STATEMENT OF
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BEFORE THE
SUBCOMMITTEE ON COMPENSATION, PENSION, INSURANCE
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MISTER CHAIRMAN AND MEMBERS OF THE SUBCOMMITTEE:

On behalf of the more than one million members of the Disabled American Veterans (DAV) and its auxiliary, I wish to thank you for this opportunity to present DAV's views on the controversy surrounding access to Department of Veterans Affairs (VA) medical treatment and VA disability compensation for veterans exposed to ionizing radiation, referred to hereinafter as "atomic veterans."

At the outset, Mr. Chairman, we wish to thank you, Ranking Democratic Member Representative Evans, and the members of this subcommittee for scheduling today's oversight hearing regarding the problems experienced by atomic veterans with respect to access to VA health care and disability compensation. Clearly, action taken by this subcommittee will materially affect the lives of America's citizen/soldiers who were placed in harm's way by our government for the sole purpose of obtaining first-hand evidence about the effects of exposure to ionizing radiation.

As my testimony will show, some atomic veterans have not received adequate health care treatment for the ailments believed to be associated with radiation exposure. Nor have the vast majority of atomic veterans been compensated for their residual disabilities. The remedial legislation passed by Congress over the years has not had the desired effects and must be revisited in order to provide meaningful health care and disability compensation for this group of veterans.

As you know, Mr. Chairman, the issue of ionizing radiation and its potential adverse health effects have been present for more than 50 years. Atomic veterans and their loved ones have been patiently waiting for answers from the scientific and medical communities, as well as responses to their concerns from Congress and the VA. Unfortunately, all too often those answers were not forthcoming. Nor does it appear that definitive answers will ever be known. For each study done concluding one point, another study surfaces to discount the findings of the prior report. Thus, the debate rages, with no apparent end in sight.

Before I get into the specifics of VA health care for atomic veterans, let me state that atomic veterans experience the same frustrations as all other veterans who attempt to access the VA health care system -- a system inadequate to meet veterans' medical needs and their demand for services. The crisis in VA health care results from years of inadequate funding and a "patchwork" approach to addressing the health care needs of veterans. In addition, atomic veterans believe that their particular medical needs are not being adequately met because the physicians who examine them, for the most part, do not have expertise in the harmful effects produced in body tissue by exposure to ionizing radiation to properly diagnose their illnesses and injuries. In fact, some atomic veterans honestly believe that these physicians are "intent on not encouraging radiation claims and, therefore, play down the medical problems" of atomic veterans.

Generally speaking, receiving disability compensation from the VA is another frustrating aspect of the ionizing radiation debate. All too many radiation claims are denied due to the unanswered questions from the scientific and medical communities, the apparent failure of dose reconstruction methods to adequately reflect the true extent of radiation exposure experienced by atomic veterans, and the inability to obtain meaningful adjudication of radiation claims. All too often, atomic veterans, their dependents and survivors are denied compensation from our government for the residual illness, disease, or death allegedly associated with exposure to ionizing radiation while others, such as the Marshall Islanders, receive compensation from the United States Government for the same disability(ies).

Before getting to the specifics of my testimony regarding access to VA health care and the payment of disability compensation for atomic veterans, I would note for the record that the DAV membership, present at our National Convention in Las Vegas, Nevada in July 1995, adopted a resolution in support of a military medal to recognize and honor the courage, sacrifice and devotion to duty of those veterans exposed to ionizing radiation during military service. This is but a small step towards recognizing the honorable service of these brave men and women, and we call upon the members of this subcommittee to support such legislation.

I also call your attention to another resolution passed by the delegates at our last National Convention in Las Vegas, Nevada, noting the inaccuracy of dose reconstruction estimates provided by the Defense Nuclear Agency (DNA) and calling for the condemnation of this action by DNA as well as urging the VA to undertake a review of the accuracy of dose reconstruction estimates by DNA. Your kind attention to this matter would be greatly appreciated.

At the very least, our government needs to take immediate action on these two items.

CONTROVERSY SURROUNDING POTENTIAL HEALTH EFFECTS OF EXPOSURE TO IONIZING RADIATION

Radiation exposure may be external or internal. External radiation exposure occurs when the radiation source is outside the body. External exposure can come from standing in a cloud of radioactive gas, swimming in water that has radioactive material in it, or x-rays. Internal radiation exposure occurs when radioactive material is taken into the body by such means as

eating, breathing, drinking, or through cuts or breaks in the skin. Both external and internal radiation exposure can directly harm internal organs, cells, and tissues.

After radioactive material is taken into the body, some of it may enter the bloodstream. This blood then flows through various organs and tissues in the body, providing them with material necessary for their functioning. The body does not distinguish between radioactive and nonradioactive materials. Sometimes, radioactive substances concentrate primarily in one organ of the body and that organ, therefore, receives a larger dose of radioactive substance than do other organs. Other times, the radiation substance is distributed throughout the body. The dose received by different parts of the body depends on a number of factors, including whether the radiation substance dissolves easily in the blood, the type and energy of the radioactive material, the amount of radioactivity present, and its distribution in the body.

The radioactive substance, once taken into the body, will continue to give off radiation until either it has decayed or is eliminated from the body through normal metabolism. The rate of decay depends on the radioactive substance's half-life -- the time required for a radioactive substance to lose one-half of its activity by radioactive decay. Half-lives for different radioactive substances vary from hours to thousands of years. Plutonium, for example, has a half-life of 24,100 years.

For obvious reasons, researchers know more about the effects of high-dose radiation on the immune system than about low-dose radiation exposure. High-dose radiation is defined as any exposure above fifty rad to the whole body. A rad is the unit of radiation dose used to measure the amount of energy a body absorbs from ionizing radiation. Information on the effects of high-dose radiation exposure comes from studies of Japanese atomic bomb victims, radiation accidents, such as the accident at Chernobyl, and studies of Marshall Islanders exposed to radiation fallout from nuclear tests in the 1950s.

Less is known about low-dose exposure -- less than fifty rads to the whole body -- and its effect on the immune system because of the delayed period of time between the incident of exposure and the development of the disease. The late effects may show up months, years, or even decades after the exposure.

Currently, there is much controversy surrounding the adverse health effects resulting from low-dose exposure to radioactive substances. Some believe that even the smallest exposure to radiation has the potential to cause an adverse health effect. And, while it is probably safe to say that exposure to radiation increases the risk of cancer, the controversy involves which cancers are caused by radiation exposure and at what levels of exposure.

For example, the National Research Council's Fifth Committee on the Biological Effects of Ionizing Radiation (known as "BEIR V") concluded that the information from scientific studies about people who received doses under ten rem (the unit of dose equivalent, which is the amount of any ionizing radiation that produces the same biological effect as one rad of gamma or X-radiation) was insufficient to determine cancer risk. Over all, however, BEIR V concluded that cancer risk from radiation exposure is higher than regulatory and advisory groups had

previously described. Some scientists reach quite different conclusions, arguing that the BEIR V report overstated the risk of radiation-induced cancer, while other scientists argue that the report underestimates this risk.

In the middle of this swirling controversy is the atomic veteran, his or her family and survivors. It is understandable that atomic veterans, their family members and survivors would be concerned about the illnesses related to exposure to ionizing radiation. These concerns are further compounded by frustration, mistrust, and anger due to the involuntary nature of their exposure to ionizing radiation, the secrecy surrounding the tests and the atomic veteran's level of exposure, and the lack of information (or conflicting information) about the chronic health effects due to their exposure to ionizing radiation.

Many mistrust the agency established to care for them -- the VA -- because it is part of the government, a government they perceive as covering up the true facts about the extent of their exposure and the adverse health effects associated with that exposure. While Congress has enacted a number of laws to provide atomic veterans with priority access to VA health care and VA disability compensation for their illnesses, diseases, and disabilities due to exposure to ionizing radiation, very few atomic veterans are able to access the VA health care system and receive adequate care and treatment. Even fewer atomic veterans and their survivors are able to establish entitlement to VA disability compensation benefits.

ACCESS TO VA HEALTH CARE

Access to VA health care for atomic veterans is provided pursuant to title 38, United States Code, Section 1710, *et seq*. Public Law No. 104-110, 110 Stat. 768 (1996) extended the authority to provide priority health care for atomic veterans until December 31, 1996.

More than a quick review of the code, however, is needed to determine what type of care is provided and to whom. Under Section 1710(a)(1)(G): "the Secretary *shall* furnish hospital care, and *may* furnish nursing home care, which the Secretary *determines* is needed. . . to a veteran exposed to a toxic substance, radiation, or environmental hazard, as provided in subsection (e) of this section. . . ." (Emphasis added.) *See also* 38 C.F.R. § 17.47(a)(5).

Pursuant to Section 1710(e)(1)(B), ". . . a veteran. . . exposed. . . to ionizing radiation is eligible for hospital care and nursing home care. . . for *any* disability notwithstanding that there is insufficient medical evidence to conclude that such disability may be associated with such exposure." (Emphasis added.) However, "[h]ospital and nursing home care *may not* be provided. . .with respect to a disability that is found, in accordance with the guidelines issued by the Under Secretary of Health, to have resulted from a cause other than an exposure described in... paragraph (1) of this subsection." 38 U.S.C. 1710(e)(2).

The VA may also furnish outpatient care to an atomic veteran to prevent the need for hospitalization, to prepare for hospitalization, or for a condition for which the atomic veteran was hospitalized. An atomic veteran who is eligible for hospital care under Section 1710(a) may also qualify for outpatient treatment from the VA if he or she meets the annual income limitation

under 38 U.S.C. 1503. If those criteria are met, the VA must provide for outpatient medical care. *See* 38 U.S.C. § 1712 (a)(2)(B), 5(A), (B); 38 C.F.R. § 17.60 (b)(2), (e)(3).

Veterans claiming health conditions relative to radiation exposure are reportedly evaluated clinically by means of physical examination and diagnostic studies. The VA physician then makes the determination as to whether the condition resulted from a cause other than the specified exposure. Veterans who are not provided care under these conditions can still receive medical care if they are eligible under any other statutory authority.

Also available to the atomic veteran is the Ionizing Radiation Register mandated under Pub. L. No. 99-576 (1986), "Veterans Benefits Improvement and Health Care Authorization Act of 1986." It consists of physical examinations with access to supplemental data on compensation claims and radiation dose estimates.

On paper, these provisions appear to provide adequate access to medical care for atomic veterans. Yet, atomic veterans and their families believe otherwise. Some believe that the VA's sole emphasis is directed toward only those diseases that are recognized as "radiogenic diseases" and, if you do not have one of these disease, you are just wasting your time. There are also concerns that these physicians do not have a sufficient background in radiation diseases to properly diagnose their condition. They also believe that these physicians are concerned about encouraging compensation claims and, therefore, diagnose diseases other than those associated with radiation exposure, such as psychiatric problems or irritable bowel syndrome.

Are these problems real or perceptions based on a mistrust of the government? It is difficult to determine, but certainly, Congressional oversight is in order to ensure that atomic veterans are receiving adequate quality health care treatment.

VA DISABILITY COMPENSATION BENEFITS

Prior to the enactment of the Veterans' Dioxin and Radiation Exposure Compensation Standards Act, Pub. L. No. 98-542, 98 stat. 2725 (1984) ("the Act"), the authority for 38 C.F.R. § 3.311 (formerly 38 C.F.R. § 3.311b), there was no legal limitation to establishing service connection for residuals of ionizing radiation exposure. Service connection for a disability is generally established when a veteran's present condition can be reasonably related to an injury or disease which is shown to be incurred coincident with service. *See* 38 C.F.R. § 3.303(a). Determination of service connection is based on a broad and liberal interpretation of the law consistent with the facts in each individual case. *Id.* It has long been the VA's policy that any condition which can be attributed to service shall be granted direct service connection, no matter how long after service the condition first became manifest. *See* 38 C.F.R. § 3.303(d). However, because of the difficulty in proving causation in ionizing radiation cases, and the significantly small number of claims which had been allowed, Congress, in 1984, recognized that, statistically, there was enough of an association between some diseases and radiation exposure to establish them as "radiogenic." Congress responded by enacting remedial legislation, the Act, whereby a veteran, suffering from a "radiogenic disease," was not required to submit evidence of causation.

During the debate in 1984 on the Act, Senator Cranston shared some figures with his colleagues which he believed demonstrated "very clearly a key source of frustration" felt by veterans and their survivors:

> As of the present date. . .the VA has allowed no cases in which the veteran alleges exposure at Hiroshima or Nagasaki. Of the 1,646 claims related to exposure through participation in the nuclear testing program, a total of only 30 have been granted. . . .
>
> The VA's track record. . .is as follows: 98% of all nuclear test-related cases have been denied; 97% of all nuclear test-related cases for malignancies have been denied; 88% -- about 100 -- of all nuclear test-related cases for leukemia -- as to which there is no question. . .of its link with exposure to ionizing radiation -- have been denied; as a whole, taking into account the Hiroshima and Nagasaki occupation forces, the VA's record is even worse than those figures suggest.

130 Cong. Rec. S. 6147 (ed. daily. May 22, 1984).

Senator Cranston also stated: ". . .I believed, and I continue to believe, that the Government which exposed these veterans to this acknowledged health risk has a moral obligation to take responsive action to address their concerns." *Id.* at S. 6145.

The stated purpose of the 1984 Act is "to ensure that [VA] disability compensation is provided to veterans who were exposed during service. . .to ionizing radiation. . .for all disabilities arising after service that are connected, based on sound scientific and medical evidence, to such service. . . ." The Act, § 3. Congress's findings included: There is scientific and medical uncertainty regarding the long-term adverse health effects of exposure to ionizing radiation. *Id.* § 2(2). Due to the long latency period involved, radiation claims present adjudicatory issues which are significantly different from issues generally presented. *Id.* § 2(12). "It has always been the policy of the [VA] and is the policy of the United States, with respect to individual claims for service connection. . .that when, after consideration of all evidence and material of record, there is an approximate balance of positive and negative evidence. . .the benefit of the doubt in resolving each such issue shall be given to the claimant. *Id.* § 2 (13).

Presently, the VA recognizes 20 diseases as "radiogenic diseases" -- a disease that may be induced by ionizing radiation -- under § 3.311. These "radiogenic diseases" include leukemia, other than chronic lymphocytic leukemia; breast cancer; lung cancer; bone cancer; liver cancer; skin cancer; esophageal cancer; stomach cancer; colon cancer; pancreatic cancer; kidney cancer; urinary bladder cancer; salivary gland cancer; multiple myeloma; posterior subcapsular cataracts; non-malignant thyroid nodular disease; ovarian cancer; parathyroid adenoma; and tumors of the brain and central nervous system.

Pursuant to the provisions of 38 C.F.R. § 3.311, an atomic veteran diagnosed with a recognized "radiogenic disease" can have his or her claim for direct service connection for residuals of exposure to ionizing radiation adjudicated by the VA, notwithstanding the fact that the atomic veteran does not have any medical evidence to establish a cause and effect relationship between his exposure to ionizing radiation and his diagnosed "radiogenic disease." Otherwise, (based on a recent court decision discussed *infra*) an atomic veteran who believes that his or her disability, not found on the list of "radiogenic diseases," may have his or her claim for service connection on a direct basis adjudicated by the VA providing the atomic veteran has medical evidence to support the claim. Once the atomic veteran has demonstrated that he or she suffers from a "radiogenic disease" or provides medical evidence of a cause and effect relationship between his or her disability and exposure to ionizing radiation, the VA, pursuant to § 3.311 must obtain a dose estimate as to the range of doses to which the atomic veteran may have been exposed. Final review of direct service connection claims based on exposure to ionizing radiation is conducted by the Under Secretary for Benefits, who may obtain and consider any opinion of the Under Secretary for Health in reaching his determination whether the atomic veteran's disease resulted from radiation exposure in service.

Mr. Chairman, although § 3.311 was passed by Congress in 1984 as remedial legislation, designed to assist atomic veterans and their survivors in obtaining compensation for illnesses, diseases, disabilities, and death due to exposure to ionizing radiation, this legislation has benefited very few atomic veterans or their survivors. Until recently, the VA considered the list of "radiogenic diseases" as an exclusive list thereby refusing to consider any claims for direct service connection for residuals of radiation exposure if the atomic veteran or his or her survivors could not demonstrate that the atomic veteran suffered from a listed "radiogenic disease," regardless of the evidence submitted in support of the claim. The VA's practice of adjudicating only those claims where the atomic veteran suffered from a recognized "radiogenic disease" was overturned by the United States Court of Appeals for the Federal Circuit on September 1, 1994, in *Combee vs. Brown*, 34 F.3d 1039, 1045 (Fed.Cir. 1994).

The *Combee* case is an excellent example of the seemingly insurmountable obstacles which face atomic veterans and their survivors in attempting to establish service connection on a direct basis for residuals of exposure to ionizing radiation. Mr. Combee served in the United States Army during World War II and was part of the army of occupation of Japan serving in Nagasaki in 1945. As early as 1977, Mr. Combee's white blood cell differential count was abnormal. In July 1982, his platelet count was noted to be "very low" and a low white blood cell count with a "leukopenia" was also noted. In 1986, leukopenia and thrombocytopenia were diagnosed. In 1987, Dr. Russell, a VA physician in the immunology division, stated, "I believe it highly likely that this patient's inadequate bone marrow function which is causing his disability, is all due to his radiation exposure in 1945." Dr. Russell, in 1988, concluded, after having reexamined Mr. Combee, that "the only explanation for his condition is radiation exposure." Dr. Ballester, who examined Mr. Combee in 1989 at the University of South Florida, Department of Internal Medicine, Division of Hematology, stated that "[i]t is possible that his exposure to radiation has played a major role in the condition as this prolonged and severe leukopenia. . .with evidence of bone marrow damage and lack of white cell production could be the result of radiation exposure." In 1990, Dr. Berchelmann stated that Mr. Combee's disabilities was

"explainable from long-standing marrow failure which can be caused by radiation exposure." Dr. Berchelmann went on to conclude his statement by indicating, "[i]t is my opinion that his leukopenia and thrombocytopenia can be due to radiation exposure."

It is interesting to note that as early as 1950, the 8th edition (1950) of the Merck Manual reported that "symptoms associated with anemia, leukopenia, and thrombocytopenia, appear" after months or years of chronic exposure to low-level doses of radiation. Leukopenia and thrombocytopenia continue to be listed in the 16th edition (1992) of the Merck Manual under delayed effects of prolonged or repeated exposure to low-dose rate from internal or external sources of radiation. Unfortunately for Mr. Combee, his claim for service connection for residuals of exposure to ionizing radiation was consistently denied by the VA at the agency of original jurisdiction and the Board of Veterans' Appeals, as well as at the United States Court of Veterans Appeals. After the United States Court of Appeals for the Federal Circuit reversed the lower court's decision and the VA's practice, Mr. Combee's case was remanded to the agency of original jurisdiction for further adjudication. Like so many other atomic veterans, Mr. Combee succumbed to his disabilities before his claim could properly be adjudicated on the merits.

Once an atomic veteran seeking direct service connection for residuals of exposure to ionizing radiation has established that he or she suffers from a recognized "radiogenic disease" or has provided the VA with medical evidence of a cause and effect relationship, the burden of proof then shifts to the VA for consideration of the case on the merits. It is at this point that atomic veterans face their greatest obstacle in establishing their entitlement to service connection. Dose estimates and dose reconstruction data for the various radiation tests are handled by the Defense Nuclear Agency.

In more cases than not, no actual individual exposure record is available for the atomic veteran, and reconstructed dose estimates routinely fail to provide an accurate estimation of the level of radiation exposure experienced by the atomic veteran. Film badges, not issued to all participants in nuclear tests, did not provide a complete measure of radiation exposure, since they were not capable of recording inhaled, ingested, or neutron doses, or often shielded during the detonation, and were worn for only limited periods during and after each nuclear detonation.

Many atomic veterans who participated in the nuclear tests in the Pacific report visiting these islands a short time after the test detonation and eating locally grown fruits and swimming in the lagoons. Atomic veterans who participated in the Nevada test sites report being covered in fallout dust which was either brushed off of them by hand or with brooms. Many report being transported to mess halls shortly after walking through "ground zero" and not being able to properly clean themselves before eating. These factors are extremely important in determining a proper reconstructed dose estimate; however, it does not appear that the participant's comments are used to further the analysis with regards to the dose reconstruction estimate. Without accurate reconstructed dose estimates, atomic veterans and their survivors find it virtually impossible to obtain the benefits they seek.

All too often, reconstructed dose estimates show that the overwhelming majority of participants were supposedly exposed to one rem or less of external doses of ionizing radiation.

It is extremely difficult to believe, based on the statements made by participants, that their total exposure was so minimal. The DAV believes that a great injustice has been done to America's atomic veterans and their survivors. As will be discussed later, only ten percent of those atomic veterans who seek compensation for their residual disabilities are granted service-connected benefits, although the VA cautions that "[i]t cannot be inferred from this number that service connection was necessarily granted on the basis of radiation exposure." In other words, although the atomic veteran claimed residual disability as a result of his exposure to ionizing radiation, the claim could have been allowed under general principles establishing service connection such as the disease or illness was evidenced in the service medical records, etc..

It cannot be overemphasized that radiation claims are wrongfully denied because of inaccurate reconstructed dose estimates used as the basis for the determination that the estimated minimal level of exposure experienced by the atomic veteran was insufficient to cause the cancer or other disease ravishing the atomic veteran's body. The reality is that atomic veterans are fighting a losing battle, not only with the disease or diseases that have taken away their good health, but with the very government that put them in harm's way.

An example of such a case is that of a deceased atomic veteran, Michael W. Stanko, who died in 1985. Mr. Stanko's claim for residuals of radiation exposure and his widow's claims have been before the VA for 17 years, and was recently remanded to the Board of Veterans' Appeals by the United States Court of Veterans Appeals. After her husband's death, Mrs. Stanko pursued the claim, in her own right, for survivor's benefits. Although Mr. Stanko's claim had been denied, in part, due to minimal exposure to ionizing radiation, a postmortium plutonium study performed on Michael Stanko showed a 98 rem bone dose, 33 rem lung dose, and 7.5 rem ingested dose. It is extremely difficult to understand why this claim has not been successfully resolved long before now.

Adjudication of radiation claims pursuant to 38 C.F.R. 3.311 have been a total failure. With almost 95% of atomic veterans failing to establish service connection for their illness, disease, or disability, the remedial legislation passed in 1984 has not provided atomic veterans with meaningful consideration of their claims. The present statistical data showing an extremely high denial rate has changed very little since 1984 when former Senator Cranston expressed the need for this remedial legislation.

In May 1988, aware that something more was needed, Congress passed Pub. L. No. 100-321, § 2(a), 102 Stat. 485, which grants service connection on a presumptive basis for certain diseases becoming manifest in an atomic veteran to a degree of 10% or more. Currently, the list of presumptive diseases, a total of 15 in all, include: leukemia, other than chronic lymphocytic leukemia; thyroid cancer; breast cancer; cancer of the pharynx; esophageal cancer; stomach cancer; cancer of the small intestine; pancreatic cancer; multiple myeloma; lymphomas, except Hodgkin's disease; bile duct cancer; gall bladder cancer; primary liver cancer, except if cirrhosis or hepatitis B is indicated; salivary gland cancer; and urinary tract cancer. While 20 diseases are recognized as "radiogenic diseases" pursuant to 38 C.F.R. § 3.311, only 15 diseases are presumed to be service-connected as a result of exposure to ionizing radiation. Yet, pursuant to the Marshall Islands Nuclear Claims Tribunal Act, 25 separate medical conditions are

irrebuttably presumed to be the result of radiation exposure and Marshall Islanders are compensated for these disabilities. It is difficult to understand the lack of consistency in these lists. Why are only 15 diseases given a rebuttable presumption of service connection for atomic veterans while Marshall Islanders receive an irrebuttable presumption for 25 medical conditions? Further, at the very least, why are not all 20 "radiogenic diseases" presumed to be service-connected as a result of ionizing radiation exposure pursuant to 38 U.S.C. 1112(c)? Why does our government continue to put the needs of its veterans behind those of other groups, such as the Marshall Islanders? America's veterans should always be considered a special and unique group for having served their nation with honor.

The Defense Nuclear Agency has identified 222,968 participants of the U.S. Atmospheric Nuclear Tests (personnel who attended more than one test series are counted more than once.) Approximately 150,458 participants were involved in the nine tests which took place in the Pacific. Almost 68,000 participants were involved in the nine tests in Nevada, and more than 4,500 participants participated in the Atlantic test. As of April 1, 1996, VA statistics show that there have been a total of 18,515 radiation cases. Service connection has been granted, as of April 1, in 1,886 cases. Again, it is important to note that the VA states that it cannot be inferred from this number that service connection was necessarily granted on the basis of radiation exposure. Statistics current as of December 1, 1995, demonstrate that of the total number of cases in which atomic veterans have been granted service connection, 463 involve the granting of presumptive service connection pursuant to § 1112(c).

Something is seriously wrong with this process if atomic veterans, such as Mr. Combee and Mr. Stanko, are continuously denied service connection for the residuals of radiation exposure when the evidence clearly warrants an allowance in those cases. Atomic veterans have waited too long to receive, not only the recognition they so richly deserve for their dedication to duty, but also the services and benefits to which they are entitled.

Congress should consider making all the recognized "radiogenic diseases," and any other disease, illness, or disability that others, such as the Marshall Islanders, are being compensated for, with those diseases for which presumptive service connection is granted. The Marshall Islanders have an irrebuttable presumption, at the very least, America's atomic veterans should receive a rebuttable presumption for all diseases, illnesses or disabilities for which others are compensated.

The DAV commends this subcommittee for it's recent, favorable action on adding bronchiolo-alveolar carcinoma, a form of lung cancer, to the list of diseases presumed to be service-connected for veterans exposed to ionizing radiation. As stated above, however, all recognized "radiogenic diseases" including lung cancer should be added to the list of diseases presumed to be service-connected.

While we note that these new benefits would come under the "pay-go" provisions of the Budget Enforcement Act, it appalls us to think that in order to pay for the provisions of this new legislation, some other worthy program or group of wartime disabled veterans or their dependents will have to give up their compensation to fund new legislation to benefit atomic

veterans. Congress must realize that paying for disabilities of wartime disabled veterans is nothing more than an extension of the costs of the war waged by our government. In the case of atomic veterans, their disabilities not only stem from our wartime actions, but also from our government's desire to learn of the effects of radiation exposure in the event of future nuclear wars.

It is unconscionable to think that one worthy group of wartime disabled veterans must give up an entitlement so that another worthy group of wartime disabled veterans can receive benefits or services to which they are entitled. "Pay-go" provisions should not be applied to benefits or services affecting wartime disabled veterans.

The DAV calls upon Congress to correct this injustice and to provide an exemption to "pay-go" provision of the Budget Enforcement Act when new benefits are provided to wartime disabled veterans.

In closing, I would like to refer to a phrase which appears on the *Atomic Veterans'* Newsletter, published by the National Association of Atomic Veterans, Inc. that states: "The atomic veteran seeks no special favor. . .simply justice." This justice is long overdue. DAV encourages this subcommittee to do everything necessary to ensure that this group of forgotten veterans -- atomic veterans -- receive meaningful justice from our government.

This concludes my statement. I would be happy to answer any questions you may have.