and if there are no resources available to cover burial and funeral expenses.

Finally, this legislation directs the VA Secretary to establish a publicly accessible database of the names of any veteran or other individual so identified. I'm proud to say that the National Associates of State Directors of Veterans Affairs has recently expressed support of the Missing in America project, and has urged our Nation's leaders to take action.

Additionally, H.R. 2051 has the support of the National Funeral Directors Association, the American Legion, and the VA's own National Cemetery Administration.

As a former member of the military who was listed as missing in action in Vietnam, this bill brings to mind my own family's challenges of having to deal with the uncertainty of my whereabouts and my fate. My wife, military comrades and our country made every effort to determine my fate, and those of my mates, and finally to return me and my comrades to our families.

Just as our Nation is committed to finding and repatriating our troops who go missing in action on foreign soil, I hope that you will join me and Representative Tiberi and Stivers and our Senators to find and honor those who are still missing, but on our homeland in America.

Thank you, Mr. Chairman, and Ranking Member.

[THE PREPARED STATEMENT OF COLONEL THOMAS MOE APPEARS IN THE APPENDIX]

Mr. RUNYAN. Thank you, Colonel Moe. And again, thank you for your service to this country. And, Captain Jones, thank you for your service to this country, and you are now recognized.

STATEMENT OF CAPTAIN WILBUR JONES

Captain JONES. Thank you very much, Chairman Runyan, and Ranking Member McNerney, and Members of the Subcommittee.

First, I would like to say what an honor and pleasure it is for me to be here today, to represent my hometown of Wilmington, North Carolina before this Subcommittee. And also to thank my Congressman Mike McIntyre of the Seventh District of North Carolina for his incredibly hard work in putting together this bill H.R. 2717 and in the work that he has done cooperating with us to support our efforts in North Carolina, to preserve our World War II history.

Mr. Chairman, you and I have indirect links back to your alma mata. For two years, it was my honor to serve President Gerald Ford as an assistant and advanced representative, and with the hundreds and hundreds of events that I did for him, I would like to have one dollar for every time I heard Hail to the Victors Valiant. So we know that song as well.

I grew up in World War II Wilmington. I remember what I was doing on December the 7th, 1941 when the Japanese attacked Pearl Harbor. It became my DNA to serve my country in the Armed Forces, and to also be a historian to try to preserve it.

We are very proud of our success since 1998 in preserving our history. In fact, we even go back farther than that, because the North Carolina—the Battleship North Carolina Memorial which is the state's memorial to our dead and those who served, has been in Wilmington for 50 years, and certainly adds to the fact that we are the first American World War II city.

Congressman McIntyre and I spent some time over the last couple of years approaching various organizations and individuals looking for someone who had the authority to recognize Wilmington or any city as America's World War II city. None did. So the Congressman suggested legislation, and to take this route. And I'm proud to have been a part of it.

Mr. Chairman, this bill is nonpartisan, it is noncontroversial, it doesn't ask for any money for one thing. And we believe it would take a very minimum amount of time from the Federal government staff to do it. This is long overdue. Not only would we be honored to become the first designated World War II City for what we did during the war, for the war effort, and our preservation efforts subsequently, but this opens up an opportunity for other cities in the United States, some of which may not even realize what their contributions were to the war effort, or what they have done.

This would encourage cities to try to preserve buildings and sites and memorials, and through museums, through displays, through working with students, writing papers and articles, publishing histories of their local area, to preserve it before it's all gone. And I mean not only from those who are dying, but also when other memories fade and the bulldozers tear down the sites that used to be.

We need to celebrate and commemorate those events and anniversaries. In Wilmington in December of 2011, we celebrated the 70th Anniversary of our World War II USO building, which is now a community arts center. We have a mini museum of the Wilmington Home Front there. Other cities can do the same thing, and

this bill will inspire to do that, because World War II is big business. It is very popular. There is a great opportunity to market this idea and concept to others, to work with the National Trust for Historic Preservation and other preservation groups.

The Department of Veterans Affairs doesn't have to be too specific about the criteria, and too laborious about the application process. It can be simplified, and I offer my services to the Committee, and also to the Department, to work through it, and to do anything I can to help accommodate it.

Thank you again, Mr. Chairman, for the opportunity to be here.

[THE PREPARED STATEMENT OF CAPTAIN WILBUR JONES APPEARS IN THE APPENDIX]

Mr. RUNYAN. Thank you, Captain Jones. Next, we'll recognize Daniel Bendetson and Michael Bendetson. You both are now recognized for five minutes for your statement.

STATEMENT OF DANIEL BENDETSON

Mr. DANIEL BENDETSON. Good morning, Mr. Chairman and fellow congressmen. My brother and I appreciate the opportunity that you have granted two students to present an idea that can possibly end the divisiveness in Washington, while honoring our heroic veterans.

In April of 2010, my father and I traveled to Israel to visit family and tour the country. Prior to arriving in Israel, my father and I did not realize that Yom Hazikaron, Israel's equivalent of Memorial Day/Veteran's Day coincided with our travels.

On the morning of Yom Hazikaron, my father and I were traveling along Highway 1 in Tel Aviv when at 11 a.m. a military siren sounded throughout the country and traffic and businesses came to a halt. Citizens stood next to their cars on the highway, and observed a two minute moment of silence, in honor of the soldiers who had made their dreams possible.

Just a simple two minutes had reminded all citizens, rich and poor, young and old, gay and straight, black and white, to remember the sacrifices of both soldiers, past and present. If Israel's Nation which is so divided, politically and socially, was able to stand in unison for two minutes, then enactment in the U.S. is certainly possible.

It is also important to mention that similar moments of silence are also observed in England and Canada on Armistice Day at 11 a.m. in their respective countries.

So when I returned home to Massachusetts, I could not erase this image of the two moments from my mind, and it became increasingly clear that Veterans Day does not command the proper respect. I think we can agree that Veterans Day has become defined by mattress day sales, a day off from school for our children, and for many, another day off from work.

I will defer to my brother the logistics of such event, but such a moment of silence would serve as a ritual more powerful than any speeches, and the mechanism for all Americans, democrats or republicans, liberals or conservatives, gay or straight, black or white, Native American or Asian, to say thank you to our beloved veterans.

In doing so, it is our hope that such a moment would end the bitter divisiveness that plagues Washington, and allow for our legislators to craft bipartisan solutions to the many real issues that America faces today. Thank you.

[THE PREPARED STATEMENT OF DANIEL BENDETSON APPEARS IN THE APPENDIX]

Mr. RUNYAN. Michael, do you have anything?

STATEMENT OF MICHAEL BENDETSON

Mr. MICHAEL BENDETSON. Thank you again to the Committee, Mr. Chairman, Mr. Ranking Member.

With the Israel experience so fresh in our minds, my brother and I have spent the last 18 months trying to bring a similar ritual to this country. With multiple co-sponsors, both Senator Scott Brown and Congressman Barney Frank from our home State of Massachusetts, introduced identical bills in the House and the Senate, known as the Veterans Day Moment of Silence Act, H.R. 2498 and S. 1348, on July 12th, 2011.

This legislation is now pending before the House Veterans Affairs Committee where we have been graciously asked to testify today and also the Senate Judiciary Committee. The legislation calls for a national two minute moment of silence at the following times: 2:11 p.m. on the East Coast; 1:11 p.m. in the Central Time Zone; 12:11 p.m. in the Mountain Time Zone; 11:11 a.m. on the West Coast; 10:11 a.m. in Alaska, and finally 9:11 a.m. in Hawaii.

Observation would not be mandatory, but my brother and I hope to use the logistical and publicity power of the Federal government to encourage citizens to participate in what we hope will become a national tradition.

At this moment, our Nation will stand as one. For just a brief two minutes, regardless of status, we will all come together to recognize and honor those who risked self to serve country. Businesses, schools and transportation would pause for this short period, and their occupants would come outside and reflect in silence.

With Veterans Day this year following on a Sunday, we have been in contact with the NFL, and are working so that fans in football stadiums all over the country can potentially participate simultaneously in this observation.

As I'm sure I don't need to remind anyone in Washington today, this is a presidential election year. Veterans Day falls just five days after the election. We hope as a further show of American unity after a contentious election, that either re-elected President Obama and his Republican opponent or President Obama and the new President-Elect will initiate together the two minutes of silence by placing a wreath on the tomb of the unknown solider at Arlington National Cemetery.

As these two Americans of different political persuasions stand together in unity, we hope the rest of the country will as well.

As my brother and I have pursued this idea, we've been fortunate enough to receive encouragement in support from all other the political spectrum. From Congressman Barney Frank and Massachusetts Governor Deval Patrick on the political left, to Grover Norquist and former Speaker Newt Gingrich on the political right,

countless public figures have endorsed our idea, as an important step to uniting America and further honoring our most brave.

We have also heard from countless veterans groups, active duty soldiers, and plain citizens in their words, the value of this beautiful idea. With your support and assistance, we hope to turn this beautiful idea into a beautiful reality. Thank you.

[THE PREPARED STATEMENT OF MICHAEL BENDETSON APPEARS IN THE APPENDIX]

Mr. RUNYAN. Thank you very much and we will begin the first round of questions. First of all, Colonel Moe, what would really be your role in working with the VA, assuming this legislation gets passed into law and to help pursue the goals of this bill?

Colonel MOE. Well, thank you, Mr. Chairman. I believe that my role in Ohio would be simply to work with the VA for the experiences that we have had and sharing those experiences and through our national organization of state directors as well to—for me and the organization, the association to work with the VA on the peculiarities from state-to-state. I believe it's a very doable process.

Mr. RUNYAN. Can you touch on the nature of the complications that you're experiencing yourself and that could possibly be coming down the road?

Colonel MOE. Well, every individual case could be difficult; however, we have not found any particular traps in what we're doing. There's such willingness to take part, and of course the pool of volunteers to help us through this, I particularly salute the American Legion for its support.

So I think it's a matter of a case-by-case thing. Our first burial will take place, as I mentioned, this May. And I really know of no particular difficulties.

Mr. RUNYAN. Do you have a rough idea how many states still maintain a next of kin law that can cause you some problems?

Colonel ROE. Mr. Chairman, I really don't have any idea. However, we are speaking in generalities, that we would expect with modern technology and DNA identification and so forth, that the overall issue is a diminishing one. And so that as we first tackle the issue nationwide, the numbers would be fairly large, at least relatively large, and would taper off as time went by, with our ability to identify deceased with modern means.

Mr. RUNYAN. Thank you very much. My next question is for Captain Jones. Can you give us some insight on the explanation of the competitive process we would be looking at, you know, Wilmington is actually in the forefront of this, but what do we do the next time around? How are we going to set the process and have the criteria, and what kind of criteria would be part of this to actually choose a future city?

Captain JONES. Well, certainly the first criterion would be, what did you do during the war. And many cities in the United States would qualify for that right off hand. However, the—probably the most difficult one for those cities to meet would be criterion B, and that is, what have you done subsequently to preserve it.

Look around at all of the sites in the United States from military camps to air bases to industrial plants that have long since disappeared. If there are any memorials or buildings or sites in some-

one's area, they should be recorded and recognized, and become part of that application process in meeting criterion number B.

We're quite proud of what we've done in southeastern North Carolina, which we began in 1998. And there—however, the criteria I think should be fairly loose, and whatever process the Department of Veterans Affairs establishes, whether it's a panel of historians and scholars, World War II veterans, all of that would be determined, would be able to use probably any kind of judgment that they felt necessary to make that application through the process.

Mr. RUNYAN. Thank you. And, gentlemen, the young gentlemen we have here it's obviously very rare to see such young people testifying in front of Congress, but thank you for being here and for what you're doing. Obviously, getting young people engaged and being part of the process is a huge part of our future leaders, and how the two of you have stepped up, I applaud you for that. And thank you for your testimony, you truly answered most of my questions in your testimony. So again, thank you for being here, and with that, I'll yield to the Ranking Member Mr. McNerney.

Mr. MCNERNEY. Thank you, Mr. Chairman. The first thing I want to say is how impressive it is to see the passion of all the panelists this morning. You clearly have the best interests of our country and our veterans in mind. Thank you, and for your service as well.

Colonel Moe, the only question I have is really about the concern that this program might lead to non-veterans getting benefits that should be restricted to veterans. And then somewhat about the disparity of benefits to different veteran groups. So if you could address that, I'd appreciate that.

Colonel MOE. Thank you, Mr. Chairman, Ranking Member McNerney. The—of course, the overriding aim of the project I think meets with full approval of all parties, to identify our veterans, and to give them a proper burial.

In my conversations and I know Congressman Tiberi's conversations with the VA, that the overriding issue is certainly we're in unison. There are details, as the old saying goes, the devil in the details, my understanding, and speaking to my colleagues in the VA, is that these are not insurmountable. These could be worked out in detail, and there really shouldn't be ultimately a problem once the final mark-up is made.

Mr. MCNERNEY. So you expect the Secretary or someone in the VA to sort of detail the regulations that will guide this process?

Colonel MOE. Obviously I don't know the detailings or the work, but I believe that would summarize what is going to happen. There certainly are detailed elements of the law that need to either be clarified by both sides as to the issues, or where there's a snag worked out, issues of the database and so forth.

Once again, my understanding is that these are absolutely workable.

Mr. MCNERNEY. Thank you. Captain Jones, first of all, thank you for serving our country. And your testimony was very passionate and very convincing, I have to say that, and I also want to thank you for your passion about documenting history and making it accessible to the rest of us.

Captain JONES. Thank you, Mr. McNerney.

Mr. MCNERNEY. I guess my only concern is in the details of how we make these selections, and I appreciate your saying how flexible you're willing to be about that. And if that's the case, then I think something could be worked out. I'm not ready to go ahead fully with this bill yet, but let's work together and make sure that it's acceptable, and it's a good idea.

Captain JONES. Thank you.

Mr. MCNERNEY. And my last comments. I just want to make a comment to the Bendetsons. What you've done shows that a couple, one or two people with a lot of passion, a lot of energy and determination can make a difference. Congratulations. I hope that we can get this done.

I yield back.

Mr. RUNYAN. Thank you, Mr. McNerney. Mr. Turner.

Mr. TURNER. No comments, Mr. Chairman, thank you.

Mr. RUNYAN. Thank the gentleman. Mr. Walz?

Mr. WALZ. Nothing.

Mr. RUNYAN. Nothing at all? Anything further, Kerry?

Mr. UNIDENTIFIED. No.

Mr. RUNYAN. Well, on behalf of the Subcommittee, I'd like to thank each of you for your testimony, and thank you for being here. You're all excused. Thank you.

Mr. MCNERNEY. It's up to the Chairman.

Mr. RUNYAN. Huh? What's that?

Mr. MCNERNEY. It's up to the Chairman.

Ms. UNIDENTIFIED. Yeah, do you want to go ahead, he'll be——

Mr. RUNYAN. They're going to both be quick.

Mr. UNIDENTIFIED. You want to do the Senator?

Mr. RUNYAN. Yeah, let's go back in the way of normal order.

Mr. UNIDENTIFIED. Thank you, Mr. Chairman.

Mr. RUNYAN. Thank you.

Ms. UNIDENTIFIED. We came just in time.

Mr. RUNYAN. Well, first we'd like to welcome to Honorable Max Cleland, the Secretary of American Battle Monuments Commission. And next we'll hear from Mr. Thomas Murphy, Director of the Compensation Service, Veterans Benefits Administration, he'll be accompanied by Richard Hipolit, the Assistant General Counsel of the Department of Veterans Affairs.

Secretary Cleland, you are now recognized for five minutes.

STATEMENTS OF MAX CLELAND, SECRETARY, AMERICAN BATTLE MONUMENTS COMMISSION; THOMAS MURPHY, DIRECTOR OF COMPENSATION SERVICE, VETERANS BENEFITS ADMINISTRATION, ACCOMPANIED BY RICHARD HIPOLIT, ASSISTANT GENERAL COUNSEL, DEPARTMENT OF VETERANS AFFAIRS

STATEMENT OF MAX CLELAND

Mr. CLELAND. Thank you very much, Mr. Chairman. I'm here to testify on H.R. 4168, the Caring for the Fallen Act, which would direct the American Battle Monuments Commission to assume responsibility for the former Clark Air Base Cemetery in the Philippines and to make necessary arrangements to maintain it.

We agree that Clark Cemetery is a problem that warrants resolution. When the Air Force vacated Clark, and the base rights agreement with the Philippines expired, the cemetery became the responsibility of the Philippine government.

Over time, this had the effect of leaving its care in the hands of a few dedicated VFW volunteers. They've done a wonderful job with limited resources, particularly considering that burials of U.S. veterans have continued since the Air Force's departure. But the volunteers cannot be expected to continue that effort indefinitely.

We do not know how many of the 8,000 dead at Clark Cemetery are U.S. veterans. The Clark Veterans Cemetery Restoration Association Web site cites 1,800 of that 8,000 as confirmed veterans, and several thousand more as presumed veterans. We are on record with this Subcommittee stating that Clark Cemetery does not fall within our commission's core commemorative mission. That remains true.

However, given the Air Force's history with the cemetery and the fact that veterans burials have continued, we initiated a meeting in ABMC's Virginia headquarters last December, with representatives of the Air Force and the Department of Veterans Affairs National Cemetery Administration to explore possible solutions to this issue. A consensus could not be reached on what should or could be done.

ABMC has serious concerns with H.R. 4168 as drafted. While this bill's intention is laudable, we do not believe the bill addresses adequately the issues that must be resolved before any corrective action is taken, nor do we believe the proposed budget neutrality status to be reasonable or supportable.

If the Congress should decide to move legislation forward, the administration believes such legislation should address three critical elements: access, authority, and funding.

Access, to our knowledge, Mr. Chairman, the United States has no legal standing to undertake any work at Clark Cemetery. The Department of State would have to enter into negotiations with the Philippine government to provide long-term access to the cemetery. This would have to be accomplished before any agency of the Federal government could maintain the cemetery.

Secondly, in terms of authority, ABMC has no authority to spend its appropriations to maintain a cemetery controlled by a foreign government, and the administration does not support any change in this position.

Third, funding. Budget neutrality is not supportable. We cannot successfully complete a project of this scale without significant negative consequences on the rest of ABMC's program.

There's presently no government estimate of the cost to restore and maintain Clark Cemetery. The Clark Veterans Cemetery Restoration Association estimates the restoration costs at $2 million and annual maintenance cost at a quarter of a million dollars. There are more than 8,000 graves to maintain at Clark Cemetery, more than we maintain at 19 of our 24 cemeteries worldwide. Most of the head stones at Clark are partially buried in volcanic ash. We suspect that the Association's estimate understate the magnitude of the restoration work required.

When I testified before you on February 16th this year, I reported that our fiscal year 2013 budget request for salaries and expenses was $2.7 million or five percent below our FY2012 appropriation. Most of that reduction will be taken in maintenance and infrastructure programs.

Mr. Chairman, you asked if we could sustain a reduction, I've told you we're okay for now, but that we cannot sustain such reductions indefinitely. We recognize that the Budget Control Act limits all agencies including ABMC to a budgeted level in the out years, and that any increase to our budget will have to be offset from another agency's out year allowances.

Nonetheless, if the Congress directs our agency to take on a large scale new program requirement, such as the restoration and maintenance of Clark Cemetery, even the Association's conservative cost estimates would reduce our FY2013 funding request by an additional four percent, for a total reduction of $5 million.

Taken further, this would result in a 14 percent cut in program funding for engineering, maintenance, horticulture, logistics, and interpretation around the world. This is not budget neutral for an agency of our size and budget. An unfunded new mission of the scope of Clark Cemetery cannot help but have a significant impact on our ability to execute our core mission, honoring America's war dead.

H.R. 4168 has serious access, authority, and funding issue problems that prevent us from supporting this legislation. Thank you, Mr. Chairman.

[THE PREPARED STATEMENT OF MAX CLELAND APPEARS IN THE APPENDIX]

Mr. RUNYAN. Thank you, Mr. Secretary. Mr. Murphy, you're now recognized.

STATEMENT OF THOMAS MURPHY

Mr. MURPHY. Thank you, Chairman Runyan, Ranking Member McNerney, and Members of the Subcommittee. Thank you for the opportunity to present the views of the Department of Veterans Affairs on several legislative items. Joining me today is Richard Hipolit, Assistant General Counsel.

I'm honored to be seated on this panel with Secretary Max Cleland whose service and sacrifice to this country is well known.

H.R. 4142, the American Heroes COLA Act would provide permanent authority to the Secretary of the Veterans Affairs to implement COLA increases for disability compensation and DIC for veterans' survivors. This bill would direct the Secretary to increase the rates of those benefits whenever a COLA increase is made to benefits under Title II of the Social Security Act.

This bill would also make permanent the rounddown requirement for compensation cost-of-living adjustments.

VA supports this bill because it would be consistent with Congress' long-standing practice of enacting regular cost-of-living increases for compensation and DIC benefits, but would eliminate the need for additional legislation to implement such increases in the future.

H.R. 4114, the Veterans' Compensation COLA Act of 2012, would require the Secretary of Veterans Affairs to increase the rates of disability compensation and DIC for survivors of veterans effective December 1, 2012. Current estimates suggest that the Consumer Price Index will increase by 1.9 percent.

VA wholeheartedly supports this bill because it would ensure that the value of veterans' benefits would keep pace with the increase in consumer prices.

H.R. 2051, the Veterans Missing in America Act of 2011, would direct the Secretary to cooperate with VSOs to assist entities in possession of unclaimed or abandoned human remains in determining whether such remains are those of veterans or other persons eligible for burial in a national cemetery. If so, the bill would provide for burial in a national cemetery and cover the cost of preparation, transportation, and burial. This bill would further direct VA to establish a national database of such identified individuals.

VA strongly supports the goal of ensuring that those who have earned the right to burial in a national cemetery are accorded that honor. To ensure that eligible veterans receive burial in a national cemetery, VA currently works with states, counties, municipalities, and private organizations to determine the eligibility of unclaimed and abandoned remains that are held at funeral homes or coroner's offices.

VA has concerns, the bill could be read to expand existing funeral and transportation benefits to certain non-veterans that are not available to some veterans eligible for burial in a national cemetery.

The VA would like to offer technical assistance in order to ensure that all veterans receive the honorable burial they have earned.

Section 3 of the bill would direct VA to establish a database of the names of any veterans or other individuals who are determined to be eligible for burial in a national cemetery. VA currently performs this function through a publicly accessible database, known as the National Gravesite Locator.

H.R. 2498, the Veterans Day Moment of Silence Act, would require the President to issue a yearly proclamation calling for observance of two minutes of silence on Veterans Day. VA supports this bill.

H.R. 2377, The Rating and Processing Individuals' Disability Claims Act would establish procedures for the expeditious adjudication of fully developed claims. Section 2 of the bill provides that if a claimant submits a fully developed claim, VA would provide the claimant with the opportunity to waive any claim development period and would provide expeditious treatment of the claim.

Section 3 of the bill would provide that when VA denies a benefit sought, it will provide the claimant with any form or application required by the Secretary to appeal such decision." VA does not support Section 2 of this bill, as further statutory authority is not needed for VA to carry out its fully developed claim program.

The Secretary complied with the Public Law 110–389, and carried out a one-year fully developed claim pilot program. Based on the favorable results of this pilot, VA has deployed and fully implemented this program, thereby rendering H.R. 2377 unnecessary.

VA does not oppose Section 3 of this bill, although we consider this provision unnecessary. VA is currently testing an optional NOD form that will make that form readily available if it proves to be beneficial to veterans.

H.R. 2717 would direct the Secretary of Veterans Affairs, each year, to designate one city in the United States as an American World War II City. VA supports the goal of commemorating our Nation's World War II efforts.

H.R. 4213 would require that active judges of the U.S. Court of Appeals for Veterans Claims reside within 50 miles of the District of Columbia. This absence of such a residency requirement has not created difficulties for VA. Accordingly, we perceive no need for this legislation.

This concludes my statement, Mr. Chairman. I would be happy to entertain any questions you or the other Members of the Subcommittee may have.

[THE PREPARED STATEMENT OF THOMAS MURPHY APPEARS IN THE APPENDIX]

Mr. RUNYAN. Thank you very much. I have one quick question, and a vote has just been called, so we'll try to get in a round of questioning with this panel, so we can let you guys go.

But, Secretary Cleland, and this is a massive assumption, assuming that this Committee, this Congress takes care of the fiscal problems that would arise from this, would you be willing to take that on? Obviously, the State Department is involved in the whole process, but is it the financial aspect of it that worries you the most?

Mr. CLELAND. No, sir, it's not. It's that this is not what we do. We honor and commemorate American war dead. Nearly everyone in our cemeteries—125,000—are war dead. And we are the American Battle Monuments Commission, we run these cemeteries as monuments and memorials. We have chapels there, we have superintendents there, we have a memorial. We have all kinds of interpretive efforts on the Web site now.

So that's what we do. We interpret American battles and war dead. We are not the American Battle Cemetery Commission. We have cemeteries, but it is not our common practice to bury people. We honor American war dead. That's what has been done. And the war dead in our cemeteries belong to the U.S. Army.

So this is completely out of our bailiwick and it is completely foreign to what we do. This is a post cemetery, a former post cemetery run by the Department of Defense, either the Army early on in the 20th Century or the Air Force later.

So in thinking this thing through, I thought first, you've got to get the State Department to negotiate the land from the Philippines and access to it. Secondly, you've got to figure out how much this would cost. And third, the Committee might want to look back at who had this cemetery for 90 years, that's the Department of Defense. It's a post cemetery, a military post cemetery, and they have certain protocols that they deal with.

This is not what we do or have done since 1923.

Mr. RUNYAN. Thank you very much.

Mr. CLELAND. Yes, sir.

Mr. RUNYAN. Mr. Murphy, I know in the last panel, we're going to have some of the VSOs dealing with the COLA. Can you give us a little insight on the round down requirements, and you know, the benefits that are derived from its usage.

Mr. MURPHY. The rounddown provision, okay. The benefits that are derived from its usage are explained in great detail in the written testimony, but I'll go through a couple of the items that I have here.

The COLA rounddown to the next whole dollar results in PAYGO Savings that would be $29 million in fiscal year '14, 354.5 million for five years, and $1.8 billion over a ten year timeframe. What that essentially provides for is if a veteran is in receipt of payments of $9.48, it would be rounded down to $9, and those pennies add up over the number of veterans and the number of years to some significant numbers.

The provision in this bill would make that permanent going forward. That authority expires for us, I believe it's in 2013.

Mr. RUNYAN. Okay. And also dealing with 2051, and Veterans Missing America Act, you perceive any cost that you incur as a result of this bill?

Mr. MURPHY. We do not.

Mr. RUNYAN. You do not?

Mr. MURPHY. No.

Mr. RUNYAN. With that, recognizing Ranking Member Mr. McNerney.

Mr. MCNERNEY. Thank you. Thank you for testifying today. Mr. Cleland, one of my biggest concerns about H.R. 4168 is the diplomatic issues, as well as the Department of Defense issues, and I think those are almost overwhelming. Do you have any comment on that aspect of the legislation?

Mr. CLELAND. Thank you, Congressman McNerney. I've thought about this for a long time. And like I said, step number one is that this Committee and this Congress could unanimously pass this legislation, could be signed into law and signed by the President, and nothing would happen.

Because this is a foreign government one is dealing with. So one would have to establish a relationship with the Philippines, and that would have to be through the State Department and some kind of revision of the existing treaty and our relationships with the Philippines in order to get access to the land, just to the land.

Secondly, you'd have to figure out how much it cost. No one really knows.

Third, you might want to go back to the who ran it for 90 years. It was elements of the Department of Defense. They're the ones that have the records, they—whatever records exist. So I appreciate the issue, but it's not something the America Battle Monuments Commission can take over.

Mr. MCNERNEY. Thank you, Mr. Cleland. Mr. Murphy, I understand you have an opposition to H.R. 2051, could you elaborate a little bit on that, please?

Mr. MURPHY. Yes, This is a very technical issue, so what I'm going to do is defer to Mr. Hipolit, from our General Counsel.

Mr. HIPOLIT. Yes, we have one concern as a technical matter on that bill. I think the bill can be read to indicate that VA would pay

funeral and transportation expenses for persons who are eligible for burial in a national cemetery, which would include persons who are not veterans. Right now, there are very limited, well-defined classes of people who can get monetary payments from VA for funeral expenses and transportation expenses. Not all veterans get that. Some of the classes are people who are getting compensation or pension at the time of their death, wartime veterans whose bodies are held by a estate and there is no next of kin; service-connected deaths, and people who die in a VA facility. There is a provision for funeral and transportation expenses in those cases. Again, it's fairly well-defined classes, not all veterans get that.

This bill would allow non-veterans to get those expenses——

Mr. MCNERNEY. So it could be perceived as pretty unfair by a large number of veterans or veterans' groups?

Mr. HIPOLIT. I'm sorry?

Mr. MCNERNEY. It could be perceived as unfair?

Mr. HIPOLIT. Yes, that is our concern, that we'd be putting non-veterans ahead of veterans as far as those kind of payments. I think it's a technical matter that we could certainly help work out if we could work with Committee staff on that.

Mr. MCNERNEY. Okay. I think I'm going to yield back at this point, Mr. Chairman.

Mr. RUNYAN. I want to thank the gentlemen and on behalf of the Subcommittee, thank each of you for your testimony today, and look forward to working with you in the future on the challenges that face our Nation's veterans. And you all are excused, and that being said, we are being called to the floor for a series of two votes. So we're going to stand in recess till probably noon.

[Recess.]

Mr. RUNYAN. The Committee will come to order and sorry about the delay, but thanks for coming back.

I now welcome Chief Justice Bruce Kasold of the United States Courts of Appeals for Veterans Claims. We appreciate your attendance today. And Justice Kasold, you are now recognized for five minutes for your testimony.

STATEMENT OF HON. CHIEF JUDGE BRUCE KASOLD

Chief Justice KASOLD. Thank you, Mr. Chairman, Ranking Member McNerney and Members of the Committee for the opportunity to present testimony on proposal H.R. 4213, to establish in statute, a duty station for the judges of the United States Court of Appeals for Veterans Claims, consistent with other Federal courts, as well as a requirement to reside within 50 miles of the District of Columbia.

Behind me today is Judge Davis from the court, and the Counsel to the Board of Judges, Alice Kerns. In the haste of creating the Court of Appeals for Veterans Claims, still the youngest Federal appellate court, the application of several policy issues written in statute and applicable to Federal judges in general, appear to have been overlooked with regard to the judges of the Court of Appeals for Veterans Claims.

A defined duty station as one example. The duty station for Federal judges is generally prescribed by statute, see 28 USC 456, but until your proposal, and a mirror proposal in the Senate, S. 2045,

no similar legislation has applied to the Court of Appeals for Veterans Claims.

In the absence of legislation, the Court's Board of Judges has determined that the duty station for all court personnel, including the judges is the court's principal office. This mirrors your proposed bill.

With regard to a residence requirement, we note that congressional mandate with regard to such a requirement for an appellate court with national jurisdiction is mixed. Although the judges of the Court of Appeals for the Federal Circuit are required to reside within 50 miles of the District of Columbia, see 28 USC 456, the judges of the Court of Appeals for the Armed Forces have no residency requirement. And as you know, at this time, the Court does not have a residency requirement.

To the extent the perceived need for a residency requirement arises from concerns over the efficient operation of the Court, we do note that working from a remote area is becoming more practical. Our cases are now electronically filed and stored, and are accessible anywhere a judge can locate a computer. Decisions are circulated for review electronically, and this is the preferred method to distribute cases for review, even for those present and working at the court, as opposed to working remotely.

Conversations can and do take place by e-mail, phone, and video, though video is not widely available to the court just yet. Indeed, recently one of our judges was on travel and worked a case electronically with his IPad while his wife was driving the car.

Moreover, the advent of E-filing, and enhanced electronic communication capability, as well as recent changes in the administrative processing of appeals after they have been briefed, (as discussed in my testimony before this Committee last month), have resulted in the Court's most productive years.

Should Congress proceed with a residency requirement for the Court, we suggest that it be tied to the greater Washington D.C. metropolitan area, and not just the confines of the District of Columbia. This would be consistent with the statutorily required location of the court's principal offices, which is anywhere in the Washington, D.C. greater metropolitan area. See 38 USC 7255.

As you proceed to consider the subject bill applying the duty station and residency requirements applicable to other Federal courts in general to the Court of Appeals for Veterans Claims, it seems appropriate to now consider adding three additional equalizing policies that we have discussed in the past.

Specifically, we discussed modifying the survivor benefits and insurance statutes to provide coverage generally available for the other Federal judges, and amending our pay statute to provide Federal appellate judicial pay, as we are the only Federal appellate court not receiving such pay at this time.

There is a final equalizing bill that we urge remain under consideration. We're the only Federal appellate court without its own courthouse. And to our knowledge, the only Federal court of record without its own courthouse. We understand the Nation's current fiscal situation may not warrant building a courthouse at this time, but we share the veterans service organization's support for such a courthouse, and the concept that when the next Federal court-

house is to be built, serious consideration should be given to making sure it is the veterans courthouse.

Thank you again for the opportunity to testify in this matter. I'll take any questions.

[THE PREPARED STATEMENT OF CHIEF JUDGE KASOLD APPEARS IN THE APPENDIX]

Mr. RUNYAN. Thank you, Judge. Pertaining to that and you spoke to it very eloquently there in your statement, and talking about working from the road or working in the car, in your personal opinion, are there any certain benefits that you would have from actually physically being there, and being physically present in a duty station?

Chief Justice KASOLD. I think that presence is the key, and I guess that's why the residency requirement can only provide the encouragement to people to be there. But presence is the key. We are an appellate court addressing important issues raised by veterans. It's not the type of issue where a claim is submitted and decided over video discussion with a VA regional office or the Board. Rather, its' legal issues, and the interpretation of statutes, that occurs through collaborative discussion between the judges or among the judges with their chambers. And I think in chambers is another issue again, how judges relate to their staff is more of a judge's call.

So on the important issues, the panel issues, the en banc issues, I think that presence is important. The Board of Judges' meetings where we discuss the issues important to the court overall also are important.

Today all the judges live locally or are personally committed to coming to those events that I just mentioned, and I think that recognizes the importance of being present. As I might say, similar to the presence of some Members of Congress to testify on bills that they felt are important; to come personally instead of sending you an e-mail or just a letter.

So I think that there are advances in the electronic means of communication, and I'm not sure that down the road, we won't be standing here in a hologram and that might work, I don't know. But today, I think you can come to agreement better when you see eye-to-eye, and I think that most of the studies support that, at least at this time.

So the idea of a residence requirement somewhere in the area—and I can't say 50 miles is a magic number, and that's why I'd suggest the greater Washington, D.C. metropolitan area—is encouragement to recognize that the court's presence is here. Its chambers are here. The staff are here. All the court staff is here. The courtroom is here. And for those significant important issues, the judges should be here, as is recognized by all the judges now.

Mr. RUNYAN. And dealing with obviously a stand alone courthouse, would that have any influence on your ability and process?

Chief Justice KASOLD. I think I've been on record for saying that we can work wherever you want us to work, and I honestly mean that. The courthouse is more a statement for veterans. They fought a long time to receive judicial review. I think that judicial review is important on particularly two aspects. One, the veteran gets an

appellate review of his claim by a body of judges. Even though there are single judge decisions that are rendered, all the judges review them. These decisions are circulated, reviewed by the judges, and can be called to panel if there's a significant issue and so forth.

And then, of course, you have the panel cases that systemically have an impact on the entire VA and how cases are processed or might be reviewed. I think that the courthouse is the symbol and statement given to the veterans. As you've said in a House Resolution—I didn't bring those words with me or the Senate Resolution, and I certainly cannot rise to the level of the eloquence of which was stated in both of those—but it's that recognition that veterans are entitled to the same type of justice, the same aura of justice, the same presence of justice that the average citizen gets in any of the courthouses, Federal courthouses in particular that they enter into.

And I think it'd be a permanent long standing statement of that. So that, I think, is the reason for support, and a number of veteran service organizations have said that. But I don't want to misstate. The quality of the justice that is being done with the judges all committed to coming together for the important issues, et cetera, would not change just because there was a courthouse.

Mr. RUNYAN. Thank you. Recognize the Ranking Member, Mr. McNerney.

Mr. MCNERNEY. Thank you, Mr. Chairman. Judge Kasold, could you describe the current conditions that the court works in? Is it a cramped, is it dark, is it in the basement, what sort of conditions are they right now?

Chief Justice KASOLD. The reality is that a few years ago it was getting cramped, because we had the records and paper, if you will, and they were piling up. Just as a side note, recently we went over and visited the Board of Veterans' Appeals (BVA), and they still have an awful lot of the cases that are in paper. But records are put into electronic transmission when they come to the Court, and VA is going that way for all their records. But at this point, there's still paper, and the BVA has an entire floor dedicated to the paper documents.

So if we still had paper documents, we would be very, very cramped, and we were for a number of years. Right now, VA itself, Group 7 used to be in the building, they moved out, and we are taking over that particular floor. We are constructing two additional chambers for, hopefully, the confirmation and appointment of the two additional judges that are now awaiting confirmation. And we will transfer some of the people who are on our upper floors down to the sixth floor. And so we have adequate space. It's actually very nice space for the judges and the staff. We can't complain about the space.

Mr. MCNERNEY. Do most of the judges come in on a daily basis——

Chief Justice KASOLD. Yes, sir.

Mr. MCNERNEY. —to do their work.

So it's typical for a judge to come in to the building?

Chief Justice KASOLD. It's typical for the judge to come in, work in their chambers with their staff.

Mr. MCNERNEY. So this bill doesn't apply any hardship to judges or present a limiting factor in terms of people that would want this position?

Chief Justice KASOLD. I don't believe there are any statistics that support the idea that people would turn it down because the court was located in one particular location.

We do have a judge who does not live in the area, but as I said, he's committed to coming to the Board of Judges' meetings, he's committed to coming to the oral arguments and panel discussions, and it's one, not multiple judges, so the coordination for setting those things up can be accomplished.

Mr. MCNERNEY. So it would be a bit of a hardship on that one judge?

Chief Justice KASOLD. Well, I believe this bill is prospective primarily, as I understand it. Certainly the enforcement provisions are prospective, and I would recommend that it only be prospective. All of the current judges received a commission without a residency requirement, and although all the judges did move into the area, as I indicated, one judge has for personal reasons, had a reason to make a move. He's got the commitment to come back to the court for the purposes I've mentioned.

So I would make it prospective, so that a judge being appointed knows, and makes the move, and has that commitment to it—if you were to go down this particular route.

If there's a way to say you go to work in the office, that's really the issue, and I don't mean necessarily on a daily basis. I mean on these important issues and the discussion that takes place on those issues.

Mr. MCNERNEY. I mean, I have to say I'm a little surprised, I thought you would be on the other side of this issue.

Chief Justice KASOLD. Which is?

Mr. MCNERNEY. That you'd be opposed to this.

Chief Justice KASOLD. You asked for the organization's view. I must tell you the organization's view is that of the Board of Judges (we have six judges) and a majority voiced an expression against the residency requirement, and ultimately viewed it as a policy issue because there are courts that have it and courts that don't have it.

I think it comes down to this: If you have the commitment to come for these issue discussions, for the face-to-face type discussions, you don't need a residency requirement. As the communications change, will you have people saying I want to do that over the phone, et cetera? What is the effect of that on the appellate review, and the interpretation of the law, et cetera? To my knowledge, none of the courts do that. They all meet.

Even the Circuit Courts which have a requirement for a judge to live in at least one—live in the state where they come from—meet once or twice during the month at the central location to discuss the cases that they have.

You can circulate an awful lot of things electronically, but at the end, that discussion is what I think is the important thing. And it really comes down to weighing—is it important? I think maybe a younger generation might have a different view. You've got to admit, they do things a little bit differently.

Mr. MCNERNEY. Yes. But you feel it is a quality issue, a quality of justice issue?

Chief Justice KASOLD. I think ultimately it's the quality of judging—just like we had two young people come here and testify in support of their bill, I think they'd feel more comfortable doing that than just relying on a letter or even a video.

Mr. MCNERNEY. Well, it did. It said a lot to us on the panel to hear them. Anyway, I yield back. Thank you for your testimony.

Mr. RUNYAN. Thank you, gentlemen. Mr. Walz has nothing, and Justice Kasold, thank you.

Chief Justice KASOLD. All right. And if we can get support on the other three provisions we've talked about, we would be grateful.

Mr. RUNYAN. Okay. Thank you.

Chief Justice KASOLD. Thank you very much.

Mr. RUNYAN. On behalf of the Subcommittee, thank you for your testimony, and you are now excused.

I finally would like to invite the final panel to the table. First we have Mr. Raymond Kelley, the National Legislative Director for the Veterans of Foreign Wars and next we'll have Ms. Verna Jones, Director, National Veterans and Rehabilitation Commission for the American Legion.

Mr. Kelley, we will start with you. You are now recognized from your statement.

STATEMENT OF RAYMOND C. KELLEY, DIRECTOR, NATIONAL LEGISLATIVE SERVICE, VETERANS OF FOREIGN WARS OF THE UNITED STATES; VERNA JONES, DIRECTOR, NATIONAL VETERANS AFFAIRS AND REHABILITATION COMMISSION, AMERICAN LEGION

STATEMENT OF RAYMOND C. KELLEY

Mr. KELLEY. Thank you, Mr. Chairman. On behalf of the two million members of the Veterans of Foreign Wars in our auxiliary, thank you for the opportunity to testify today.

The VFW supports the provisions in H.R. 4142 and 4114 that would authorize COLA increase at this year December for disability compensation and DIC.

We also support taking—H.R. 4142 taking a perfunctory step out of each year, putting a bill in to authorize the COLA increase. So we support both of those provisions.

However, we do reject the provisions that would round down the COLA for each time. I look at that the same way as if I went to buy lunch today, and my bill was $9.50, and I gave the cashier a $10 bill and she didn't give me my 50 cents back. I wouldn't want to shop there anymore. That's wrong. I know it seems like pennies, but it's the fundamental principal of the issue.

So I ask that when this provision expires in 2013, that you allow it to lapse, and provide veterans the money that they deserve.

We support H.R. 2051, the Veterans Missing in America Act. The Missing in America Project has—needs to be recognized. They've done great work, and a lot of dedication to make sure that the remains of veterans have a final resting place.

Currently VA and them worked together in an ad hoc relationship. This will formalize that relationship and make the process a

little bit smoother and more effective, and ensure that our veterans are provided a level of remembrance and respect that they deserve.

We also support H.R. 2498, the Veterans Day Moment of Silence Act. For years, the veterans community has complained and rightfully so, that Veterans Day has turned to nothing more than a day to go buy something at the store because there's a sale. Ninety-nine percent of the population is becoming less connected with our veterans population. Taking two minutes out of the day once a year to reflect on our veterans and our servicemembers is the right thing to do and we fully support that bill.

The VFR supports the intent of H.R. 2377, the RAPID Claims Act, but most of these provisions are already being done by a directive through VA that was authorized through Public Law 110–389. We believe that they're going in the right direction. Our fear is if you put this into statute right now, before we have a chance to see how effective it is, that once we have it cemented in statute, if there's issues with those provisions, that we're going to go back and statutorily fix those.

I do advise us to go back and take a look at how effective it's been. We've had it for about a year and a half now. It's probably time to go back and look and see how well—how they're doing on these RAPID claims. If they're doing great, let's go ahead and put it in statute. If there's things that need to be repaired, let's repair it before we do that.

The VFW supports the provision within H.R. 2717 that would direct the Secretary to designate an American World War II city every year. Again, going—reflecting back on the service and commitment of our servicemembers, and the servicing commitment of the American citizens during World War II, it's the proper thing to do to recognize that. But we also believe that it should be done through that competitive process. Therefore, we can't support the provision that would go ahead and mandate through this act who the first recipient of that would be.

VFW supports H.R. 4168, the Caring for Our Fallen Heroes Act. VFW Post 2485 has been taking care of that for 18 years with no funding from the Federal government. As Secretary Cleland explained, it's in disrepair. You can say what the VFW is doing is maintaining the cemetery in a state of arrested decay. It needs help, it needs work, it needs the intervention of the Federal government.

We believe that the Battle Monuments Commission would be the best served to do that. They have another battle monument 70 miles south of this facility. Yeah, we need to work out the issues with the State Department, we need to work out the funding issue. There is a lot more funding that needs to go into that. An average of 12 inches of ash, soft ash, so there's grass on it—if you look at it from a distance it looks fine. But you go up to it, and you start walking on that, the ground sinks. VFW members have had to dig out in front of those graves, so you can read the full head stone. It'll have the name, and maybe their service, but the rest of the information is missing. They've had to dig that out so you can stand there and look down into a whole and get the full story of each one of those veterans.

It's time that we act. We believe that the Battle Monuments Commission is the best served to do that.

And VFW does not hold a position on H.R. 2413. I'll look forward to any questions that you or the Committee has. Thank you for the opportunity to testify.

[THE PREPARED STATEMENT OF RAYMOND KELLEY APPEARS IN THE APPENDIX]

Mr. RUNYAN. Thank you, Mr. Kelley. Ms. Jones.

STATEMENT OF VERNA JONES

Ms. JONES. Chairman Runyan, Ranking Member McNerney, and distinguished Members of the Subcommittee, thank you for this opportunity for the American Legion to present our views on the legislation being considered here today.

We appreciate the efforts of this Subcommittee to address the different needs of the men and women who are currently served and those who have served in past conflicts.

H.R. 4114, H.R. 4142, the American Legion supports a one time COLA increase this year, as we have in past years, that has been passed. We must ensure veterans are getting some relief from rising costs; however, before long term measures are considered, we ask Congress to reflect on the unique considerations of those disabled in our Nation's service merit.

While 4142 is an admirable intent, the American Legion wants to make sure that this is unique to veterans, and not lumped into social security or another group, and unique considerations of veterans does not get lost. While we support 4114, the American Legion cannot support H.R. 4142 as written.

H.R. 2498, Veterans Day, a Moment of Silence. The American Legion is deeply committed to fostering the spirit of American patriotism, and dedication to men and women who've served this Nation in times of war, and in times of peace and prosperity.

While the American Legion works towards an America where all citizens will stop and reflect on a daily basis of the service and sacrifice of our Nation's veterans, this purpose not be the enemy of good notion presented here in this legislation, we whole-heartedly support the attempts to increase our country's reflection on those who have gone into battle for this great Nation. The American Legion supports this bill.

H.R. 2377, Rapid Claims Act. While the American Legion supports the intent of this bill, and you know, the VA's already doing this. We—the American Legion supports the fast track of claims, which are presently—which are presented fully developed to expedite service for veterans whose claims do not require a lot of development or extensive legal work and research, above and beyond the material that's already presented by the veteran.

We question the necessity of the impact of additional legislation to achieve this goal. The VA has already initiated the most important aspects of this bill by their own rights. Additional legislation may impact the delivery of the service, causing an unnecessary ripple in the process already.

So we think that they're already doing what they need to do, and as written, we do not support this bill.

The Missing In America project, we'd like to thank the Chairman and the Committee for the inclusion—for the inclusion at all hearings of a chair to call attention to the America POW and MIAs. We cannot forget these Americans who are still missing and left behind, yet the work of the Missing in America project is important, because we cannot forget those Americans who still remain missing at home within our home country.

So the American Legion certainly supports this bill.

H.R. 4213, the primary concern in staffing the Court should be given the best possible judges to fill the benches, and assure these benches stay filled with competent productive judges.

As an outside prospectives from regions outside the inner circle, the D.C. beltway, could even be productive. The American Legion remains dedicated to having the absolute best possible candidates on the bench of CAVC to rule justly over the cases of the veterans who pursue their claims to this level, and the modern technological electronic world, geography simply does not represent the challenge that it once did, and the quality of the applicant is far more important in this criteria. So the American Legion does not support this bill.

The American Legion appreciates the opportunity to comment on the bills considered by the Subcommittee. Thank you for hearing us.

[THE PREPARED STATEMENT OF VERNA JONES APPEARS IN THE APPENDIX]

Mr. RUNYAN. Thank you, Ms. Jones. Pertaining to 4142, the long term fix of the COLA, what are those unique considerations that you're referring to?

Ms. JONES. Well, we just want to make sure that the veterans aren't lumped into one—you know, that these things are being considered, the veterans have unique needs, that it's not just social security, like with social security or other groups. That we don't lose those considerations of veterans. The veterans need different things, that veterans have unique needs, like veterans who have disabilities.

When we talk about how COLA is, how it's considered, or how it's changed every year, we want to make sure these veterans get exactly what they're supposed to be getting. And I can provide you with a more in-depth answer to this in writing.

Mr. RUNYAN. I would appreciate that.

Ms. JONES. Thank you.

Mr. RUNYAN. You know, there's a lot we do, and this is just to keep up with the cost of living truthfully. Obviously, you know, and it does adjust, you know, when we take care of them medically and all that kind of stuff, and this is to keep up with everything else around them, keeping up with that, so the specifics of that would be greatly appreciated.

Ms. JONES. I understand. We'll submit that.

Mr. RUNYAN. I have a question for Mr. Kelley dealing with the RAPID Claims Act, and I think Congressman Donnelly also stated in his statement a lot of the same concerns that both of you had. But is there anything new we can put in, a directive that would help the previous pilot program that you have come across?

Mr. KELLEY. I'll get back with you on the record. We've got people that are working with VA on these RAPID claims to make sure that they're operating right. And when I get back to the office, I'll touch base with them, and make sure I give you a complete answer. I'd like to follow-up with that.

Mr. RUNYAN. And has the VFW had any thought dealing with the American World War II City, Bill 2717, I know the Ranking Member kind of said it too, it's kind of a clean slate. Any thoughts about the competitive process, how we would actually designate those cities?

Mr. KELLEY. I think the history that they provided back in the '40s, and then their commitment to keep people aware of that commitment. However that metric is put together, I haven't put a whole lot of thought, but those two components of yeah, they did a lot for our Nation during a period of time, but they've spent the rest of the time reminding America that that has been their history. I think those are the two main components, however that metric is put together, and the Secretary can choose from that.

Mr. RUNYAN. And in your experience also, having—the states that have passed, this is dealing with 2051, the Veterans Missing in America Act, and possibly both of you to comment on this. With the states that have passed similar legislation, have you received positive feedback on the implementation of the process?

Mr. KELLEY. The VFW, I have not received any feedback, other than from the funeral directors who seem very, very happy with the process. I've not heard back from the veterans' community, but the folks who are caring for the remains until the VA or until MIAP takes care of them, are happy with the procedure and would like to see it expanded.

Mr. RUNYAN. Ms. Jones?

Ms. JONES. Many American Legion members volunteer with the Missing in America Project, and the American Legion has long worked closely with this organization and supported their efforts. Increasing the governmental role in supporting this worthy task, we think is important. And the work began by Missing in America Project, it is only in the beginning stages. While the work of the volunteers are strong, and will continue with the same fervor, I think adding the departmental help of the VA, can help increase the scope which this mission has carried out nationally.

So the American Legion, our volunteers, think it's a wonderful program.

Mr. RUNYAN. Thank you for that because my personal experience with it, and many members of both your organizations I see all the time, when they have the video of remains stuck in a closet, that is a disturbing. And, you know, it is just something that really needs to be addressed.

With that, I'll yield to the Ranking Member, Mr. McNerney.

Mr. MCNERNEY. Thank you, Mr. Chairman. I think your testimonies were pretty clear. There's not that much in the way of questions I have about where your positions are in these things.

The Missing in America Act, certainly the intent is good. My concern is with how we're going to carry that out on a way that's fair, and it doesn't give a non-veteran benefits that they haven't earned. So maybe we can work out some details on that. But I'd like to

make sure that there's a clear understanding of what's involved before I get my full support behind that one.

Similarly with H.R. 4168, Clark Air Force Base, the cemetery there, there's some very big challenges in terms of just getting the right to do that on Philippine land, and I'm sure that we can work together one way or another to see that that happens, without trying to force a bill that's unenforceable. Because that would be more problematic I think.

I also like your comment, Ms. Jones, about preserving the uniqueness of the vets on the COLAs. As a jurisdictional matter, I hate to cede jurisdiction to the Administration. Giving us the ability to make decisions working with Veterans groups and the VA, I think is going to be the most beneficial approach. So those are my comments, if you have any follow-up comments, I'd appreciate that. Otherwise, I yield back.

All right. Thank you.

Mr. RUNYAN. I thank the gentleman, and having no further questions, on behalf of the Subcommittee, thank you both for your testimony. I look forward to working with everybody that testified today on trying to get the best piece of legislation to truly take care and honor our fallen and our current veterans that we possibly can.

So with that being said, both of you are excused. Thank you again.

I ask unanimous consent that all Members have five legislative days to revise and extend their remarks, and include extraneous material.

Hearing no objection, so ordered.

I thank the Members for their attendance today and this hearing is now adjourned.

[Whereupon, at 12:42 p.m. the Subcommittee was adjourned.]

APPENDIX

Prepared Statement of Hon. Jon Runyan, Chairman

Good morning. This legislative hearing on H.R. 4142, H.R. 4114, H.R. 4213, H.R. 2051, H.R. 2498, H.R. 2377, H.R. 2717, and H.R. 4168 will now come to order.

Today we have large number of witnesses present due to the high level of interest in some of the bills before us. Therefore, in the interest of time, I am going to forgo a lengthy opening statement and just briefly touch on three bills on today's agenda which I have introduced.

H.R. 4114, the Veterans Compensation COLA Act of 2012 provides a cost of living adjustment increase to veterans' disability compensation rates and other benefits.

H.R. 4142 is the American Heroes COLA Act, which is related to the aforementioned COLA act of 2012, except this bill seeks to make permanent the annual increase to veterans' disability compensation rates and other benefits by tying the increase to the cost of living adjustments for social security benefits.

With the passage of the America Heroes COLA Act, veterans will never again have to depend on Congressional action to receive an increase to the cost of living adjustment they have earned through their service. Instead, these increases will become automatic from year to year just as Social Security benefits increases are adjusted automatically every year.

The final bill I have sponsored is H.R. 4213, the United States Court of Appeals for Veterans Claims Residency bill. This piece of legislation requires judges sitting on the United States Court of Appeals for Veterans Claims to reside within fifty miles of the District of Columbia.

This bill will ensure a more efficiently run Court of Appeals for Veterans Claims by requiring judges to fully engage in their caseload and manage their offices by maintaining a household reasonably close to their work location. This will have the desired effect of ensuring veterans receive justice without unneeded delay due to the extended commute of Federal judges.

Again, in the interest of time, I would like to reiterate my request that today's witnesses abide by the decorum and rules of this hearing and to summarize your statement to five minutes or less during oral testimony. We have a large number of individuals ready to testify on legislation today, and I want to make sure everyone is heard in a timely manner. I would also remind all present that, without any objection, your written testimony will be made part of the hearing record.

I appreciate everyone's attendance at this hearing and I would now call on the Ranking Member for his opening statement.

Prepared Statement of Hon. Jerry McNerney, Ranking Democratic Member

Thank you Mr. Chairman.

The purpose of today's hearing will be to explore the policy implications of eight bills, ranging on issues as varied as the disability compensation COLA to the residency requirements of the judges of the Court of Appeals for Veterans Claims. The bill numbers are H.R. 2051, H.R.2377, H.R. 2498, H.R. 2717, H.R. 4114, H.R. 4142, H.R. 4168, and H.R. 4213.

I support several of these bills, especially the disability compensation COLA offered by you Mr. Chairman—I am glad to be a cosponsor of that bill, H.R. 4114. I also want to thank the Chairman for his support of two bills that I introduced this morning that would extend the temporary residence adaptation grant as well as the VA work-study program.

I am encouraged by the Veterans Day Moment of Silence measure offered by Mr. Frank of Massachusetts, and the American World War II City bill, offered by Mr. McIntyre of North Carolina.

I think that all of the bills before us today are worthy of consideration by this Subcommittee.

However, I have reservations with some of the measures because they are duplicative or unnecessary, and hopefully this hearing helps to address some of those issues.

The Veterans Missing in America Act, H.R. 2051, sponsored by Mr. Tiberi is a good and well-meaning measure. This bill has support from some VSOs, but the VA has expressed some reservations, such as the unintended consequence of confusion and uncertainty in benefits it may create for veterans and non-veterans alike. I look forward to further delving into this issue.

I also took note of the possible duplication and confusion concerns raised by the VA and the VSO witnesses regarding provisions of the RAPID Claims Act, H.R. 2377. They noted that it might also thwart efforts already underway in a provision already enacted into law in P.L. 110–389, the Veterans Benefits Improvement Act. I hope that we will gain additional insight on these concerns today.

I look forward to hearing more about H.R. 4168, introduced by Congressman Guinta, which would direct the ABMC to maintain Clark Veterans Cemetery in the Philippines. I believe proper justification, including diplomatic inputs, is needed to decide this issue. While we discussed this topic briefly at our last hearing on cemeteries, the ABMC implied that it had serious reservations with this directive. I think we must all work together to properly honor and remember those individuals who are laid to rest at Clark Veterans Cemetery.

I'm looking forward to hearing more about the CAVC residency bill, H.R. 4213, also sponsored by you Mr. Chairman, which would require CAVC judges to live within 50 miles of Washington D.C. I concur with the stakeholders that there are probably better requirements upon which to base qualification to or service on this Article I Court, especially given the advent of modern technological capabilities. At the very least the distance limitation should be rethought.

I thank all the Members for their thoughtful legislation.

And, I thank our other esteemed witnesses for joining us today and look forward to receiving their testimonies.

Thank you and I yield back.

Prepared Statement of Hon. Frank Guinta, U.S. House of Representative (NH–01)

Good morning Chairman Runyon, Ranking Member McNerney, and distinguished Members of this Subcommittee. Thank you for the opportunity to testify on H.R. 4168, the Caring for the Fallen Act of 2012.

Let me begin with a question: Say a cemetery in your hometown was overgrown with weeds, abused by vandals and littered with dumped trash. And say that same cemetery contained the graves of hundreds of U.S. Armed Service members stretching back for a century. What would the people of *your* hometown say about it?

Phones in my hometown of Manchester, New Hampshire would be ringing off the hook. Hundreds of outraged veterans and their families would demand immediate action. That would likely be the reaction in your town, too.

But sadly, there are no outraged calls coming on behalf of Clark Veterans Cemetery in the Philippines. Left on its own for several years when the U.S. military was withdrawn from the area around it in 1991, it quickly fell into an appalling state of decline. "Out of sight, out of mind," the saying goes. And that's just what happened. It soon acquired the shameful nickname "the Cemetery America Forgot."

The 2,200 U.S. veterans interred within Clark Veterans Cemetery deserve better. They answered when America called them; now we have it within our ability to answer when their resting place calls out for our attention.

H.R. 4168, the Caring for the Fallen Act of 2012, is simple and to the point. It designates the American Battlefields Monuments Commission (ABMC) with the responsibility of caring for the cemetery, and authorizes it to make necessary arrangements to ensure its on-going maintenance. This legislation is budget neutral, with the ABMC paying for that maintenance through existing appropriations.

I'm grateful Representative Bill Owens, an Air Force veteran, is lead Democratic co-sponsor of the *Caring for the Fallen Act.* It's a reminder that Members can remove partisan labels and work side-by-side to honor those who wore our country's uniform. I'm also honored that this bill has the support of the Military Officers Association of America and the Air Force Sergeant's Association.

When visitors enter Clark Veterans Cemetery, they pass through a gate inscribed with the words "Served with Honor." Now it's time Americans honor that service by restoring the dignity these brave men and women so richly deserve.

I'm happy to answer any questions you may have about this bill. Thank you for your time.

Prepared Statement of Hon. Mike McIntyre, U.S. House of Representative (NC–07)

Chairman Runyan, Ranking Member McNerney, and Members of the Committee:

I am pleased to appear today before the House Veterans' Affairs Subcommittee on Disability and Memorial Affairs to testify on behalf of H.R. 2717, a bill I have introduced to direct the Secretary of Veterans Affairs to designate one city in the United States annually as an "American World War II City."

As we all know, it was just a day after Japan attacked Pearl Harbor on December 7, 1941, that the United States entered World War II. In the end, the conflict took more lives and destroyed more land and property around the globe than any previous war.

The main contributions of the United States to the Allied war effort comprised of money, industrial output, food, petroleum, technological innovation, and of course, servicemembers, especially during 1944–1945. In fact, by the end of World War II, sixteen million Americans had served in the conflict and more than 400,000 had been killed.

Here at home, the wartime efforts of America's cities was apparent as Americans tolerated additional work, rationing, and a diminished quality of life because of their patriotism and the confidence that life would return to normal as soon as the war was won. Many cities based and trained our military services, dispatched their sons and daughters to fight in the war, assist with the transport of goods, or equip those serving.

And, in some cities, like Wilmington, North Carolina, there were additional wartime efforts. For example, the North Carolina Shipbuilding Company of Wilmington, the state's largest employer at that time, constructed 243 cargo vessels with which to provide goods and equipment to our soldiers. Additionally, Wilmington provided the Atlantic Coast Line Railroad headquarters, three housing camps for German prisoners of war, a major training base for P–47 fighters, defense industries producing goods and equipment, a British patrol base, and a shipping point for Lend Lease supplies to the Allies.

I could go on and on. Mr. Chairman, there are countless cities across this great nation that contributed to World War II efforts in more ways than one. Now, with so many members of "The Greatest Generation" passing on, it is time to recognize these contributions before it is too late and the lasting memories of the war continue to fade.

The bill I have introduced will do just this by directing the Veterans' Affairs secretary to designate one city in the United States each year as an "American World War II City" based on contributions to the war effort during World War II and efforts to preserve the history of such contributions, including the preservation of organizations or museums, restoration of World War II facilities, and recognition of World War II veterans, with Wilmington being the first one so designated, with others that may readily qualify to be allowed this special designation.

There are many unique cities throughout the nation that fit these criteria. Therefore, I respectfully request your support of H.R. 2717 which will ensure that they are appropriately granted the title of an "American World War II City."

And, I am honored that my good friend, author and historian, Capt. Wilbur Jones of Wilmington, N.C., will be testifying before you in the next panel.

Prepared Statement of Hon. Joe Donnelly

Chairman Runyan and Ranking Member McNerney, members of the subcommittee, thank you for the opportunity to discuss my bill before the DAMA Subcommittee today.

After closely working with the Iraq and Afghanistan Veterans of America and the Disabled American Veterans last Congress, I have reintroduced H.R. 2377, *The Rating and Processing Individuals' Disability (RAPID) Claims Act,* along with Rep. Geoff Davis of Kentucky. The bill currently has 31 bipartisan cosponsors, and it received 105 cosponsors last Congress.

The goal of *The RAPID Claims Act* is to improve the disability claims process for our nation's veterans, something we all agree is necessary. In 2008, Congress passed The Veterans' Benefits Improvement Act (P.L. 110–389). Included in the bill was the Fully Developed Claim (FDC) pilot program, which allows veterans filing fully developed claims to waive the lengthy development period and receive expedited consideration. FDC was originally a one-year pilot program conducted at ten VA Regional Offices, and, due to its success, VA announced that it would implement the program nationwide.

I support VA's decision to rollout this program nationwide; however, I would like to see FDC become law with a couple small improvements. *The RAPID Claims Act* would codify FDC while also modifying it to protect a veteran's effective date for disability compensation and ensuring a veteran who mistakenly files an unsubstantially complete claim in FDC is given fair notice what further evidence is needed to complete the claim.

When participating in the normal claims process, a veteran can submit a claim at any time—marking the claim's effective date—and the veteran still has up to a year to gather evidence. However, a veteran seeking to participate in FDC may gather evidence independently, preventing an establishment of an effective date for that veteran's disability compensation. This evidence period can take months or up to a year, costing a veteran hundreds or even thousands of dollars in missed benefits. *The RAPID Claims Act* would allow a veteran gathering evidence for a fully developed claim to mark an effective date for his or her compensation by notifying VA that a fully developed claim is forthcoming. Marking this effective would help ensure that the veteran's compensation is made retroactive to an appropriate date.

Additionally, some veterans will submit claims through FDC that VA will decide do not qualify for the program for a number of reasons, including missing evidence. If VA determines that a claim submitted through FDC is ineligible, I am concerned VA may not immediately notify the veteran of what is needed to substantiate the claim. If VA processes the claim before notifying the veteran, this could lead to incomplete and unsatisfactory results for the veteran, causing more appeals and longer processing periods for veterans. *The RAPID Claims Act* would modify FDC to require VA to notify and assist the veteran to help substantiate such claims.

Finally, *The RAPID Claims Act* also has a provision targeted at the appeals process. The bill would require that the VA Appeals form is included with the Notice of Decision letter, instead of waiting for a veteran to exercise his or her appeal rights before sending the form to the veteran. I believe this is a simple courtesy VA could extend to our nation's veterans.

Once again, thank you Chairman Runyan, Ranking Member McNerney, and my subcommittee colleagues for the opportunity today to highlight what I feel are simple solutions to help improve the disability claims process for our veterans. While we have achieved much on behalf of our veterans in recent years, I think we all agree further steps are needed to reduce the wait times faced by veterans and to simplify the process. Thank you.

Prepared Statement of Col. Thomas Moe

Chairman Runyan, Ranking Member McNerney, thank you for the opportunity to testify in support of H.R. 2051, the Veterans Missing in America Act of 2011, sponsored by Representatives Patrick Tiberi and Steve Stivers.

At funeral homes and other entities across the country, an unknown number of veterans' remains have been abandoned or unclaimed for a number of reasons. In response to this tragic situation, a handful of veteran service volunteers began the Missing in America Project. When individuals pass away, and there is no next of kin identified, their remains may stay at a funeral home indefinitely without anyone laying them to rest.

The Missing in America Project aims to identify veterans among those unclaimed remains and provide a funeral and burial. Sometimes these dedicated volunteers run into legal obstacles as they pursue this noble cause. H. R. 2051 serves to remove those obstacles so that these military veterans might receive the respect they have earned and a proper burial.

As Director of the Ohio Department of Veterans Services, I am pleased and honored to represent a state that has already taken action on this issue. The Ohio General Assembly passed the state equivalent of this bill which became law in 2010.

It provides an exception to the next-of-kin law so that the Secretary of the U. S. Department of Veterans Affairs, the "VA," is granted authority to determine if unidentified remains in funeral homes and hospitals across Ohio are those of a vet-

eran. If so, the VA may take disposition of the remains. The first burial of such veterans in Ohio under the Missing in America Project will take place this May at the National Cemetery in Dayton.

It is our hope that other states will pass their own legislation to address issues that are outside Federal jurisdiction. Although we have made progress in Ohio, there is still much to be accomplished on the Federal level. H.R. 2051 addresses issues that fall under Federal jurisdiction regarding veterans who are "Missing in America."

This legislation recognizes the work and dedication of the Missing in America Project, in cooperation with numerous veterans service organizations, in identifying unclaimed remains of our veterans. It also directs the VA Secretary to work with veterans service organizations to assist entities in identifying veterans eligible for burial in a national cemetery.

The VA will cover the cost of those burials if there is no next of kin and there are no resources available to cover burial and funeral expenses. Finally, this legislation directs the VA Secretary to establish a publicly accessible database of the names of any veteran or other individual so identified.

I am proud to say that the National Association of State Directors of Veterans Affairs has recently expressed support of the Missing in America project and has urged our Nation's leaders to take action. Additionally, H.R. 2051 has the support of the National Funeral Directors Association, the American Legion.

As a former member of the military who was listed as Missing in Action in Vietnam, this bill brings to mind my own family's challenge of having to deal with the uncertainty of my whereabouts and fate.

My wife, military comrades and our country made every effort to determine my fate and those of my mates and finally to return me and my comrades to our families. Just as our Nation is committed to finding and repatriating our troops who go Missing in Action on foreign soil, I hope that you will join me and Representative Tiberi to find and honor those who are still missing—but in our own homeland, America.

Prepared Statement of Capt. Wilbur D. Jones, Jr., USNR (Ret.)

MR. CHAIRMAN:

Thank you for giving me the honor and privilege to appear before your subcommittee today to testify on H.R. 2717, a Bill introduced by my Congressman, Mike McIntyre of North Carolina, which would "direct the Secretary of Veterans Affairs to designate one city in the United States each year as an 'American World War II City,' and for other purposes," including the designation of my hometown, Wilmington, North Carolina, as the first to be so designated and honored.

I am a retired Navy captain, military historian, author of 17 books, a Wilmington native who grew up there during the war, and chairman of the all-volunteer, 501(c)(3) World War II Wilmington Home Front Heritage Coalition, whose mission is to identify, preserve, and interpret the rich WWII legacy of Wilmington and Southeastern North Carolina.

Sixty-seven years after the end of World War II, Wilmington is the only city of which I am aware that can claim the title of "America's World War II City," a title proclaimed by our local elected officials and Congressman McIntyre.

Now we seek national recognition as the first "American World War II City" for both our region's mighty contributions to the war effort, and our amazing accomplishments in preserving our history since then. We are totally confident we exceed the H.R. 2717 criteria required for such designation, which we present in the following narrative as the Coalition's Thirteenth Year Progress Report, 2000–2012.

But H.R. 2717 reaches beyond just designating Wilmington as the first "WWII City." Most importantly, it establishes a process within the Federal Government to allow ALL cities with significant WWII history to vie for this designation - a major step in the continuing preservation of our national heritage, and long overdue before sites disappear, memories fade, artifacts are lost, and participants die.

On behalf of Wilmington, New Hanover County, and the State of North Carolina, I strongly urge passage of H.R. 2717, and immediate liaison with the Senate on a companion bill to be resolved for the President's signature during this Session of Congress.

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WORLD WAR II WILMINGTON
HOME FRONT HERITAGE COALITION

Thirteenth Year Progress Report, 2000 to March 2012

NATIONAL RECOGNITION AS "AMERICA'S WORLD WAR II CITY"

Following proclamations in 2008 by the Wilmington, North Carolina, City Council and New Hanover County Commissioners, Wilmington proudly claims this title. To our knowledge, no other city makes this claim after 67 years since the war ended. The claim is based on our region's vast contributions to the war effort, varied war industries, all five armed forces based here, its strategic location, and the record of its residents serving in uniform. Additionally significant is our success in preserving this WWII history. In both 2008 and 2011, our Congressman, Rep. Mike McIntyre (7th District, N. C.), inserted a "WWII City" proclamation in the *Congressional Record.* Now we seek national recognition.

Of note: The president of the National Trust for Historic Preservation wrote Congressman McIntyre on May 10, 2011, praising "Wilmington's extraordinary role in the Second World War and its equally impressive accomplishments in preserving and interpreting that history. We fully support the efforts of the World War II Wilmington Home Front Heritage Coalition to obtain national recognition...."

H.R. 2717 - AUTHORED BY CONGRESSMAN MCINTYRE

In 2011 Congressman McIntyre introduced legislation in the U.S. House of Representatives (H.R. 2717) to establish a process within the Department of Veterans Affairs to designate cities as an "American World War II City," with Wilmington being designated as the first to receive this honor. The criteria are: what did your city do to support the war effort, and what are your efforts to preserve that history?

In March 2012 the bill has 36 House co-sponsors. Congressman McIntyre's staff is working with the staffs of North Carolina Senators Richard Burr and Kay Hagan to develop a companion bill in the Senate.

H.R. 2717 resulted after attempts by the Congressman and the Coalition to identify national organizations in a position to grant Wilmington alone as "America's WWII City." None, such as the National Trust, Smithsonian Institution, National USO Headquarters, and the American Battle Monuments Commission, has the authority. So, federal legislation appeared to be the solution.

COALITION MISSION STATEMENT

The World War II Wilmington Home Front Heritage Coalition is an all-volunteer, 501(c)(3) corporation of organizations, agencies, and individuals collectively supporting our efforts to identify, preserve, and interpret the rich WWII history of Wilmington and Southeastern North Carolina. *The Coalition is the catalyst for developing and leading such preservation efforts.* The emphasis is on New Hanover County, which then was the region's economic, industrial, financial, business, social, and entertainment hub.

The Coalition operates and is administered within its By-Laws. Directors meet annually in the spring.

COALITION BOARD OF DIRECTORS

Chairman/President—Captain Wilbur D. Jones, Jr., USNR (Ret.)
Vice Chairman/Vice President—Doris G. Ayers
Treasurer—Jennifer H. Presnell, CPA
Counsel—Algernon L. Butler III
Secretary—Katherine H. Rudeseal
Leo Bednarczyk, Jean Lawler, John H. Meyer

COALITION SUPPORTERS

Coalition Supporters, such as the evolving partial list on our letterhead, are organizations and individuals who help us accomplish our mission. Their support includes recognition, advisory, financial, government relations, project-related, public relations-related, and endorsements, and as volunteers. No "membership responsibilities" are asked – no dues, no meetings, no elections, no surveys, no obligations – only support.

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H.R. 2717 CRITERION SEC. 2(B)(1)

During WWII, Wilmington and Southeastern North Carolina fully exceeded this criterion, as follows:

OFFICIAL WARTIME DESIGNATION: "THE DEFENSE CAPITAL OF THE STATE"
AKA: "THE COUNTRY'S UNIQUE WARTIME BOOMTOWN"

Strategic Location Vulnerable:

Until 1944, government told citizens to fear German sea or air attack; civilian defense drills - blackouts, air raids; rationing, food shortages; U-boats ravaged off coast; one fired on Ethyl-Dow Chemical plant at Kure Beach July 1943, possibly the only German attack on the U.S.

All 5 Armed Forces here or close by:

Army - Camp Davis on U.S. 17 at Holly Ridge, anti-aircraft artillery training base; Fort Fisher advanced training base

Navy - Anti-submarine warfare (ASW) patrol craft at nearby Southport and along Cape Fear River

Army Air Forces - Bluethenthal Army Air Base (now ILM), ASW base then P–47 Thunderbolt fighter training field

Marine Corps - Camp Lejeune at Jacksonville; Air Station at New River

Coast Guard - Patrol craft bases at Wrightsville Beach (Intracoastal Waterway), Southport area, and Wilmington

Also British ASW vessels visited and operated from here

North Carolina Shipbuilding Company, 1941–46:

Brand-new shipyard constructed in 1941, built 243 Liberty and C–2 hulls constructed for Navy and Maritime Commission; state's largest employer: 23,000 employees at height in late 1943, ca. 20% black, 20% women

Defense Industries:

Fertilizer plants, pulpwood, Block's Shirt Factory (1 million shirts for armed forces), numerous small manufacturing, creosote products, bromine (Ethyl-Dow), truck-farming, dairies, small ship/craft repair works, concrete floating drydock manufacturing

Public Housing:

5,495 units constructed (federal/local) in 7 housing projects (some still in use).

Total Manufacturing:

110 establishments employing 28,000 men and 6,000 women; retail trade area extended 75 miles inland reaching 275,000 population

Principal N. C. State Port:

Along Cape Fear River, principally downtown docks; "Lend-Lease" shipments to the United Kingdom/Soviet Union; petroleum imports center

Atlantic Coast Line Railroad Headquarters and Terminal:

A principal RR in the Southeastern U.S.; transported war material and troops; also served by Seaboard Airline RR.

3 Prisoner of War Camps:

From Feb. 1944 to April 1946; first one at Shipyard Blvd. and Carolina Beach Rd. (historical marker), then moved to Robert Strange Park (main camp, 8th & Ann Sts.; historical marker); detachment at Bluethenthal Field; maximum 550 German POW's captured from *Afrika Korps* in 1943; caused no trouble, no breakouts, worked dairy and truck farms, fertilizer and pulpwood industries.

Armed Forces Service:

Thousands of area men and women served: bomber and fighter pilots and crews; a Tuskegee Airman; P–51 Mustang ace; submarine skipper; Navy frogmen and special operations; Marine and Army infantry; Army artillery; physicians and nurses; crewmen on destroyers/carriers/amphibious ships; served in, over, and undersea in Central-Western-South Pacific, Atlantic, Mediterranean, Europe, North Africa

Deaths in Service:

191 County men died, plus 57 more with County connection = 248 did not come home; three sailors KIA at Pearl Harbor on Dec. 7, 1941; men died in combat on

Guadalcanal, New Britain, Peleliu, Saipan, New Guinea, the Marshalls, Okinawa; in and over Holland, Italy, Sicily, North Africa, France, Philippines, Germany, Burma, Belgium, Luxembourg.

Congressional Medals of Honor:

2 recipients, both graduates of New Hanover High School (Charles Murray '38, Army France 1944, and William Halyburton '43, Navy Okinawa 1945 posthumously) - believed to be only high school in country with multiple WWII MoH recipients.

Other Decorations:

2 Navy pilots awarded Navy Cross for helping to sink Japanese carrier at Battle of Midway - one was awarded total of 3 Navy Crosses; 1 Army Air Forces pilot awarded Distinguished Service Cross for Midway; 1 Army DSC recipient (posthumously) for Normandy; numerous Silver Stars, Bronze Stars, Distinguished Flying Crosses, and Air Medals.

14 County USO Facilities:

Main location at 2nd & Orange Sts., renovated and restored in 2008 to wartime appearance.

War Bonds:

$40 million raised in County in 7 drives.

Population 1940:

County 43,000; Wilmington 34,000; County late 1943 peak ca. 100,000; post-war back to pre-war

Biggest Problems:

No planning: seat-of-the-pants, trial-by-error; housing (many private homes rented rooms to workers and military); inadequate infrastructure including few main streets/thoroughfares (army constructed Shipyard Blvd. and Military Cutoff); problems: food shortages, crowded/cramped schools, long lines for restaurants and theaters, racial segregation, administering justice, transportation, accidents; crime ("sin city") - murders, rapes, fights, thefts, muggings, prostitution, black marketeering, moonshining.

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H.R. 2717 CRITERION SEC. 2(B)(2)

Since WWII, really since 1998, Wilmington and SENC have exceeded this criterion, as follows:

ACCOMPLISHMENTS WORKING WITH THE COMMUNITY

Since its founding in 2000, following its forerunner organization - the highly successful, award-winning 125-event Wartime Wilmington Commemoration in 1998–99 - the Coalition has accomplished or participated with others in accomplishing numerous projects to preserve our region's WWII history. Our primary partners have been the City of Wilmington and New Hanover County, and organizations such as the Thalian Association, Community Arts Center Accord, New Hanover High School Class of 1943, Cape Fear Museum of History and Science, New Hanover County Schools, and Community Boys & Girls Club.

Our major accomplishments include:

■Working closely with U.S. Rep. Mike McIntyre (in support of H.R. 2717) and staffs of North Carolina Senators Richard Burr and Kay Hagan in 2011–12 to obtain national recognition for Wilmington as the first designated "American World War II City."

■Spearheaded Congressional and local city and county governments' 2008 proclamations of Wilmington as "America's World War II City."

■In 2008, completed the successful 11-year public-private partnership project to rededicate the city-owned, renovated and restored WWII Hannah Block Historic USO building at Second and Orange Streets, also known as the Community Arts Center (HBHUSO/CAC).

—The lobby area is restored to its wartime appearance and hosts a museum of the Southeastern N. C. home front.

—The building is on the National Register of Historic Places.

■With the New Hanover County Schools, planned and coordinated the 70th anniversary celebration (December 16, 2011) of the HBHUSO/CAC - school children cre-

ated the observance through music, drama, dance, and decorative skills to a "Christmas 1944 at the Wilmington USO" theme.

■The City Council named the Coalition chairman as the "history representative" on its HBHUSO/CAC Advisory Board, and gave the Coalition de-facto responsibility for the building's preservation.

■Established and maintained exhibits and artifacts in the HBHUSO/CAC mini-museum:

—Numerous wall photomurals and descriptive labels depicting life in the Wilmington home front;

—A memorial to WWII New Hanover County aviators;

—A mess hall sign painted by German POW's interned here;

—Exhibits of WWII Army and Marine uniforms and female hostess outfit worn at the USO; model of Liberty ship built in Wilmington.

—Numerous original USO artifacts and reproductions of items sold to the servicemen;

—Installed original and reproduction wartime USO furniture and furnishings, such as a newspaper rack with reproduction wartime Wilmington Star-News newspapers.

■Planned, operated, and participated in the 2008 "Star Spangled Weekend" events which rededicated the renovated and restored HBHUSO/CAC.

■Held an HBHUSO/CAC open house and tours during Wilmington's "Be a Tourist in Your Own Home Town" weekends in 2010–11, and provided tours and briefings to other visitors.

■Designed, published, and distributed throughout Southeastern North Carolina and the I–95 welcome centers three editions (approximately 100,000 copies) of the popular "World War II Heritage Guide Map of Wilmington and Southeastern North Carolina," a self-guided map for residents and visitors of more than 50 WWII sites.

■Placed the *WWII Heritage Guide Map* on the internet on the websites of the CAC, Wilmington and Beaches Convention and Visitors Bureau, and *www.wilburjones.com.*

■Established a Coalition website page: *http://wilburjones.com/world-war-two-wilmington-coalition/*

■Produced two highly successful "Salute to WWII Veterans Jamborees" (2005, 2009) with nearly 200 veterans and home front workers participating, and attended by more than 1,500 persons.

■With the City, placed marker signs at both the original (Shipyard Boulevard and Carolina Beach Road) and main (10th and Ann Streets) German POW camps.

■Requested the City Council (granted) to name its new natural park on South 17th Street as the "William D. Halyburton, Jr., Memorial Park," honoring the 1943 New Hanover High School (NHHS) graduate and Medal of Honor recipient, a navy hospital corpsman killed in action on Okinawa. The park was dedicated in 2004.

■Constructed a masonry monument and garden at NHHS as formal recognition for Halyburton and our other WWII Medal of Honor recipient, Charles P. Murray, Jr. , awarded for valor in France, 1944. To our knowledge, NHHS is the only high school with multiple WWII MOH recipients. (Murray died in 2011.)

—With NHHS class of 1943, produced Wilmington Medal of Honor Day to dedicate the memorial.

■Requested the New Hanover County commissioners (granted) name the main thoroughfare street through Veterans Park for Halyburton.

■Produced and directed annual commemorations of the Japanese attack on Pearl Harbor, Hawaii, every December 7, at Battleship Park.

■Produced and published HBHUSO/CAC welcome brochures.

■Participated with the Wilmington (Downtown) Rotary Club's international project to provide WWII history books and DVD's, archival materials, and a computer and software for the Daughters of Our Lady of the Sacred Heart convent on Tarawa, Republic of Kiribati.

■Participated in planning and producing the HBHUSO/CAC's 60th anniversary celebration (2001) and USO big-band dances.

■Hosted 30 children and staff of the Community Boys and Girls Club of Wilmington, with snacks, for the movie "Red Tails," about the famed Tuskegee Airmen (2012).

■The Coalition chairman visited the Murray Medal of Honor site in Kaysersberg, Alsace, France in 2009 and 2010, and represented the Coalition at the Murray funeral visitation in Columbia, SC (August 2011).

■While attending the 70th anniversary of the attack on Pearl Harbor in 2011, the chairman visited the Halyburton gravesite in the National Memorial Cemetery of the Pacific (Punchbowl) in Honolulu, along with the USS Arizona and USS Okla-

homa memorials which honor two of the three Wilmington boys KIA on December 7, 1941: Harvey Howard Horrell, and Herbert Franklin Melton.

■To educate the public and preserve history, the Coalition chairman has:

—Authored two award-winning books on WWII Wilmington and Southeastern North Carolina (SENC): *A Sentimental Journey: Memoirs of a Wartime Boomtown,* and its sequel, *The Journey Continues: The World War II Home Front;*

—For print media and periodicals, he either wrote, or has been a principal source for, more than 175 articles, op-ed pieces, features, editorials, and letters to the editor on SENC WWII history;

—For radio and TV media, he has given approximately 100 interviews on SENC WWII history.

—Has delivered more than 500 lectures and other presentations on WWII history to various groups globally, including schools; mentors students; exhibits his boyhood wartime memorabilia collection saved while growing up in Wilmington during the war; and leads WWII site tours of SENC.

—In 2006, he received the Award of Merit for his preservation achievements from the American Association for State and Local History; in 2005, the N. C. Society of Historians named him North Carolina Historian of the Year (East).

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World War II Wilmington Home Front Heritage Coalition Statement of Cash Receipts and Disbursements From Inception to December 31, 2011

	2001–2007	2008	2009	2010	2011	Total
CASH RECEIPTS. Contributions	$ 38,126.78	$ 25,270.33	$ 1,108.00	$ 1,348.00	$ -	$ 65,853.11
Interest earned	39.21	-	-			39.21
	$ 38,165.99	$ 25,270.33	$ 1,108.00	$ 1,348.00	$ -	$ 65,892.32
CASH DISBURSEMENTS. Administrative expenses	$ 2,612.42	$ 878.31	$ 437.75	$ -	$ -	$ 3,928.48
Artwork	1,215.53	-	-	-	-	1,215.53
Aviator Memorial	-	-	-	-	81.99	81.99
Bank Fees	273.68	5.00	-	-	-	278.68
Dues	1,212.66	125.00	25.00	25.00	25.00	1,412.66
Meetings & meals	1,081.44	-	-	-	-	1,081.44
Framing	330.39	-	-	-	-	330.39
NHHS Memorial	6,045.29	-	-	-	-	6,045.29
Postage	1,565.70	226.91	44.00	44.00	-	1,880.61
Printing	8,968.72	6,940.34	2,714.23	(608.43)	126.72	18,141.58
Professional fees	-	145.07	-	-	-	145.07
Rentals	205.00	-	-	-	-	205.00
Research, consulting & writing	7,010.83	-	-	-	-	7,010.83
Sgt Eugene Ashley JROTC	-	-	-	-	100.00	100.00
Staffing	120.40	-	-	30.00	-	150.40

World War II Wilmington Home Front Heritage Coalition Statement of Cash Receipts and Disbursements From Inception to December 31, 2011—Continued

	2001–2007	2008	2009	2010	2011	Total
USO Lobby Restoration	-	13,867.03	2,572.49	854.03	231.90	17,525.45
WWII Jamboree at USO	-	-	645.79	-	-	645.79
	$ 30,642.06	$ 22,187.66	$ 6,439.26	$ 344.60	$ 565.61	$ 60,179.19
Receipts less disbursements	$ 7,523.93	$ 3,082.67	$ (5,331.26)	$ 1,003.40	$ (565.61)	$ 5,713.13

The Coalition received 501(c)(3) North Carolina incorporation in the spring of 2008.

All funds received by the Coalition are converted as soon as practical to pay for projects, functions, and administrative costs. Funds are raised primarily through soliciting small private individual and organizational donations.

The Coalition received three grants to fund the research, printing, and distribution of the three editions of the *World War II Heritage Guide Map of Wilmington and Southeastern North Carolina*. The latest was for $6,500 in 2008 from the City of Wilmington.

Tax-deductible donations to support our history preservation projects can be made payable to the Coalition and mailed to P.O. Box 425, Wilmington 28402.

—JENNIFER H. PRESNELL, CPA, COALITION TREASURER
MANAGER, MCGLADREY &PULLEN, LLP

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In Memorium – Strong Supporters and Dear Friends

HANNAH SOLOMON BLOCK—2009

HONORABLE JOHN J. BURNEY, JR.—2010

COLONEL CHARLES P. MURRAY, JR., USA (RET.), MEDAL OF HONOR, FRANCE, 1944–2011

MARGARET SAMPSON ROGERS—2011

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FUTURE PROJECTS

■ Continue pursuit through the U.S. Congress in 2012 for national recognition of Wilmington as the first to be designated as an "American World War II City."

■ With the Society of the 3rd Infantry Division, in 2012 place a historical marker at Murray's Medal of Honor action site at Kaysersberg, Alsace, France.

■ With the NHHS PTSA and Army Junior ROTC, continue re-development and expansion of the garden around the school's Medal of Honor memorial, and host alumni reception there.

■ Continue sponsorship and production of annual Pearl Harbor anniversary ceremonies on December 7th at Battleship Park.

■ Continue installation of HBHUSO/CAC new exhibits and artifacts - such as the just-acquired broken champagne bottle in net and ribbons which launched the Liberty ship SS Roger Moore in Wilmington in 1943 - and upkeep of existing exhibits in lobby area home front museum, including memorial plaques to the Medal of Honor recipients, and all New Hanover County men who died.

■ Continue sponsorship and production of HBHUSO/CAC veterans events, open houses, and other history and arts-related events.

Prepared Statement of Daniel Bendetson and Michael Bendetson

Can two students help save America from the divisiveness that has paralyzed the political process? We believe we can. Let us all agree that something in this country needs to be changed. Americans need to become proud of America again and realize how unique America is. We need to re-instill the sense of patriotism and gratitude that is so often missing particularly among young people. It is with this in mind that we are trying to enlist support for an event unprecedented in American history. Such an event would accomplish the nearly impossible - unifying a divided America five days after the November presidential election on Sunday, November 11, 2012. It is an event in which millions of Americans could stand together in unity while at the same time honoring our veterans.

The idea is very simple - a two minute moment of silence at the same time throughout this entire country on Veterans Day to honor our veterans. We have witnessed firsthand in Israel last April the power of such an idea when on their Memorial Day an entire country literally froze and stood at attention for two minutes. The sirens went off in every town, city, and in every neighborhood all over the country. Cars and buses stopped along the highways and factories halted. The Legislative and Supreme Court sessions stopped. All students, whether in kindergarten, middle school, high school or universities, stood at attention for two minutes. A similar moment of silence is also observed in England and Canada. This is how a grateful nation recognizes the sacrifices of those who gave their lives for the homeland.

When we returned home to America, we were appalled to see how little is done on November 11 to show our appreciation for those who have given to us so much. Veterans Day has become a day of mattress sales, a regular day of work for many, or a day off from school without any sense of gratitude for those who risked their lives and died for our freedom. We owe so much not only to our courageous Iraq and Afghanistan veterans but also to our Vietnam veterans and our aging Korean and World War II veterans.

It is with this in mind that we have spent the last 18 months trying to bring a similar ritual to this country. With multiple cosponsors both Senator Scott Brown and Congressman Barney Frank from our home state of Massachusetts introduced identical Bills in the House and Senate known as The Veterans Day Moment of Silence Act - HR 2498 and S 1348 on July 12, 2011. This legislation is now pending before the House Veterans Affairs Committee where we have been graciously asked to testify today before the Subcommittee on Disability and Memorial Affairs and the Senate Judiciary Committee. We have received the support and encouragement of the following:

- Vice President Joseph Biden
- House Majority Leader Eric Cantor
- Senators: Scott Brown, John Kerry, Mark Begich, Robert Casey Jr., John Thune, Joe Lieberman, James Inhofe, Saxby Chambliss, Jim Webb, and Mark Kirk
- Members of Congress: Barney Frank, Niki Tsongas, Yvette Clarke, Raul Grijalva, Michael Grimm, Stephen Lynch, Edward Markey, Silvestre Reyes, Laura Richardson, Michael Capuano, Timothy Bishop, Frank Giunta, Allen West, and Tom Price.
- Former Speaker of the House Newt Gingrich
- Governors: Deval Patrick, Nikki Haley, Rick Perry, Jon Huntsman, and Buddy Roemer
- Massachusetts Lt. Governor Tim Murray and Treasurer Steven Grossman
- Mayors: Rudy Guiliani and Setti Warren
- Our College Presidents - Mary Sue Coleman, President of the University of Michigan and Anthony Monaco, President of Tufts University

We are one nation with millions of Americans who want to stand together with our President to show unprecedented solidarity with our veterans. Let us hope on 11–11–12 millions of Americans can stand together at the same time with either our re-elected President and his Republican opponent or President Obama and the new President-Elect as the Commander-In-Chief places the wreath on the Tomb of the Unknown Soldier at Arlington National Cemetery at:

2:11 PM on the East Coast
1:11 PM in the Central Time Zone
12:11 PM in the Mountain Time Zone
11:11 AM on the West Coast
10:11 AM in Alaska and
9:11 AM in Hawaii.

One of the great things about America is that anyone can effectuate change. Let us help create a sense of unity that transcends partisan politics and create an atmosphere where we can as a civil, respectful country craft bipartisan solutions to issues that need resolution. This is part of our blueprint for a better America. We have accomplished more than we ever dreamed possible. With potential NFL involvement on Sunday, November 11, 2012, it our hope and faith that millions of Americans can join our President to honor those who serve America. Thank you for listening to us.

Daniel Bendetson
Michael Bendetson

University of Michigan, Class of 2015Tufts University, Class of 2012

Prepared Statement of Max Cleland

Mr. Chairman and Members of the Subcommittee . . . .

Thank you for this opportunity to offer testimony on H.R. 4168, *The Caring for the Fallen Act,* which would direct the American Battle Monuments Commission to assume responsibility for the former Clark Air Base Cemetery in the Philippines and to make necessary arrangements to maintain it.

We agree that Clark cemetery is a problem that warrants resolution. When the Air Force vacated Clark Air Base and the base rights agreement with the Philippines expired, the cemetery became the responsibility of the Philippine Government. Over time, this had the effect of leaving its care in the hands of a few dedicated VFW volunteers. They have done a wonderful job with limited resources, particularly considering that burials of U.S. veterans have continued since the Air Force departure, but the volunteers cannot be expected to continue that effort indefinitely.

We do not know how many of the 8,000 dead at Clark cemetery are U.S. veterans—the Clark Veterans Cemetery Restoration Association website cites 1,800 as confirmed veterans and several thousand more as presumed veterans.

We are on record with this Subcommittee as stating that Clark cemetery does not fall within our Commission's core commemorative mission. That remains true. However, given the Air Force's history with the cemetery and the fact that veterans' burials have continued, we initiated a meeting in ABMC's Virginia Headquarters last December with representatives of the Air Force and the Department of Veterans Affairs National Cemetery Administration to explore possible solutions to this issue. A consensus could not be reached on what should or could be done.

ABMC has serious concerns with H.R. 4168 as drafted. While this bill's intention is laudable, we do not believe the bill addresses adequately the issues that must be resolved before any corrective action is taken, nor do we believe the proposed budget neutrality status to be reasonable or supportable.

If the Congress should decide to move legislation forward, the Administration believes such legislation should address three critical elements: access, authority, and funding.

1. Access—To our knowledge, the United States has no legal standing to undertake any work at Clark cemetery. The Department of State would have to enter negotiations with the Philippine Government to provide long-term U.S. access to the cemetery. This would have to be accomplished before any agency of the federal government could maintain the cemetery.

2. Authority—ABMC has no authority to spend its appropriations to maintain a cemetery controlled by a foreign government and the Administration does not support any change in this position.

3. Funding—Budget neutrality is not supportable. We cannot successfully complete a project of this scale without significant negative consequences on the rest of ABMC's program. There is presently no government estimate of the cost to restore and maintain Clark cemetery. The Clark Veterans Cemetery Restoration Association estimates the restoration cost at $2.0 million and annual maintenance costs at $250,000. There are more than 8,000 graves to maintain at Clark cemetery—more than we maintain at 19 of our 24 overseas cemeteries. Most of the headstones at Clark are partially buried in volcanic ash. We suspect that the association's estimates understate the magnitude of the restoration work required.

When I testified before you on February 16, I reported that ABMC's Fiscal Year 2013 budget request for Salaries and Expenses was $2.7 million, or five percent, below our Fiscal Year 2012 appropriation. Most of that reduction will be taken in maintenance and infrastructure programs. Mr. Chairman, you asked if we could

sustain such a reduction. I told you we were okay for now, but that we cannot sustain such reductions indefinitely.

We recognize that the Budget Control Act limits all agencies, including ABMC, to a budgeted level in the outyears, and that any increase to our budget would have to be offset from another agency's outyear allowances.

Nonetheless, if the Congress directs our agency to take on a large-scale new program requirement such as the restoration and maintenance of Clark cemetery, even the association's conservative cost estimates would reduce our Fiscal Year 2013 funding request by an additional four percent—for a total reduction of $5.0 million. Taken further, this would result in a 14 percent cut in program funding for engineering and maintenance, horticulture, logistics and interpretation.

This is not "budget neutral" for an agency of our size and budget. An unfunded new mission of the scope of Clark cemetery cannot help but have a significant impact on our ability to execute our core mission.

H.R. 4168 has serious access, authority and funding issues that prevent us from supporting this legislation.

Prepared Statement of Thomas Murphy

Mr. Chairman and Members of the Subcommittee, thank you for the opportunity to present the views of the Department of Veterans Affairs (VA) on several legislative items of great interest to Veterans and the Department. Joining me today is Richard Hipolit, Assistant General Counsel.

H.R. 4142

H.R. 4142, the "American Heroes COLA Act," would amend 38 U.S.C. § 5312 to provide permanent authority for the Secretary of Veterans Affairs to implement cost-of-living increases to the rates of disability compensation for service-disabled Veterans and the rates of dependency and indemnity compensation (DIC) for survivors of Veterans. This bill would direct the Secretary to increase the rates of those benefits whenever a cost-of-living increase is made to benefits under title II of the Social Security Act. The rates of compensation and DIC would be increased by the same percentage as Social Security benefits. This bill would also make permanent the round-down requirement for compensation cost-of-living adjustments. This bill would take effect on December 1, 2013.

VA supports this bill because it would be consistent with Congress' long-standing practice of enacting regular cost-of-living increases for compensation and DIC benefits in order to maintain the value of these important benefits, but would eliminate the need for additional legislation to implement such increases in the future. It would also be consistent with current 38 U.S.C. §§ 1104(a) and 1303(a), which provide that cost-of-living adjustments to compensation and DIC amounts, if they are made, will be at a uniform percentage not exceeding the percentage increase to Social Security benefits. VA estimates that the enactment of the COLAs would result in first-year benefit costs of $831 million during Fiscal Year (FY) 2014, five-year benefit costs of $10.6 billion, and ten-year benefit costs of $59.2 billion. The bill also extends the current COLA round down to the next whole dollar (authority which expires at the end of FY2013), resulting in PAYGO savings of $29 million in FY2014, $354.5 million for five years and $1.8 billion over ten years.

H.R. 4114

H.R. 4114, the "Veterans' Compensation Cost-of-Living Adjustment Act of 2012," would require the Secretary of Veterans Affairs to increase, effective December 1, 2012, the rates of disability compensation for service-disabled Veterans and the rates of DIC for survivors of Veterans. Current estimates suggest that the consumer price index will increase by 1.9%. This bill would increase these rates by the same percentage as the percentage by which Social Security benefits are increased effective December 1, 2012.

VA wholeheartedly supports this bill because it would express, in a tangible way, this Nation's gratitude for the sacrifices made by our service-disabled Veterans and their surviving spouses and children and would ensure that the value of their well-deserved benefits will keep pace with increases in consumer prices. VA estimates that this bill would result in first-year benefit costs of $772 million in FY 2013, five-year benefit costs of $4.9 billion, and ten-year benefit costs of $10.9 billion. However, as annual COLAs are included in the baseline for the Disability Compensation program, no PAYGO costs are associated with this proposal.

H.R. 2051

H.R. 2051, the "Veterans Missing in America Act of 2011," would direct the Secretary to cooperate with Veterans Service Organizations to assist entities in possession of unclaimed or abandoned human remains in determining whether such remains are those of Veterans or other persons eligible for burial in a national cemetery. If unclaimed remains are identified as those of Veterans or other eligible persons, the Secretary would provide for burial of the remains in a national cemetery and would cover the cost of preparation, transportation, and burial of the remains. The bill would further direct VA to establish a national database of such identified individuals.

VA strongly supports the goal of ensuring that those who have earned the right to burial in a national cemetery are accorded that honor. VA commends organizations and volunteers who work to ensure that unclaimed and abandoned remains of our Nation's Veterans are identified and, if eligible, receive a proper burial in a national cemetery. To ensure that eligible Veterans receive burial in a national cemetery, VA currently works with States, counties, municipalities, and private organizations to determine the eligibility of unclaimed and abandoned remains that are held at funeral homes or coroner's offices. In this regard, VA's National Cemetery Scheduling Office (NCSO) located in St. Louis, Missouri coordinates with Federal, State, and local agencies to verify a deceased individual's identity and military service. NCSO also provides eligibility review assistance to entities such as the Missing In America Project (MIAP), to identify unclaimed remains and inter all eligible individuals. In FY 2011, NCSO processed 663 requests for burial eligibility determinations that were submitted by the MIAP, which works on behalf of entities, such as city and county coroners' offices, to ensure eligible Veterans receive proper burial. Currently, NCSO is working with the State of Oregon to identify unclaimed remains recently found in that state and determine whether such individuals may be eligible for burial in a national cemetery.

VA does not, however, support this bill insofar as it would expand existing funeral and transportation benefits to certain non-Veterans and would place no cap on the amount of such payments. Section 3(b) would require VA to pay the cost of the burial, preparation, and transportation of the unclaimed or abandoned remains of any individual who is eligible for national cemetery burial when there are insufficient resources to cover such expenses. Under current law, VA provides reimbursement benefits, up to maximum amounts specified by statute, for funeral and transportation costs associated with the burial of certain Veterans, but not all Veterans who are eligible for burial in a national cemetery qualify for these benefits. VA would support extending this benefit to all unclaimed remains of Veterans, subject to the same monetary caps generally applicable to such payments. However, VA does not support the current bill insofar as it would provide benefits for non-Veterans that are unavailable for many Veterans eligible for burial in a national cemetery and would lift the generally applicable monetary caps for this benefit.

Section 3(c) of the bill would direct VA to establish a database of the names of any Veterans or other individuals who are determined, under the identification process described in this bill, to be eligible for burial in a national cemetery. We believe this provision is unnecessary. Currently, VA maintains a publicly-accessible database, commonly known as the National Gravesite Locator (NGL), which already performs the functions proposed in this legislation. The public can use the NGL to search for burial locations of Veterans and other individuals interred in VA National Cemeteries, State veterans cemeteries, and various other military and Department of the Interior cemeteries. The NGL also provides information about Veterans buried in private cemeteries whose graves are marked with a Government-furnished headstone or maker. Names of Veterans or other individuals who are eligible for burial and whose remains are unclaimed or abandoned would be made available to the public through the NGL once they are interred. The National Cemetery Administration is working to make this database even more accessible by implementation of a mobile application.

H.R. 2051 would impose ongoing costs on VA by extending entitlement to burial and transportation reimbursement benefits for a new category of individuals, without a monetary limit on the amount of such reimbursement. However, VA presently is unable to estimate the likely extent of those costs.

H.R. 2498

H.R. 2498, the "Veterans Day Moment of Silence Act," would amend title 36 of the United States Code to add a provision requiring the President, each year, to issue a proclamation calling on the people of the United States to observe two minutes of silence on Veterans Day to honor the service and sacrifice of Veterans

throughout the history of the Nation. VA supports the goal of promoting recognition and respectful commemoration by all Americans of the service and sacrifice of our Nation's Veterans. We defer to Congress on the most appropriate means of accomplishing that goal. There would be no VA costs associated with this bill.

H.R. 2377

H.R. 2377, "The Rating and Processing Individuals' Disability Claims Act" or the "RAPID Claims Act," would amend 38 U.S.C. § 5101 to establish procedures for the expeditious adjudication of fully developed claims. Section 2 of the bill provides that, if a claimant submits a fully developed claim, VA would provide the claimant with the opportunity to waive any claim-development period that would otherwise be available and would provide expeditious treatment of the claim. A "fully developed claim" would be defined, in pertinent part, as one in which the claimant or the claimant's representative certifies in writing that no additional information or evidence is available or needed in order for the claim to be adjudicated. The term "expeditious treatment" would be defined to mean that the claim will be fully processed and adjudicated within 90 days after the date the Secretary receives the application for the benefit. Section 3 of H.R. 2377 would revise 38 U.S.C. § 5104(b) to provide that, when VA denies a benefit sought, it will provide the claimant with "any form or application required by the Secretary to appeal such decision."

VA does not support section 2 of this bill, as further statutory authority is not needed for VA to carry out its Fully Developed Claim (FDC) program. Like the bill's proposal, VA's current FDC program is designed to expedite and complete such claims within 90 days of receipt. VA has implemented the FDC program across all regional offices under the existing authority of 38 U.S.C. § 501(a)(4), which provides the Secretary's authority to prescribe rules and regulations to include establishing the manner in which claims are adjudicated. The Secretary has complied with the Veterans' Benefits Improvement Act of 2008, Public Law 110–389, section 221(a), which directed VA to carry out a one-year pilot program to assess the feasibility and advisability of expeditiously processing fully developed compensation and pension claims within 90 days after receipt of the claim. Based on the favorable results from the pilot, VA has expanded and fully implemented the program, thereby rendering H.R. 2377 unnecessary.

We are also concerned that ambiguities in the bill text could lead to expansive and unintended interpretations by reviewing courts. First, proposed section 5101(d)(1)(B) could be construed to require VA to adjudicate claims within 90 days even if the claimant does not actually waive applicable claim development periods. This concern could be addressed by revising proposed paragraph (d)(1)(B) to state that VA will provide "expeditious treatment to such claim after the claimant has waived any claim development period otherwise available."

Second, the purpose of proposed section 5101(d)(2) is unclear. That provision states that, if a person submits written notification of his or her intent to submit a fully developed claim and, within one year of such notification, submits a fully developed claim, VA will provide expeditious treatment to the claim. Because proposed paragraph (d)(1) of the statute would already require such expeditious treatment, proposed paragraph (d)(2) is unnecessary for that purpose. On the other hand, if the purpose of proposed paragraph (d)(2) is to provide that the claimant's initial notification to VA will be accepted as an "informal claim" for purposes of assigning an effective date to any award of benefits, the language of the bill does not clearly support that result. We note that, under current regulations at 38 C.F.R. § 3.155(a), VA would accept the claimant's initial notification as an informal claim if it indicated the benefit sought and an intention to apply for that benefit.

Third, the bill is unclear as to the standard VA would apply to determine that a claim submitted as a fully developed claim is not actually fully developed. Because proposed section 5101(d)(4)(A) defines the term "fully developed claim," ordinary principles of statutory construction suggest that VA should apply that definition. However, that definition of "fully developed claim" is based solely upon the claimant's representation that no further evidence is needed, and not upon VA's judgment as to whether further evidence is needed. This raises a question as to whether a VA finding that further evidence is needed would suffice to establish that the claim is not "fully developed" for purposes of the statute.

VA does not oppose section 3 of this bill, which would amend section 5104 to require VA to provide claimants whose claims are denied with any form or application required to appeal the decision, although we consider this provision unnecessary. Section 7105(b)(2) of title 38, United States Code, requires only that a notice of disagreement (NOD) be in writing, and VA currently does not require an NOD to be submitted on a specific form. VA is testing an optional NOD form at its Houston

Regional Office. VA will assess any efficiencies the form might offer in determining qwhether to release it nationally. VA anticipates that a standardized form will improve our processes. Use of a form would clearly let VA know that an individual is in fact submitting an appeal. It would also help clearly identify the appealed issues by requiring the appellant to be specific about what part of the decision he or she is appealing. If VA does determine to require use of a standard NOD form, it would certainly make that form readily available to claimants.

There would be no benefit or administrative costs associated with this proposal.

H.R. 2717

H.R. 2717 would direct the Secretary of Veterans Affairs, each year, to designate one city in the United States as an "American World War II City," and would designate Wilmington, North Carolina as the initial American World War II City. VA supports the goal of commemorating our Nation's World War II efforts on both the battlefield and the home front. We defer to Congress on the most appropriate means of accomplishing that goal. There would be no significant VA costs associated with this bill.

H.R. 4213

H.R. 4213 would amend 38 U.S.C. § 7255 to require that active judges of the U.S. Court of Appeals for Veterans Claims reside within 50 miles of the District of Columbia. This bill would also amend 38 U.S.C. § 7253(f)(1) to provide that violation of this residency requirement may be grounds for removal of a judge from the court. The absence of such a residency requirement in current law has not created difficulties for VA. Accordingly, we perceive no need for this legislation insofar as VA's interests are concerned. This bill would result in no costs or savings for VA.

This concludes my statement, Mr. Chairman. I would be happy to entertain any questions you or the other Members of the Subcommittee may have.

Prepared Statement of Hon. Bruce E. Kasold

MR. CHAIRMAN AND DISTINGUISHED MEMBERS OF THE SUBCOMMITTEE:

Thank you for the opportunity to present testimony on a proposal -H.R. 4213 -to establish in statute a duty station for the judges of the United States Court of Appeals for Veterans Claims, consistent with other federal courts, as well as a requirement to reside within fifty miles of the District of Columbia.

In the haste of creating the Court of Appeals for Veterans Claims - the youngest federa l appellate court -the application of several policy issues written in statute and applicable to federal judges in general was overlooked with regard to the judges of the Court of Appeals for Veterans Claims. A defined duty station is one example. The duty station for federal judges generally isprescribed by statute, see 28 U.S.C. ◆ 456, but until your proposal and a mirror proposal in the Senate -S. 2045 -no similar legislation has applied to the Court of Appeals for Veterans Claims. In the absence of legislation, the Court's Board of Judges has detennined that the duty station for all Court personnel, including judges , is the Court's principal office. This mirrors your proposed bill.

With regard to a residence requirement , we note that congressional mandate with regard to such a requirement for an appellate court with national jurisdiction is mixed. Although the judges of the Court of Appeals for the Federal Circuit are required to reside within 50 miles of the District of Columbia, see 28 U.S.C. ◆ 456, thejudges of the Court of Appeals for the Armed Forces have no residency requirement.

To the extent the perceived need for a residency requirement arises from concerns over the efficient operation of the Court, we note that working from a remote area is becoming more practical. Our cases are now electronically filed and stored and are accessible anywhere a judge can locate a computer. Decisions are circulated for review electronically, and this is the preferred method to distribute cases for review even for those present and working at the Court (as opposed to working remotely). Conversations can and do take place by e-mail, phone, and video (although video is not widely available at the Court yet, but likely not far off). Indeed, recently, one of our judges was on travel and worked a case electronically with his iPad while his wife was driving the car. Moreover, the advent of e-filing and enhanced electronic communication capability, as well as recent changes in the administrative

processing of appeals after they have been briefed - as discussed in my testimony before this Committee last month -have resulted in the Court's most productive years.

Should Congress proceed with a residency requirement for the Court, we suggest that it be tied to the Washington, D.C., greater metropolitan area, and not just the confines of the District of Columbia, to be consistent with the statutorily required location of the Court's principal oftke, which can be anywhere in the Washington, D.C., greater metropolitan area. See 38 U.S.C. ♦ 7255.

As you proceed to consider the subject bill applying duty station and residency requirements for the federal appellate courts in general to the Court of Appeals for Veterans Claims, it seems appropriate to now consider adding three additional equalizing policies that we have discussed in the past. Specifically, we discussed modifying the survivor benefits and insurance statutes to provide coverage generally available for the other federal judges, and amending our pay statute to provide federal appellate judicial pay, as we are the only federal appellate court not receiving such pay at this time.

There is a final equalizing bill that we urge remain under consideration. We are the only federal appellate court without its own courthouse, and, to our knowledge, the only federal court of record without its own courthouse. We understand that the Nation's current fiscal situation may not warrant building a courthouse at this time, but we share the veterans service organizations' support for such a courthouse and the concept that when the next federal courthouse is to be built, serious consideration should be given to making sure it is the Veterans' Courthouse.

Thank you again for the opportunity to testify on this matter.

Prepared Statement of Raymond C. Kelley

MR. CHAIRMAN AND MEMBERS OF THE SUBCOMMITTEE:

On behalf of the more than 2 million men and women of the Veterans of Foreign Wars of the United States (VFW) and our Auxiliaries, I would like to thank you for the opportunity to testify on today's pending legislation.

H.R. 4114, the Veterans' Compensation Cost-of-Living Adjustment Act of 2012:

Disabled veterans, their surviving spouses and children depend on their disability and dependency and indemnity compensation to bridge the gap of lost earnings and savings that the veteran's disability has caused. Each year, veterans wait anxiously to find out if they will receive a cost-of-living adjustment. There is no automatic trigger that increases these forms of compensation for veterans and their dependents. They rely on an act of Congress each year to ensure they receive the same cost-of-living adjustment (COLA) that is payable under title II of the Social Security Act.

The VFW supports this legislation that will bring parity to VA disability and survivor recipients' compensation by providing a COLA beginning December 1, 2012. However, the VFW continues to oppose the "rounding down" of the increase. This is nothing more than a money-saving gimmick that comes at the expense of our veterans and their survivors.

H.R. 4142, the American Heroes COLA Act:

Each year veterans play a lengthy waiting game to see if they will receive a cost-of-living adjustment (COLA). Part of that wait is to see if Social Security is provided COLA, then they wait to see if Congress will introduce a bill that will authorize veterans and their dependents the same increase. Congress has routinely provided this increase, but it is an added step that confuses and leaves veterans feeling uneasy until the COLA bill is passed. The VFW supports H.R. 4142, as it removes the unneeded step of passing a bill to increase COLA. As stated previously, the VFW opposes the rounding down of COLA.

H.R. 2051, the Veterans Missing in America Act of 2011:

The Missing in America Project (MIAP) has worked tirelessly around the country to find the unclaimed cremated remains of veterans. VA has had an ad hoc relationship with MIAP to provide burial options for veterans. This bill would formalize the relationship, ensuring veterans who have no living or financially capable family member are provided the level of remembrance and respect they have earned. The VFW supports this bill.

H.R. 2498, the Veterans Day Moment of Silence Act:

On November 11, 1918, the Armistice was signed ending the War to End All Wars. Twenty years later Armistice Day was recognized as a National holiday dedicated to world peace, but in 1954, after two more wars, Armistice Day was changed to Veterans Day to honor the service and sacrifice of all veterans. In 1968, in an effort to commercialize Veterans Day, a bill was signed to make the observance of Veterans Day on a Monday, giving government employees a long weekend. That law has since been reversed, but Veterans Day continues to be commercialized and to those outside the veterans' community, the holiday has lost its meaning. H.R. 2498 will help restore the meaning, and act as a bridge for the 99 percent who sleep safely at night because of the service and sacrifice of our military veterans. The VFW proudly supports this bill and its quick passage.

H.R. 2377, the RAPID Claims Act:

The Veterans' Benefit Improvement Act of 2008, now Public Law 110–389, authorized a one-year pilot program on processing fully developed claims within 90 days. Due to the pilot's success, on June 15, 2010, the VA directed all Regional Offices to begin using VA Form 21–526EZ, the fully developed claim application for disability. This directive fulfills the spirit of H.R. 2377, and the VFW believes that review of the new directive would better serve veterans and VA than statutorily mandating a change. A thorough review could expose flaws or weaknesses that could be more easily corrected through directives than through future regulatory changes.

H.R. 2717, to direct the Secretary of Veterans Affairs to designate one city in the United States each year as an "American World War II City:

Cities around our nation, big and small, have tremendous histories of supporting "the War Effort," and in an effort to preserve that history, it is suiting to designate an "American World War II City" each year. Therefore, the VFW supports the provision in H.R. 2717 to direct the Secretary of Veterans Affairs to annually bestow this title on a deserving city. The process of deciding should be done through a competitive process; therefore, the VFW cannot support the provision that will designate any city with the title outside of this competitive process.

H.R. 4168, the Caring for Our Fallen Act:

In 1991, the Department of Defense pulled out the last airmen from Clark Air Force Base, leaving Clark Cemetery abandoned. In 1994, VFW Post 2485 assumed financial responsibility for keeping the cemetery in a "state of arrested decay." To date, no government assistance, financial or otherwise, is provided for the upkeep of this cemetery. Next to the cemetery is a volcano, which erupted in 1991, leaving one foot of the headstones buried in ash. This is an unacceptable condition for our war dead, and it is time for our government to take responsibility for this cemetery. The VFW supports H.R. 4168, giving the American Battle Monuments Commission (ABMC) authority to care for Clark Cemetery. The ABMC is the best suited to assume this authority with their experience in care for cemeteries and monuments in foreign lands. However, it is important that ABMC is provided the financial resources necessary to ensure that needed improvements and ongoing maintenance can be performed without affecting their mission anywhere else on the globe.

H.R. 4213, an amendment to title 38, United States Code, to require judges of the United States Courts of Appeals for Veterans Claims to reside within fifty miles of the District of Columbia:

The VFW does not have a position on this bill.

Mr. Chairman, this concludes my statement and I am happy to answer any questions the subcommittee may have.

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

Pursuant to Rule XI2(g)(4) of the House of Representatives, VFW has not received any federal grants in Fiscal Year 2012, nor has it received any federal grants in the two previous Fiscal Years.

Prepared Statement of Verna Jones

Chairman Runyan, Ranking Member McNerney and distinguished Members of the Subcommittee:

Thank you for this opportunity to submit The American Legion's views on the legislation being considered by the Subcommittee today. We appreciate the efforts of

this Subcommittee to address the different needs of the men and women who are currently serving and those who served during past conflicts.

H.R. 4114—*Veterans Compensation Cost of Living Act of 2012 and H.R. 4142—American Heroes COLA Act*

HR 4114 provides for a Cost of Living increase for veterans receiving disability at the conclusion of 2012. HR 4142 would provide an automatic Cost of Living adjustment annually directly linked to the Cost of Living adjustment provided to those receiving Social Security.

The American Legion recognizes that veterans, like many American citizens, have seen rising costs in the household and supports annual cost of living adjustments (or COLA). The American Legion has by resolution opposed an automatic, direct correlation of veterans' COLA to Social Security, because of concerns that a direct correlation would not take into account individual requirements of veterans. Such a correlation would also leave veterans more vulnerable to political maneuvering and budgetary legerdemain directed at overall cost cutting. Veterans have earned, through their sacrifice, unique consideration.

It is important to understand how COLA increases occur, and why The American Legion remains concerned about direct correlation to Social Security. COLA increases are tied to a Consumer Price Index (CPI–W) and should the CPI rise, then the COLA will reflect this increase. This has been a source of much confusion as, in recent years, the CPI has not resulted in a positive number and therefore despite the passage of COLA legislation, veterans did not receive an actual adjustment of their disability pay for several years. Given that those veterans had seen their household costs rise over that period of time, it felt insulting and confusing to be told by the government that their costs had not gone up; therefore they would have to make do at the previous rate.

As talk circulates in Washington to tying COLA increases for large portions of the budget such as Social Security to the so-called "Chained CPI", which has an even lower rate of increase, disabled veterans can expect an even lower likelihood of increase in their disability income, in many cases the only source of income for their families.

America has already seen the unique challenges faced by veterans in increased unemployment rates. COLA increases affect two main classifications of veterans: those veterans who have been disabled by service to their country; and veterans receiving pension who are unable to work and otherwise destitute. In both cases, there are often substantial medical concerns not reflected adequately in the standard CPI–W model. Furthermore, the standard CPI–W model reflects the "*average urban wage earner*" yet a growing number of veterans are located in more rural areas and may face other challenges such as greater fuel and shipping needs to meet basic requirements of daily living.

Veterans deserve a CPI that reflects their unique challenges. While, to the best of our research there is no model specifically designed for them, there is an experimental CPI that does reflect the increased medical costs of a community that may be a better reflection of the challenges faced by disabled veterans. The CPI–E is an experimental CPI that reflects the increased health care costs faced by the elderly. Disabled veterans, like the elderly, often suffer from multiple, ongoing conditions, and a Consumer Price Index that reflects this is perhaps a better measure of what their households may expect in terms of rising costs.

The American Legion supports a one-time COLA increase this year, as we have each year it has been passed before. We must ensure veterans are getting some relief from rising costs. However, before long term measures are considered, we urge Congress to reflect on the unique considerations those disabled in our nation's service merit.

H.R. 4142 is admirable in intent. With the passage of legislation similar to this, veterans would no longer be dependent on the whims and mood of Congress to pass legislation annually to adjust their disability payments. Disabled veterans could take solace in knowing there would be an automatic mechanism to take into account their increased challenges and adjust their disability pay accordingly. However, before The American Legion can support this legislation, we urge Congress to consider modifying the legislation to be unique to veterans and their challenges, and not simply to attach our service disabled veterans to the coat tails of Social Security, to rise and fall with the fortunes of the larger group and devoid of consideration of their unique sacrifices.

The American Legion supports H.R. 4114, but cannot support H.R. 4142 as written.

H.R. 2051—*Veterans Missing in America Act of 2011*

This bill directs the Secretary of the Department of Veterans Affairs (VA) to work to identify unclaimed remains nationwide while also expressing a sense of the Congress recognizing the work done by the Missing in America Project (MIAP) in this area.

The Missing in America Project (MIAP) is a collection of little-heralded heroes working to ensure none of our nation's defenders go forgotten. This organization, working entirely through private donations and the extraordinary efforts of their membership seek to identify unclaimed remains and cremains (cremated remains) at funeral homes throughout the United States. Where the remains are identified to be veterans they are escorted with full military honors and interred in the manner befitting their service. Since being launched in 2007, MIAP has visited over 2,200 funeral homes and identified nearly 2,000 veterans' cremains out of nearly 14,000 cremains found overall

Many states have already begun to pass legislation to better facilitate this mission, so it is only natural that the federal government be enlisted to further this end.

Many American Legion members volunteer with MIAP, and The American Legion has long worked closely with this organization and supported their efforts. Increasing a governmental role in supporting this worthy task is important. The work begun by MIAP is only the beginning. While the work of volunteers is strong, and will continue with the same fervor, adding the departmental heft of the VA can help increase the scope with which this mission is carried out nationally. No veteran who has served this nation should languish forgotten and unclaimed in the back room of a funeral home.

The American Legion supports this bill.

H.R.2498—*Veterans Day Moment of Silence Act*

This bill encourages a nationwide "two minutes of silent reflection" every Veterans Day.

The American Legion is deeply committed to fostering a spirit of American patriotism and dedication to the men and women who have served this nation in times of war and in times of peace and prosperity. While The American Legion works toward an America where all citizens would stop to reflect on a daily basis of the service and sacrifice of our nation's veterans, this perfect state need not be the enemy of the good notion presented here in this legislation. We wholeheartedly support attempts to increase our country's reflection on those who have borne the battle for this great nation.

The American Legion supports this bill.

H.R. 2377—*RAPID Claims Act*

This bill codifies expeditious treatment for claims determined to be fully developed.

While The American Legion supports fast tracking claims which are presented fully developed, to expedite service for veterans whose claims do not require extensive legwork and research above and beyond the material already presented by the veteran, we question the necessity and impact of additional legislation to achieve this goal.

As we speak, VA has already initiated the most important aspects of this bill of their own volition. Additional legislation may impact the delivery of this service, causing an unnecessary ripple in a procedure that is already moving forward in a generally satisfactory manner. The American Legion recognizes the important intent behind the creation of this legislation, and the aims of this legislation are certainly admirable; however, it would seem time and events may have overtaken this worthy proposal, obviating further need of legislation. Furthermore The American Legion remains concerned the changing of statute necessary to implement this bill may potentially have a negative impact on the procedures already in place and delivering expedited service to veterans who submit fully developed claims.

The American Legion supports the aims, but questions the necessity of this bill.

H.R. 2717—*American World War II Cities*

This bill would annually designate one U.S. city as an "American World War II City" beginning with Wilmington, NC, in recognition of the deep contributions made by those cities during the World War II era.

While the spirit of recognition of the sacrifices and efforts made by American cities in World War II, and indeed in every era of American history is admirable, The American Legion has no position on the necessity of designation of cities as "American World War II Cities" at this time.

The American Legion has no position on this bill.

H.R. 4168—*Caring for the Fallen Act*

This bill would transfer responsibility of Clark Veterans Cemetery in the Philippines to the American Battle Monuments Commission to provide for ongoing maintenance and care.

Clark Veterans Cemetery in the Philippines is sometimes tragically referred to as "The Cemetery America Forgot." The American Legion remains dedicated to ensuring that name is a misnomer. For over two decades now since the United States relinquished control of the Air Base, the cemetery has languished, tarnishing the memory of those interred there, both American and Filipino. The American Battle Monuments Commission is justly recognized as exemplary in their stewardship of American war dead in foreign lands. The American Legion supports transfer of stewardship of this important resting place of our nation's fallen to the American Battle Monuments Commission. It is past time to ensure these fallen heroes' resting place is restored to the top standard they deserve.

The American Legion supports this bill.

H.R. 4213—*To amend title 38, United States Code, to require judges of the United States Court of Appeals for Veterans Claims to reside within fifty miles of the District of Columbia, and for other purposes.*

This bill would amend residency requirements for judges on the United States Court of Appeals for Veterans Claims.

The American Legion believes the primary driving focus of providing judges to the Court of Appeals for Veterans Claims (CAVC) should be their dedication to jurisprudence and their ability to manage the workload to avoid contributing to backlogs so prevalent in areas related to veterans' claims appeals. When legislation was initially enacted for some courts to require judges to live within a certain geographic proximity, modern advancements in electronic communication did not exist at present levels. Every case to appear before the CAVC is encoded in an electronic format. Given modern technology, there is no reason judges should be hampered in the performance of their duties based solely on geographic location. It is the understanding of The American Legion further that the Court is not responsible for travel expenses for judges, therefore if judges choose to incur greater travel expenses by living outside the Beltway in Washington, DC that is within their rights. It does not, to our knowledge, add any additional burden to the taxpayer, nor should this be the primary concern.

The primary concern in staffing the Court should be getting the best possible judges to fill the benches and ensuring the benches stay filled with productive judges. Adding outside perspectives from regions outside the inner circle of the DC Beltway could even be productive, reflecting better understanding of regional offices across the country. One of the complaints often registered about VA Central Office is a lack of understanding of what transpires outside the boundaries close to the flagpole in Washington, DC.

The American Legion remains dedicated to putting the absolute best possible candidates on the bench of the CAVC to rule justly over the cases of the veterans who pursue their claims to this level. In the modern, technological electronic world, geography simply does not represent the challenge it once did, and quality of applicant is a far more important criteria.

The American Legion does not support this bill.

The American Legion appreciates the opportunity to comment on the bills being considered by the Subcommittee.

Executive Summary

BILL	POSITION
HR 4114	The American Legion supports
HR 4142	The American Legion does not support as presently written
HR 2051	The American Legion supports
HR 2498	The American Legion supports
HR 2377	The American Legion supports the intent but questions the necessity of this bill
HR 2717	The American Legion has no position on this bill
HR 4168	The American Legion supports
HR 4213	The American Legion does not support

NINETY–THIRD NATIONAL CONVENTION OF THE AMERICAN LEGION

Minneapolis, Minnesota

August 30, 31, September 1, 2011

Resolution No. 60: The American Legion Policy for the United States Government to Provide Maintenance to Clark Veterans Cemetery in the Philippines

Origin: Virginia

Submitted by: Convention Committee on National Security
(Consolidated with Resolution No. 100 (P1))

WHEREAS, The United States closed its military bases in the Philippines in 1992; and

WHEREAS, The devastation caused by the volcanic eruption of Mount Pinatubo in 1991 caused the United States Air Force (USAF) to leave Clark Air Force Base on the Philippine island of Luzon; and

WHEREAS, For almost fifty years the USAF maintained the Clark Veterans Cemetery on the U.S. Clark Veterans Cemetery on the U.S. Clark Air Force Base; and

WHEREAS, This cemetery was established in 1948 to receive and honor the remains from four other United States military cemeteries that date back to the Spanish American War, cemeteries Fort Stotsenburg One and Two, the Canacao Naval Hospital at Sangley Point, and the Fort William McKinley Army Cemetery in Manila; and

WHEREAS, Over eight thousand veterans and their families and others authorized for U.S. interment repose in the Clark Veterans Cemetery, with more than half being the American veteran dead of all services; and

WHEREAS, Following base closure in 1991 the Clark Veterans Cemetery fell into disrepair and disgrace because provision was not made by the United States Government for its perpetual care; and

WHEREAS, Veterans of Foreign Wars Post 2485 with assistance of American Legionnaires has labored since 1994 to maintain the military cemetery and honor the hallowed ground and the traditions of warrior burial without support of the United States Government; and

WHEREAS, An Associated Press news article on the depressing state of the cemetery and the valiant efforts of retired veterans to support and sustain it recently appeared in newspapers throughout the United States on the fourth of July 2011; and

WHEREAS, The United States Government, through the Department of Veterans Affairs and the American Battle Monuments Commission, provides eternal and perpetual care for other military cemeteries wherein are buried our valorous comrades; now, therefore, be it

RESOLVED, By the American Legion in National Convention assembled in Minneapolis, Minnesota, August 30, 31, September 1, 2011, That the American Legion calls upon the United States Government to reassume its century old responsibility for the care and maintenance of this U. S. Military cemetery, Clark Veterans Ceme-

tery, and with that act further validates the lives of service to their county of those interred there.

Statement For The Record

Congressman Patrick J. Tiberi, Testimony for H.R. 2051, the Veterans Missing in America Act of 2011

Thank you, Chairman Runyan, Ranking Member McNerney, for having this hearing. I submit this testimony in support of my bill H.R. 2051, the Veterans Missing in America Act of 2011.

Americans rightfully remember the contributions and sacrifices made by our nation's veterans and celebrate the liberty and freedom that they made possible. Whether a service member made the ultimate sacrifice on the battlefield or returned home to civilian life after their term of service, all veterans deserve to be buried with dignity and honor. For this reason, all honorably discharged veterans are entitled to burial in one of our national cemeteries.

Unfortunately, sometimes veterans pass away without any next of kin. As a result, their remains stay at funeral homes or other institutions for years without a proper burial. Some of our nation's heroes have lain unclaimed for decades. This is an indignity that should never happen to anyone who has worn our nation's uniform. One disturbing report described how the remains of a World War I Bronze Star recipient were literally left in a rusty can on a shelf for more than 50 years because no one claimed them.

Fortunately, a group of dedicated volunteers began the Missing in America Project to address this problem. The Missing in America Project aims to identify any veterans among unclaimed remains and provides a proper funeral and burial. However, in spite of their noble intentions and hard work, sometimes these volunteers run into legal complications in pursuing this worthy cause.

So, Congressman Steve Stivers, a veteran himself, and I introduced H.R. 2051, the Veterans Missing in America Act of 2011. This bill directs the Secretary of Veterans Affairs to help organizations, like the Missing in America Project, partner with entities in possession of unidentified or abandoned remains. This partnership would determine if any of the remains are those of a veteran eligible for burial at a National Cemetery. Once eligibility is determined, the Secretary of Veterans Affairs would cover the cost of interment, if there is no next of kin and no available private resources to cover burial and funeral expenses. In addition, the bill calls on the Secretary of Veterans Affairs to establish a public database of the veterans identified in this project.

I am thankful to my constituent, Steve Ebersole of the American Legion, who first brought this problem to my attention. Also, I am honored and grateful to have the support of the American Legion, the Military Officers Association of America, the National Funeral Directors Association, and the Association of the United States Navy to help honor those who gave their lives in service to the United States. This bill allows us to take another critical step in ensuring that all veterans are treated with the dignity and respect they deserve. Their sacrifices should be recognized by providing a fitting and solemn burial.

Executive Summary of H.R. 2051, the Veterans Missing in America Act of 2011

Background

- Sometimes when individuals pass away, there is no next of kin identified, and their remains stay at funeral homes without anyone laying them to rest. The Missing in America Project started by a handful of veteran service volunteers aims to identify veterans among unclaimed remains, and provide a funeral and burial. Sometimes they run into complications in pursuing this noble cause. However, someone who served their country in the military deserves the respect of a proper burial; they stepped up and answered the Nation's call.

H.R. 2051, the Veterans Missing in America Act of 2011

- This legislation would recognize the work and dedication of the Missing in America Project, in cooperation with numerous veterans service organizations, in identifying unclaimed remains of veterans.
- The measure directs the Secretary of Veterans Affairs to work with veterans service organizations to identify unclaimed remains of veterans eligible for burial in a national cemetery.

- If there is no next of kin and there are no available resources to cover burial and funeral expenses, the Secretary of Veterans Affairs would cover the cost of burial,
- This legislation would direct the Secretary to establish a publicly accessible database of the names of any veteran or other individual so identified
- The American Legion, Military Officers Association of America, National Funeral Directors Association, and the Association of the United States Navy support this legislation.

Rear Admiral Dan McKinnon (RET), Vice Chairman, Clark Veterans Cemetery Restoration Association (CVCRA)

Chairman Runyan, members of the Subcommittee, I am retired Rear Admiral Dan McKinnon, Vice Chairman of the Clark Veterans Cemetery Restoration Association (CVCRA), speaking in behalf of H.R. 4168, introduced to honor American veterans by Congressman Frank Guinta with bipartisan co-sponsors, a bill aptly named "The Caring of the Fallen Act".

It is an honor to appear this morning and speak on behalf of over eight thousand American veterans and their families who cannot speak for themselves.

The history of Clark Veterans Cemetery (CVC) is now well known; that the cemetery was created in 1948 as an American military base cemetery with the remains of several other U.S. military cemeteries in the Philippines; that those buried are our veterans and the families of those who fought in the Civil War and all wars since including those in the Middle East; that our country abandoned the cemetery in 1991 following the destruction of Clark Air Force Base by ash from the eruption of Mount Pinatubo; that no provision was made for the perpetual care of those interred when a United States/Philippine military base agreement was rejected by the Philippine Senate; that for the past eighteen years the local VFW post has maintained the cemetery with volunteers and donations; that the CVCRA was formed to conduct research and advocate for our government to resume care of the cemetery; that the CVCRA has made formal presentations to the American Battle Monuments Commission (ABMC) and the National Cemetery Administration of the Department of Veterans Affairs (NCA VA); that both organizations believe that care and maintenance of the CVC is not in their mission and that Congressional direction is necessary.

The research we have conducted has dispelled myths used in the past by government agencies who felt that the CVC was a "local community cemetery", that "no U.S. war dead" were interred, and that the cemetery is "open to burial for Filipino civilians ... (and) Japanese civilians". Current and accurate information will be found on our Frequently Asked Questions (FAQ) Sheet", which is attached.

The CVCRA has attracted many allies whose organizational logos will be found on our web site *www.CVCRA.org;* Association of the United States Army, Association of the United States Navy, Air Force Association, Air Force Sergeants Association, Special Forces Association, Military Order of the Purple Heart, Vietnam Veterans of America, Military Officers Association of America, etc. The American Legion has passed a resolution and I am attaching a copy.

Mr. Chairman, Clark Veterans Cemetery sits equidistant between the Manila American Cemetery and Memorial and the Cabanatuan American POW Memorial, both beautifully maintained by the American Battle Monuments Commission. Adding what should be properly titled the "Clark American Cemetery and Memorial" to the ABMC mission is the practical and morally right thing to do.

Most respectfully, Dan McKinnon

Attachments:
CVCRA FAQ Sheet
Resolution No. 60, 93rd National Convention of the American Legion

FREQUENTLY ASKED QUESTIONS (FAQ) SHEET

Q. **What is the Clark Veterans Cemetery?**

A. The Clark Veterans Cemetery, previously called the Clark American or Military Cemetery, is an American military cemetery on the old U.S. Clark Air Force Base in the Philippines. It was established in 1948 following WW II to receive the remains of four earlier American military cemeteries that were being closed at the end of World War Two. Two of these cemeteries were located nearby at old Fort Stotsenburg, an Army Post that dated back to 1902, one was at the U.S. Navy base at Sangley Point on the Bay of Manila which included relocated graves from the old

USN/USMC Olongapo Cemetery, and the largest, Fort William McKinley in Manila, which was another Army post that dated back to 1901. The property of Fort Stotsenburg with its adjoining Clark Army Air Field later became the Clark Air Force Base in 1949 and Fort McKinley became the site for the Manila American Cemetery and Memorial dedicated in 1960 to honor and handle the remains of World War Two dead from the Philippines and throughout Southeast Asia.

Q. **What do you want done with the cemetery?**

A. When the USAF left Clark AFB in 1991 following the devastating impact of the volcanic eruption of Mount Pinatubo and the rejection by the Philippine Senate of any future U.S. military presence in the Philippines, there was no U.S. Government (USG) provision made for the long term care of this century old and historic American military cemetery. Stories differ over what happened and who should have done what, but the outcome was the same. The cemetery was left forgotten, abandoned and unattended with its wrought iron fencing and other valuable property looted, the grounds and headstones covered with ash, and what had been hallowed ground was left desolate, deserted and encroached with heavy vegetation. Contrary to the warriors creed to "leave no one behind", the U.S. Government has abandoned and left behind thousands of veterans, including war dead from the Spanish American and Philippine American Wars. We want the United States Government to reassume its rightful and obligatory responsibility to maintain the cemetery.

Q. **How many are buried at the Clark Veterans Cemetery?**

A. Records exist for over 8,600 – all of which were authorized for interment in their Military Post cemeteries. This includes veterans who served in every war since and including the Civil War and the more recent war in Iraq. Those interred profile a century of history of the U.S. military presence in the Philippines, including those Killed in Action (KIA) during the Spanish American and Philippine American Wars. Because the Clark cemetery was established by moving the remains of four other American military post cemeteries, after a period when the Philippines and the American bases had been devastated by WW II, much of the history and records were lost. For example, recent research has documented that 1,055 of the more than 2,100 listed as "unknowns" were soldiers, sailors and marines who died and were buried during the period 1900–1906 during the Spanish American and Philippine American Wars. In 1908, a Monument to these "Unknown Dead Soldiers, Sailors and Marines of the United States" was erected in the old Fort McKinley military post cemetery and later moved to Clark in May 1948.

Q. **Who are buried at Clark?**

A. The 8,600 burials include only those that served with our U.S. military in the Philippines since 1900 - - each authorized for interment. The cemetery is the final resting place for all non WWII dead who died and were buried in various military post cemeteries throughout the Philippines. In 1948, a decision was made to consolidate all non WWII dead in a new cemetery at Clark. The cemetery includes every branch of service and personnel serving in a broad range of specialties including Quartermasters, Trumpeters, Ordnancemen, Cooks, Boatswain Mates, Storekeepers, Airman, Marines and Seamen and their dependents. There also are a few civilians who served in Quartermaster and other military billets during the early 1900s and a handful of others - - all authorized by the U.S. Government. Over 5,000 remains were relocated from the former Army cemetery at Fort McKinley to make room for the new WWII American Military and Memorial in Manila. Many of the American military, from the time of annexation of the Philippines in 1898 from the Spanish, remained and worked as civilians were also buried.

Q. **Is there a large number of civilians buried in the cemetery?**

A. No, however at one time that was a perception. CVCRA recently retained a Military Historian who has conducted exhaustive research and found virtually all who were classified as civilians were in fact veterans. Many of these were soldiers who came to fight in the Spanish American and Philippine American Wars. Upon discharge, they remained working in the Philippines as civilians - - their headstones inaccurately reflected that they were civilians when their military records clearly demonstrate that they were in fact veterans. For example Private Henry A. Wigley served three years in the Army as a nurse in the Philippines during the Spanish American War and was assigned to the hospital at Fort McKinley, Manila. He was separated in 1901 at the end of his three year enlistment and continued to work as a health care provider treating the local population in the Philippines until the time of his death in 1916. Another example is Christian Oleson, a Teamster in the Army Quartermaster Department who died May 1, 1901 after serving in the military during the Spanish American War. Christian is but one example of literally hundreds of Teamsters, Ferriers, Blacksmiths, Wheelwrights and Packers who served in the Army Quartermaster Department in the early 1900s as a civilian but

were actually veterans who separated and continued to serve in a civilian capacity. This is not unlike what we see today in Iraq or Afghanistan where service members separate and then go to work for a company providing support services. The cemetery is comprised of American veterans and their dependents.

Q. **How about American dependents?**

A. There are military dependents buried in the cemetery. Military dependents are authorized for burial in all U.S. military cemeteries. Further, both Fort McKinley and Clark AFB hosted large hospitals. Both hospitals treated the military and their families, many of whom died of complications. Perhaps this is best illustrated in the 50 sets of twins who are interred in the cemetery. They all died due to complications during childbirth while their active duty parents were assigned in the Philippines at the time of the deaths. All the records of dependents researched to date are entitled to be buried in the cemetery and in each and every case, authorized by the military post commander.

Q. **Are there Filipinos buried at Clark?**

A. Yes There are almost 650 Philippine Scouts buried at Clark dating back to the first recorded burial in the cemetery - - Private Santiago Belona, USA who died January 13, 1900. There are over 500 Scouts buried in the American Cemetery and Memorial in Manila. Philippine Scouts served with distinction on active duty in the U.S. Army and have a proud and historic tradition. In WWII the first three U.S. Army Medals of Honor were awarded to Philippine Scouts for heroism displayed during the battle of Bataan. There were many other Filipinos who served on active duty in the Armed Forces under special programs that allowed Philippine nationals to serve in the US military on active duty. For many years through the mid 1980s, the U.S. Navy quota for Filipino recruits was 2,000 per year. It stands to reason that there would be Filipino military who served in the U.S. Armed Forces and their dependents buried at Clark.

Q. **Are there any monuments in the cemetery?**

A. Yes, several. Perhaps the most prominent is the Monument to the Unknown Dead. This historic monument was erected in 1908. The marble itself is of high quality and imported from the state of Vermont. It was originally erected in the old Fort McKinley military cemetery by the Ladies Memorial Association of Manila in remembrance of "America's Unknown Dead Soldiers, Sailors and Marines". Subsequent research has shown that the monument specifically commemorates 1,055 unknown American military dead who died between 1900 and 1906 during the Philippine American and Philippine American wars. This monument remained in the Fort McKinley cemetery and was damaged in 1944 with bullet and shrapnel pockmarks during the heavy fighting that took place on the site to liberate Manila. It was relocated to Clark along with 5,000 graves from Fort McKinley in May 1948 to make room for the new WWII American Cemetery and Memorial in Manila. The historical significance of this monument goes even deeper. The monument was engraved and installed in 1908 by Francisco Rodoreda, a Spaniard who had a marble shop on Calle Carriedo in Manila which survived the civil and social turmoil of the Spanish American War and transition from Spanish to American control of the islands. This same shop and merchant are referred to and quoted by name in Jose Rizal's "Noli Me Tangere". Jose Rizal is perhaps the Philippines most renowned and respected national hero and his book, "The Noli" is perhaps the most famous book in the country.

Q. **Tell me more about the Unknowns?**

A. All "unknowns" are unknown in name only. They are all veterans. They are buried in military cemeteries around the world, including Arlington. We know, with certainty, based on our recent research of U.S. Army archives that 1,055 died during the period 1900–1906. This information is found in the Annual Report of the U.S. War Department, submitted by the Headquarters, Philippine Division, on July 1, 1906 as explained on pages 236 – 237 of the Army Morgue Report Section delineating those who died in the Philippines during the SAW and PAW. The balance of the 2,100 unknowns, 1,045, that are now buried in CVC are the graves that were damaged during the heavy fighting that took place in the old Fort McKinley military cemetery during the liberation of Manila in 1944. Each of these 1,045 unknowns were all "known" veterans whose graves, headstones and records were lost or destroyed during the fighting. Other evidence includes photographic documentation from WWII depicting the war damage inflicted on the graves and the Monument to the Unknown Dead Soldiers, Sailors and Marines.

Q. **Can the cemetery be considered a community cemetery?**

A. No, absolutely not. The historic record is clear, the Clark Veterans Cemetery was originally established as a U.S. military cemetery and the four cemeteries from which remains were moved to create the Clark cemetery were also all U.S. military post cemeteries where only those authorized by the American government could be

buried. The cemetery has a continuous and unbroken linage of being exclusively U.S. military post cemeteries whose origins go back to the 19th century. The cemetery was American created and American controlled for the repose of American dead with the expectation of perpetual care. Further attesting to this is a Monument in the Clark cemetery that was dedicated on July 4, 1984 by the Commander of the 13th US Air Force which specifically states "it is the last active USAF cemetery outside the United States". All burials for over a century have been solely under U.S. military authority and rules and never has it been open to the public. Since the USAF left in November 1991, there have been 375 additional burials supervised by the local VFW Post. Each and every one has been an authorized American veteran, and exclusively veterans with a supporting DOD Form 214 on file. At no time in its 112 year history has the cemetery ever been a private, public or community cemetery.

Q. **Are there people from other countries buried there?**

A. There are a very small number of isolated examples where the U.S. Government authorized burials of foreign nationals because the deaths occurred on the military installation. For example, among the 30,082 Vietnamese boat people/refugees that were repatriated in 1975, there were nine that died while in American care while waiting relocation in the Clark refugee camp and processing center. There is one French Navy Commander interred in 1905 and one Royal Canadian Navy Third Class Petty Officer of Chinese decent buried in 1956 where the reasons for burials are unknown. These are clearly exceptions. The cemetery, and its four predecessor cemeteries, were all originally established exclusively as military cemeteries. All have been managed, funded and maintained, for over nine decades, as American military post cemeteries - - and to this day is exclusively an American military cemetery. The VFW Post 2485 has continued to protect the integrity and heritage to this day.

Q. **What do you want the U.S. Government to do?**

A. The United States has military and veterans cemeteries in the U.S. and all over the world. Until the USAF left the Philippines, this was one of them. It still is, however no U.S. government agency assumed responsibility after Clark Air Force Base was closed. Military cemeteries in the US are administered by the National Cemetery Administration (NCA) of the Veterans Administration (VA). The American Battle Monuments Commission (ABMC) administers those cemeteries and monuments outside the U.S. It is important that the U.S Government reassume its rightful and obligatory responsibility. CVCRA believes the American Battle Monuments Commission should be tasked with taking charge, a logical recommendation considering that they already have two nearby sites in the Philippines and have the requisite experience and infrastructure.

Q. **You said "we". Who are you and what do you represent?**

A. We are a group of veterans, former government officials, businesses and organizations, and other individuals who care about veterans and who have formed the Clark Veterans Cemetery Restoration Association (CVCRA). CVCRA is a private non-profit corporation of the state of Oklahoma established for the sole purpose of bringing attention to this forgotten and abandoned American military cemetery while advocating the U.S. Government to reassume responsibility for it. CVCRA has gained the support of many Allies, which are the leading U.S. military and veterans groups in the U.S., such as the Veterans of Foreign Wars (VFW), the American Legion, the Association of the U.S. Army (AUSA), the Association of the U.S. Navy (AUSN), Air Force Association (AFA), Vietnam Veterans Association (VVA), Military Officers Association of American (MOAA) and the Air Force Sergeants Association (AFSA) to name a few. The Military Coalition (TMC), the umbrella organization for 34 of these entities, representing 5.5 million members, is formally supporting the cause. You will find names and organizations that support this cause on our web site, www.CVCRA.org.

Q. **It is understood that the U.S. Navy some years ago rejected the idea that our government should care for this cemetery?**

A. A group of veterans brought up the subject of care of the cemetery to the Navy's Year 2000 Meeting of its Retiree Council and requested that the Navy lead an effort with the State Department, Department of Defense, the VA or the ABMC to take action. The response was "do not concur", regrettably caused in large measure by erroneous information and a misunderstanding that "Clark AFB cemetery is open to burial for Filipino civilians and military, Japanese civilians and military". This is not and was not accurate. The balance of the response used phrases such as a "lack of compelling case", "support for a request … .is unlikely", etc. It is opined that the Navy, instead of non-concurring with its veterans request out of hand, should have referred the matter to other more appropriate authorities. These could have been the National Cemetery Administration of the Veterans Administra-

tion, the American Battle Monuments Commission, or even the U.S. Air Force whose original lack of provision for the cemeteries future is a cause of the current dilemma. A unilateral rejection of interest by the Navy of a plea from its own veterans is not understood since the matter falls more likely under the jurisdiction of others.

Q. **Why did the U.S. Air Force fail to make provisions for the cemeteries perpetual care and administration when they closed the base?**

A. This is a good question. In order to understand what transpired, one has to go back to the 1990–1991 time frame. The U.S. Government had entered into sensitive negotiations with the Government of the Philippines to renew the base lease agreements. At that point in time there were protests and tensions associated with parties who wanted the Americans out of their country. This resulted in some violence and the USAF locking-down the base for some periods of time - - so tensions were high. In June of 1991, in preparation for a potential threat from a nearby volcano, the USAF flew out all aircraft and evacuated 15,000 airmen and their families to the Subic Naval Station. After weeks of touch and go, Mt. Pinatubo violently erupted totally destroying the base. Now installation commanders were faced with a destroyed base, an evacuated populace and aircraft and had a lot on their minds. Later the Philippine Senate failed to ratify extending any American presence and the USAF decided enough was enough and decided to close the base as quickly as possible. Unfortunately, in the haste to close the base, the cemetery was overlooked. A case can be made that the USAF should have passed stewardship to the ABMC or other government agency at that time, and there is some indication this was considered as official USAF documents indicate that records for the cemetery was transferred to the U.S. Embassy and ABMC in Manila. However, no one followed through and the cemetery quickly fell into a state of disrepair and disgrace.

Q. **What is the condition of the cemetery now and is anyone caring for it?**

A. In 1994, after three years of abandonment, the local post of the Veterans of Foreign Wars (VFW) stepped in to clean-up and restore the cemetery as best they could with their limited resources. Along with other civic groups such as the Rotary, American Legion and other volunteers, the VFW led the team and went on to take ownership of the cemetery absent a responsible agency of the U.S. Government. VFW Post 2485 negotiated a memorandum of agreement that dates to 1994 with the Clark Development Corporation, the Philippine government entity responsible for the Clark area, allowing the VFW to administer and maintain the cemetery. Since the cemetery has remained an exclusive American military cemetery the VFW Post has facilitated, administered and authorized only American Veterans and Philippine Scouts who served in the US Army to be buried since their assumption of management in 1994. A valid DOD Form 214 and death certificate are required. Since 1994, an additional 375 veterans have been buried - - exclusively veterans. Our VA provides the headstone and burial flag and U.S. military honors are rendered by the VFW. The VFW Post conducts fund raisers and has retained a modest maintenance staff. Two American small businesses have also volunteered to help; one constructed a new perimeter fence and attractive entrance gate, built a new memorial plaza and parking lot and provides 24x7 security. The other restored the 1908 Monument to Unknown Dead.

Q. **If the USG assumed responsibility, what would it cost to maintain the cemetery?**

A. The VFW expends $25,000 a year in actual out of pocket expenses to mow and maintain the cemetery. Given that labor rates are very modest in the Philippines, CVCRA estimates an annual budget of $250,000 would sustain the cemetery if managed by the U.S. Government allowing for a full time U.S. Civil Servant and a few more bags of fertilizer or equipment. Over time there could be a need to uncover the lower half of epitaphs buried by the volcanic ash and realign headstones. This one-time expense could be planned and programmed and placed in out-year budgets which would then bring the cemetery up to the same standard as other contemporary U.S. American Military cemeteries. For troubled veterans observing the negative publicity associated with the managerial and fiscal deficiencies of our country's flagship military cemetery, Arlington National Cemetery, the cost to maintain Clark pales in comparison to that alleged cost of malfeasance.

Q. **Since the American Battle Monuments Commission (ABMC) has a congressional charter to maintain American military cemeteries and monuments outside the U.S., has it been formerly approached to take over the cemetery?**

A. Yes. CVCRA formally briefed the ABMC Commissioners in Hawaii in November 2010. ABMC acknowledges that the Clark cemetery is, was and always has been a military cemetery; however they do not believe it is their mission. CVCRA dis-

agrees. ABMC is chartered under 36 USC 21, which CVCRA believes provides latitude for ABMC to accept management responsibility of the cemetery now. Clark is historically significant, since its creation was done at the same time as the cemetery in Manila. In fact, the Clark cemetery was on the critical path to creating the Manila WWII cemetery. Further, there is official USAF documentation that indicates that between 1991 and 1993, the USAF turned over Clark cemetery records to ABMC and the Embassy in Manila. Further, a common sense solution for the American tax payer is that ABMC is the most logical choice, because of their professionalism and standard that they maintain in all the other ABMC cemeteries on foreign soil, and because they already manage two other sites in the Philippines, both equidistant north and south of Clark. It would be easy to amend their grounds keeping, landscaping and maintenance contracts to accommodate Clark.

Q. **But do you know if the ABMC has a formal position on Clark?**

A. ABMC in a congressional letter in 2010 has indicated that they believe it is not in their mission, that it is a veteran support matter properly the responsibility of the VA. ABMC takes the position it is a VA action as a "veteran's benefits issue".

Q. **What about the U.S. Department of Veterans Affairs, National Cemetery Administration (VA NCA)?**

A. CVCRA formally briefed the Under Secretary for Memorial Affairs in January 2012. Unfortunately, the VA NCA takes the same position as ABMC and states that the CVC is not in their mission statement and therefore not their responsibility. VA NCA further argues that they do not manage cemeteries overseas; however they do manage the cemetery in Puerto Rico (which ironically was in the same situation as the Philippines both becoming American territories after the Spanish American War). VA NCA also argues that they must own the property for which they administer. The bottom line, like ABMC, VA NCA believes it is not in their mission.

Q. **Is there a preference for what American Agency should assume responsibility for the cemetery?**

A. The ABMC is the most logical choice given their overseas mission and presence in neighboring Manila, but as stated earlier, the important thing is that the U.S. Government recognizes the obligation to its deceased veterans and reassumes care and administration of its cemetery. Clark was, is, and always has been, an American military cemetery with over a hundred year record of American burials, from the Spanish American War to the present. We have focused on the ABMC as the choice most logical and beneficial to the taxpayer. The ABMC maintains the Manila American Cemetery and Memorial south of Clark as well as the Cabanatuan POW Camp Memorial north of Clark. The Clark cemetery is located between the two and it would be simple and inexpensive to add Clark to the ABMC maintenance contract. Clark also has a rich WWII history. Clark was attacked simultaneously with the bombing of Pearl Harbor, the Death March trains passed within 100 yards of the cemetery and the first hero of WW II, Captain Colin P. Kelly, who was stationed at Clark Field, earned the Distinguished Service Cross for gallantry for his actions on December 10th (December 9th in the US). After bombing a Japanese warship his aircraft was hit on his return to Clark Field. He managed to keep his B–17 airborne long enough to allow his crew to parachute to safety before he was able to escape as his plane crashed just off of the northern end of Clark's runway. Similarly the Monument to the Unknown Dead located in the Clark cemetery is dedicated to the 1,055 unknown dead soldiers, sailors and marines who died 1900–1906 during the Spanish American and Philippine American Wars and was damaged during the fighting to liberate Manila in 1945.

Q. **Do you think that the ABMC's charter and rules would prevent it from taking charge?**

A. One would hope not. Obviously there are other choices - - VA NCA and USAF being two of the more obvious. Both have some responsibilities in the matter. Our government faced a similar situation when the Panama Canal, like the Philippines at one time treated as a U.S. possession, was returned to the Panamanian government. There too was an American cemetery with a lineage to 1904. By Executive Order, the ABMC assumed responsibility in 1982 even though the burials included predominately workers who had labored on the canal. In addition the ABMC is responsible for a small 19th century U.S. military cemetery in Mexico. Also the USAF in 2008 provided $500,000 to the ABMC to assist with an engineering study of the Lafayette Escadrille Memorial in France whose private foundation had received a $2.1M USG restoration grant. Where there is a will there is a way. What is disappointing is that no Agency has picked up the challenge to help find a solution.

Q. **What is the Philippine Government position on this?**

A. The Philippine Government has been most supportive. The Philippine Government official position is that they would welcome the U.S. Government recognizing its responsibility to care and administer the cemetery. Most legal authorities believe

that a simple Usufruct Agreement, a Memorandum of Agreement or exchange of Diplomatic Notes would be sufficient for the U.S. Government to assume responsibility for the care and administration of the cemetery. This is the same legal framework that underpins most of the ABMC sites around the world. The Philippine Government is most receptive to making this happen.

Q. **What then needs to happen to fix the problem?**

A. Although we feel 36 USC 21 empowers the Commissioners of the ABMC to assume stewardship of Clark CVC, its staff and that of the VA NCA believe that authorizing legislation is necessary. Accordingly, we have worked with several congressional offices with the result that Congressman Frank Guinta of New Hampshire, with both Democratic and Republication co-sponsors, has introduced HR 4168, the "Caring for the Fallen Act", in the House of Representatives and we expect a companion bill to be forthcoming in the Senate. This legislation amends 36 USC 21 and directs the ABMC to maintain Clark Veterans Cemetery. We strongly feel that based on "history, cost, competence and law", that ABMC is the correct choice. The legislation is "budget neutral" and we hope for enactment before the year is out. This would allow the professionals of the ABMC to, over time, budget for, restore, and maintain the cemetery to their high standards, and honor the American veterans and their families interred there in the manner that is our American heritage.

Q. **Who are your Allies on this quest?**

A. We began building support in 2011 by first creating a web site where accurate information about the cemetery could be posted and updated. As our research advanced, old myths about the cemetery disappeared. We created places on www.cvcra.org where individuals could show they cared by signing on as "Champions" and organizations as "Allies". Last summer the American Legion passed a resolution of support and we expect the VFW to do the same this year. Many other wonderful organizations like Vietnam Veterans Association (VVA), Military Order of the Purple Heart (MOPH), Special Forces Association (SFA), Military Officers Association of America (MOAA), the Association of the U.S. Army (AUSA), Association of the U.S. Navy (AUSN), Air Force Association (AFA) and many others have added their support and signed up as Allies. We began talking to and emailing Senators and Congressmen and many of our Champions who signed on to help us did the same. Individual Senators and Congressmen like Senators Ayotte and Webb and Congressman Guinta were early supporters. In early 2012 we made a presentation to the "The Military Coalition", the umbrella organization of the 34 veterans and military service organizations that speak and advocate on behalf of 5.5 million members for veteran issues before our Congress and the American people. They have added our quest to their 2012 TMC legislative goals and agenda. There is no reason why any American who values those men and women who served their country would not join in our effort.

Q. **Why hasn't something been done before?**

A. After the U.S. Air Force departed in 1991, followed by three years of abandonment, much of the history and all of the records were misplaced or became lost. In 1994 volunteers of VFW Post 2485 stepped forward to do what they could, however they had no experience administering cemeteries; and without records or a documented history resorted to word of mouth and folklore when answering inquiries. Over the next two decades a lot of misinformation began to emerge, much of it harmful indicating that CVC was a private cemetery, that it was a civilian cemetery, or that foreign nationals including Japanese, Chinese and Spanish were all buried there. None of which was true, however the damage had been done and it served to dampen and limit external public interest. In 2010, a group of concerned veterans began researching the history of CVC. The more they found, the more they realized how badly the history of the cemetery had been tarnished and distorted and that something had to be done. In 2010, they formed a not for profit organization, the Clark Veterans Cemetery Restoration Association (CVCRA), whose sole purpose is to research, educate and convince the U.S. Government to "right a wrong". One of the first efforts was to create an interactive web site where accurate information could be exchanged. CVCRA then retained a military historian to formally conduct research of U.S. military archives. The information that emerged has proven and illustrated that the CVC is, was, and always has been a military cemetery. Unfortunately, there was two decades of misinformation in the public domain that had to be corrected. CVCRA has been successful correcting the record through formal briefings to ABMC, VA NCA and members of Congress, and by sharing this information through the *www.cvcra.org* web site. This has resulted in a better understanding of CVC's rich American military history.

Q. **How can I help?**

A. Go to the Clark Veterans Cemetery Restoration Association (CVCRA) web site, *www.cvcra.org,* and sign on as a "Champion". If you are a member of an organiza-

tion, encourage your organization to sign on as an "Ally". And of course, help us get legislation passed by writing your Congressman and asking them to sign on and support HR 4168 and write your Senators to sponsor a companion bill in the Senate.

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