STATEMENT OF

THE DEPARTMENT OF DEFENSE

BEFORE THE

COMMITTEE ON VETERANS' AFFAIRS

UNITED STATES SENATE

ON PENDING LEGISLATION

JUNE 8, 2011

Chairman Murray, Ranking Member Burr, and members of this distinguished Committee thank you for extending the invitation to the Department of Defense to address pending legislation that would significantly affect our Servicemembers: S. 277, the proposed "Caring for Camp Lejeune Veterans Act of 20 11"; S.486, the proposed "Protecting Servicemembers from Mortgage Abuses Act of 2011 "; S. 491, the proposed "Honor America's Guard-Reserve Retirees Act of 20 11"; S. 698, the proposed bill to amend title 38, United States Code, to codify the prohibition against the reservation of grave sites at Arlington National Cemetery, and for other purposes; S. 951, the proposed "Hiring Heroes Act of 2011".

The Department has no comment on S. Con. Res. 4, the concurrent resolution expressing the sense of Congress that an appropriate site on Chaplain's Hill in Arlington National Cemetery should be provided for a memorial in memory of the Jewish chaplains who died while on active duty in the Armed Forces of the United States since this resolution recently passed the Senate and has now been referred to the House Committee on Veterans Affairs and the House Armed Services Committee.

The Department does not support S. 277 and shares some comments.

The Department supports the proposed bill S. 486 as drafted, with one caveat: the mortgage protections of section 533 should only be extended to 12 months rather than to the proposed 24 months.

The Department is working with VA to develop an Administration position on S. 491, the “Honor America’s Guard-Reserve Retirees Act of 2011.” S. 491 would amend title 38, United States Code, by creating a new section that would honor as Veterans certain persons who performed service in the reserve component, while providing no additional benefits.

The Department recommends modifying S. 698 according to details provided in this testimony.

The Department recommends modifying S. 951 and the Department's comments are limited to sections directly impacting the Department.

The Department defers positional comment to the Department of Labor (DOL) on S. 1104. The Department looks forward to our continued strong collaborative partnership with DoL's Veterans Employment and Training Service (VETS) and will work together for the best interest of those who have served.

The Department defers to the VA on S. 1060. DoD does not have any specific concerns.

<u>Summary of the Department's views on pending legislation</u>

<u>S. 277</u>

The Department does not support S. 277. S. 277 would furnish hospital care, medical services, and nursing home care implemented and funded by VA to veterans who were stationed at Camp Lejeune "while the water was contaminated," as well as family members who accompanied them. As explained in testimony by the Department of Veterans Affairs (VA), there is insufficient medical evidence to support this approach.

In addition, the Marine Corpsnotes that this bill creates inequities between veterans, family members, civilian employees, and government contractors. Section 2(a) of S. 277 provides that veterans who were stationed at Camp Lejeune during the applicable period (to be determined by the VA Secretary in consultation with Agency for Toxic Substances and Disease Registry) would be eligible for hospital care, medical services, and nursing home care from the VA "for any illness, notwithstanding that there is insufficient medical evidence to conclude that such illness is attributable" to water that was contaminated by volatile organic compounds (VOCs). Section 2(b) of S. 277 states that family members of veterans who resided at Camp Lejeune during the applicable time would be "eligible for hospital care, medical services, and nursing home care" from the VA for any condition or disability associated with exposure to contaminants in the water. The legislation makes no provision for civilian employees and government contractors.

S. 486

The Department of Defense (DoD) supports the proposed bill S. 486 as drafted, with one caveat: the mortgage protections of section 533 should only be extended to 12 months rather than to the proposed 24 months.

Although DoD hesitates to recommend against any protection extended to Servicemembers, we believe that a three-month extension more fairly balances the equities of all parties, including the lending industry, and would help ensure that no backlash against the Servicemember—perhaps in the form of decreased credit opportunities—is ever considered.

An extension to 12 months would align the foreclosure protections of section 533 with the current 12-month interest rate cap of section 527 (for pre-service mortgage obligations). This would help reduce confusion over the current, unevenly-extended protections.

S. 491

S. 491 would amend title 38, United States Code, by creating a new section that would honor as Veterans certain persons who performed service in the reserve component. With enactment of this legislation, members of the National Guard and Reserve who qualify for retirement after 20 years of service, but did not serve on a period of active duty of sufficient duration to satisfy statutory requirements for Veteran status, will be acknowledged as a Veteran for honorary purposes. The bill would not convey any additional benefits to these members not already provided in statute. The Department is coordinating with VA to develop an Administration position on this bill.

S. 698

S. 698 would amend title 38, United States Code, to codify the prohibition against the reservation of gravesites at Arlington National Cemetery. As drafted, S. 698 would prohibit more than one gravesite per eligible veteran and would also prohibit gravesite reservations prior to the time of need with an exception for written “requests” for a reserved gravesite made prior to January 1, 1962 regardless of current eligibility requirements. Current Army regulations

establish a "one-gravesite-per-family" policy. This rule has been in effect since 1961. One important element of Army policy is that the Army may allow exceptions to the "one-gravesite-per-family" policy when strict adherence to the policy is not feasible. This policy is set forth at 32 C.F.R. § 553.18(a) and Army Regulation 290-5 § 2-5(a). S. 698, as drafted, does not, but in the Department's view should, provide the Secretary of the Army with the requisite authority to make an appropriately justified exception to the "one-gravesite-per-family" policy. The Department recommends modifying S. 698 accordingly.

Similarly, the Army currently prohibits reserving gravesites prior to time of need and does not honor gravesite reservations unless (1) the reservation was made in writing before the "one-gravesite-per-family" policy was established, (2) an eligible person was interred before the one-gravesite-per-family policy was established, and (3) the person holding the reservation for the adjacent gravesite is eligible for interment at Arlington National Cemetery under current Army eligibility rules. This policy is set forth at 32 C.F.R. § 553.18 and Army Regulation 290-5 §2-5. This exception to the prohibition on reservations is necessary because prior to the "one-gravesite-per-family" policy, individuals were not interred at depths that would accommodate two or three subsequent burials in the same gravesite like they are today.

As drafted, proposed section 2410A(b) in S. 698 reflects the Army's current policy prohibiting reservations. Section 1(c)(2) of S. 698, however, creates an exception to the prohibition on reservations for those who have a "written request for a reserved gravesite [that] was submitted to the Secretary of the Army before January 1, 1962." This exception would alter current Army policy by allowing reservations for those with only a reservation request rather than an approved reservation before 1962. The requirement for a valid reservation, not just a request, is necessary to implement S. 698. The Department has no objection to the reporting requirement contained in section 1(d) of S. 698.

<u>S. 951</u>

The Department's comments on S. 951 are limited to sections directly impacting the Department.

Section 2: The Department is not opposed to the provisions of section 2 that would extend Section 1631 (b)(1) of the National Defense Authorization Act (NDAA) for 2008 (Public Law 110-181) through December 31 2014. Section 1631 (b)(1) allows Service members, with a severe injury or illness to receive vocational, rehabilitation and employment benefits (but not compensation) from the Secretary of Veterans Affairs to facilitate their recovery and rehabilitation while still a member of the Armed Forces. Extending this benefit provides Service members with disabilities assistance in identifying the training requirements and resources needed to achieve their rehabilitation and employment goals.

Section 6: The Department does not support section 6 as written. In FY 2010 there were approximately 155,000 active component retirements/separations with an 82.5 participation rate in the Department of Labor (DOL) employment workshops. Section 6 will require mandatory participation in the DOL Employment Workshop for all transitioning Service members and does not allow any exceptions. As written, this section would require the following personnel to be retained on active duty until they have completed this TAP component: Unanticipated losses (i.e., administrative discharges), approximately 57,000; Demobilizing/deactivating Guard/Reserve Component Service members to complete the same program as their active duty counterparts, approximately 100,000; and several thousand Individual Mobilization Augmentees (IMA).

This provision also assumes increased TAP participation will correlate with an increase in transitioning Service members obtaining employment. DOL is currently revamping its 2 ½ day employment workshop and will have the new workshop in place in November 2011. The Department recommends an analysis of the impact of the new workshop on employment before mandating this component of TAP for all transitioning personnel.

There is also an unknown, but potentially huge resource requirement that is currently not addressed in the President's budget, which would result from extending the previously noted categories of Service members on active duty in order to be in compliance with mandatory TAP requirements. This would require an in-depth cost analysis, showing the impact of extending

personnel on active duty to provide TAP counseling/briefings as well as to determine the impact on existing facilities (i.e., adequate classrooms, additional counselors/coaches, administrative support staff, IT support, equipment/computers, and IT infrastructure). A mandatory TAP requirement would also be a huge increase on costs for demobilizing National Guard and Reserves, to include post deployment follow-up for up intervention for employment assistance. Such costs would also need to be part of an in-depth cost analysis.

In lieu of mandatory employment workshop participation for all separating Service members, the Department recommends considering mandatory participation for Service members with 10 or fewer years of active duty service (if the goal is to impact the group with the highest unemployment rate) with an "opt out" provision for all others. The Department also recommends having TAP components provided no later than 6 – 9 months before discharge and allow Service members access to partnership programs with private employers or methods to develop/refine job skills prior to discharge

Section 9: The Department believes that section 9 is unnecessary as it duplicates existing processes that provide the capability to crosswalk Service member skills to equivalent civilian occupations, and therefore opposes section 9 of S. 951.

During mandatory (required by statute) preseparation counseling, Service members are informed about the Occupational Information Network. The revised DD Form 2648, Preseparation Counseling Checklist for Active Component (AC), Active Guard Reserve (AGR), and Reserve Program Administrator (RPA) Service Members, states, "counselors will provide information on civilian occupations corresponding to Military occupations (see Occupational Information Network (O*Net website) at www.online.onetcenter.org/crosswalk and related programs..."

The Occupational Information Network (O*NET) is under the sponsorship of the US Department of Labor/Employment and Training Administration. The O*NET program is the nation's primary source of occupational information. Central to the project is the O*NET database, containing information on hundreds of standardized and occupation-specific descriptors. The database is continually updated by surveying a broad range of workers from

each occupation. O*NET OnLine contains crosswalks between the O*NET-Standard Occupational Classification (SOC) and the Classification of Instructional Programs (CIP), Dictionary of Occupational Titles (DOT), Military Occupational Classification (MOC), Registered Apprenticeship Partners Information Data System (RAPIDS), and Standard Occupational Classification (SOC).

Additionally, the Department of Labor's Employment and Training Administration has a long-standing record of assisting transitioning Service members with O*NET.

Another program is the United States Military Apprenticeship Program (USMAP), a partnership between Secretary of Labor, Secretary of Navy and Secretary of Transportation. Out of 300 enlisted Military Occupational Specialties (MOS's), 257 are covered under USMAP trades/occupations employing apprenticeship. Occupations offered through USMAP cross over into several civilian industries, including servicing, manufacturing and construction, and transportation/utilities.

Section 10: The Department opposes section 10. The authority under this section is too broad in its application and scope. It would appear the language would simply allow veterans to be non-competitively appointed to the GS system within 180 days of discharge. There appears to be no provision on how we would establish qualifications. Given we have a myriad of hiring authorities for veterans, we do not see what problem this language is trying to solve. Further, it runs the risk of making it extremely difficult for someone who is not a veteran to gain entry level employment in light on this authority. We run the risk of inadvertently giving veterans preference that is far overreaching and will likely be challenged by the Merit Systems Protection Board.

Section 12: The Department is not opposed to the provisions of section 12 which would allow the Department to establish a pilot program to provide separating Service members, who are on terminal leave, work experience with civilian employees and contractors of the Department of Defense to facilitate the transition of those members from service in the Armed Forces to employment in the civilian labor market. The Department realizes the value of programs that

improve the employment outcomes for our transitioning service members, such as those that provide exposure to the civilian work environment while working for the Department. The Department of Labor, Veterans Affairs, and Homeland Security all jointly develop and contribute to the Transition Assistance Program, and we look forward to working with them to improve transition outcomes by using new and creative ideas, such as the one provided in this section.