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Statement of
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The American Legion
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United States Congress
On The Legislative Priorities of
The American Legion
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INTRODUCTION

Messrs. Chairmen and Members of the Committees:

As The American Legion's newly elected National Commander, I thank you for this opportunity to present the views of its 2.5 million members on issues under the jurisdiction of your Committees. At the conclusion of The American Legion's 91st National Convention in Louisville, Kentucky, delegates adopted 53 organizational resolutions, with 36 having legislative intent. An additional two resolutions with legislative intent were approved at the National Executive Committee meeting on August 24, 2009 in Louisville, Kentucky for a total of 38 resolutions with legislative intent. These mandates create the legislative portfolio of The American Legion for the remainder of the 111th Congress.

As the summer of 2009 turns to fall, America is poised at a critical point in history. Issues, such as national health care reform, stimulus packages, and increased national debt, are in the news daily. There has been significant talk of change in the last year. But what cannot change is The American Legion's or the Nation's obligation to ensure that the brave men and women, who have worn the uniform of this nation, are not forgotten. The Global War on Terrorism – Operations Iraqi Freedom (OIF) and Enduring Freedom (OEF) – have already generated nearly one million discharged veterans, all of whom are guaranteed access to health care through the Department of Veterans Affairs (VA) for the first five years after their return home. With these new veterans come new challenges. In particular, the demographic of the American veteran is changing. Now we have a much more diverse veterans' population than in past generations. This diversity includes a growing and significant number of women veterans who sacrifice no less than their male counterparts. In this war without a "front," there are no "safe areas". As such, women who historically were not severely wounded in previous conflicts are returning home with limbs missing, terribly burned, and blinded. In addition, closer daily contact between male and female service members has unfortunately led to Military Sexual Trauma (MST) issues which must be addressed compassionately. Timely access to quality health care, the improved GI Bill, and other veterans' benefit programs must adjust and adapt to the needs of this "newest generation" of wartime veterans. Hundreds of thousands of OIF and OEF veterans are now using their VA health care benefits, increasing the workload of a health care system that was overburdened

before the

war began. It is a sacred and time honored obligation of The American Legion to make sure these veterans have the services they need and timely access to the care they have earned and deserve. By working together, The American Legion and the members of both the House and Senate Veterans' Affairs Committees have made considerable progress in recent years to meet that obligation. We have fought for better funding for the VA health care system and, thanks in large part to you and your colleagues, received it. During visits with returning veterans from both theaters, The American Legion recognized the need for gender specific treatment procedures and facilities. In response, we are working diligently to address and resolve these matters. We have lobbied for greater attention to mental health services, including Post Traumatic Stress Disorder (PTSD) and Traumatic

Brain Injury (TBI) care, which have become known as the "signature wounds" of the wars we are fighting today. We have offered The American Legion services across the nation, to care for those who come home severely wounded, through The American Legion Heroes to Hometowns program, and through a well-trained and VA-certified corps of expert Department Service Officers. In addition, The American Legion family has over 6,000 VA Voluntary Service (VAVS) regularly scheduled volunteers that provide over 900,000 hours of volunteer services every year -- an estimated saving of over \$17 million to VA. We have worked with Congress and the Administration to ensure that the Federal government, particularly VA and DOD, has what it needs to provide quality health care, disability compensation, rehabilitation and transitional programs to all eligible veterans. We have made progress, but we are not there yet.

The backlog of VA benefits claims remains a source of continuous frustration -- a national embarrassment. While new attention has been given to mental health care for returning veterans, VA providers say they cannot keep up with it all. In some communities, it is a crisis. Funds have not been budgeted for new VA medical facilities that have been in blueprints far too long. VA must undertake a new future, with a new generation of wartime veterans with unique needs entering the system, while at the same time honoring the service of -- and caring for -- those of past wars and conflicts.

The American Legion applauds the 111th Congress for recommending FY 2010 funding allocations for many VA accounts that meet or exceed funding targets proposed by The American Legion in testimony presented earlier this year. We continue to be thankful for the hard work of both chambers in passing a comprehensive and effective Post 9-11 GI Bill that more accurately reflects the sacrifices of America's service members. However, issues remain to be resolved. Particularly issues for veterans who elect to utilize "Online" educational resources or those who, due to family and economic considerations, must return immediately to the work force, rather than elect a full-time education must be addressed.

The process of providing adequate and compassionate services to veterans is continuous. We must stay on top of the changes in health care, in technology, and foremost, among the profile of the "new generation" of veterans we serve. With that in mind and on behalf of The American Legion, I offer the following budget recommendations for the VA budget for FY 2011:

**BUDGET PROPOSALS FOR SELECTED DISCRETIONARY PROGRAMS
FOR DEPARTMENT OF VETERANS AFFAIRS FOR FISCAL YEAR 2009**

*The American Legion continues to support using Medical Care Recovery Funds as supplements, not offsets to discretionary VA funding.

VETERAN'S HEALTH CARE

Since VA official inception in 1921, The American Legion has worked diligently as the leading advocate for proper health care for this nation's veterans. We have also witnessed improvement in VA health care services during its transitions from a bureau to an administration, and now a cabinet-level department.

The Veterans Health Administration (VHA) currently provides integrated health care delivery services to eligible and enrolled veterans through 153 Medical Centers, 755 Outpatient Clinics, and 232 Vet Centers in all 50 states and the District of Columbia, Guam, Puerto Rico, and the U.S. Virgin Islands. Additionally, The American Legion salutes VA's initiative to utilize mobile clinics as an outreach for rural veterans, who live long distances from a traditional VA medical facilities.

A SYSTEM WORTH SAVING

Soon after VA's elevation to the cabinet-level, The American Legion discovered veterans did not have timely access to VA's medical care system. In 2002, The American Legion initiated the "I Am Not A Number" campaign to determine the quality and timeliness of health care delivery within VA. This campaign surveyed veterans on their personal experiences with the VA health care system and provided The American Legion with a clear snapshot of the needs of VHA system wide. These actual accounts of veterans' experiences highlighted a trend within VHA; veterans reported the quality of care was exceptional, but criticized the difficulty of access to treatment.

The criticism prompted The American Legion to conduct site visits to 60 VA Medical Centers nationwide and compile a report highlighting the issues affecting the VA health care system; most issues were found to be a result of years of inadequate funding. This report titled, "A System Worth Saving," covered issues from Medical Care Collection Fund (MCCF) targets, wait times, budgetary shortfalls, and staffing levels.

The "A System Worth Saving Task Force" utilizing The American Legion national staff facilitators to conduct VA medical facility site visits, as well as interview new veterans who are transitioning into the VA health care system, concluded that the 2009 site visits should focus on the issues encountered by veterans as they seek treatment. The plan included conducting site visits at Vet Centers, VA Medical Centers, and Community Based Outpatient Clinics (CBOCs). Overall challenges discovered during the 2009 VA facility site visits included lack of parking, personnel, funding, and clinical space.

For 2010, VA says it expects to treat approximately 6.1 million veterans. This represents only 25 percent of the total veterans' population. Currently, VA has approximately 8 million veterans enrolled in its health care system. Veterans from World War II, Korea, Vietnam, the Cold War, Gulf War, and OIF/OEF are represented. Currently, the average age of Vietnam veterans is approximately 62. Many have retired or are approaching retirement age. As they do so, countless numbers are visiting VA Medical Centers with issues associated with conditions connected to the Vietnam War. The advance of medical technology on the battlefield has increased the survival rate of service members returning from theater in Iraq and Afghanistan. OIF/OEF veterans are appearing at VA Medical Centers in record numbers with very complex injuries and illnesses. This complexity includes gender-specific issues and treatments as well as the need for gender-specific treatment facilities as required by VA Policy.

From 1990 to present, approximately 5 million veterans have served in the Gulf War area, to

include OIF/OEF. Since 2002, approximately 870,000 OIF/OEF veterans left active duty and become eligible for health care. Of that total, 40 percent or 348,000 have obtained health care. In addition, 95 percent of the 348,000 of veterans evaluated have been seen as outpatients by VA. In January 2003, VA suspended new enrollment of veterans assigned to Priority Group 8e or 8g, which was VA's lowest priority group consisting of higher income veterans. Veterans were placed in these Priority Groups if their household income exceeded both the current year VA national income threshold and the geographic income threshold for the veteran's residence; or the veteran declined to provide his/her household financial information and did not have any

special qualifying eligibilities such as a compensable VA service-connected disability. Since 2003, The American Legion has strongly opposed the decision and called for the reinstatement of enrollment and access to health care for all Priority Group 8 veterans. In June 2009, VA reinstated and extended health care enrollment for veterans who had been excluded due to their income. Although the initial count for enrollment was 266,000, VA also assured that within the next four years, 500,000 Priority Group 8 veterans will be enrolled in VA's health care system.

VA says "this incremental approach to expanding enrollment insure that access to VA health care for a greater number of beneficiaries does not sacrifice timely access or quality medical care for those veterans already enrolled in VA's health care system." The American Legion remains watchful over the incremental enrollment process to assure veterans are enrolled and also receive health care in a timely manner. The American Legion also maintains that VHA must ensure that all veterans left out of the VA system in 2003 not be delayed access to the care they deserve. It has been seven years since the initial "A System Worth Saving" VA site visits and The American Legion remains diligent at pinpointing various issues, to include current budgets on VA's ability to deliver care in a timely manner. America's veterans are turning to VA for their health care needs and, as we welcome home injured veterans, it is forever our responsibility as advocates to work together to ensure VA is indeed at fiscal and physical capacity to provide treatment all veterans.

The American Legion has compiled the site visit reports in the 2009 "A System Worth Saving" publication, which will be disseminated to Congress, the VA Secretary, The American Legion departments in every state, District of Columbia, Guam, Puerto Rico, and the U.S. Virgin Islands, and each respective VA facility visited.

BUDGET REFORM FOR VETERANS' HEALTH CARE

The American Legion and eight other major veterans' and military service organizations joined forces to urge Congress to provide annual Federal appropriations that are timely, predictable, and sufficient. These three components are critical for effective long- and short-range decision-making by VA management.

Although the annual discretionary appropriations in FY 2007, FY 2008 and FY 2009 represented an improvement over years of budgetary shortfalls, the VA continues to suffer financially due to its playing fiscal catch-up. As the past, current, and future generations of veterans turn to VA for solutions to their medical conditions, it is vital that VA meet these needs head-on with the fiscal capacity to cover such demands. The provision of additional support and accommodations to meet veterans needs include continuation of assured funding, clinical providers, nurses, and space.

The influx of service members returning from Iraq and Afghanistan has increased the demand for

various clinical providers, nurses, space, and facility changes. Although VA saw the FY 2009 appropriations on time for the first year in years, The American Legion contends that as each fiscal year approaches, assured funding is essential to proactively meet various challenges faced at VA medical facilities.

The American Legion also believes the time for serious reform of the Federal appropriations for veterans' health care that would provide timely, predictable, and sufficient appropriations for VA medical care. We continue to urge Congress to act now to guarantee that we, as a nation, will always provide the funding necessary to ensure the complete care for those who seek access to quality health care through the VA health care delivery system.

Traditionally, VA health care administrators have had no definitive dollar amount reserved to operate the nation's best health-care system, nor have they known the availability of the funding. The American Legion believes the solution to preventing the VA medical care budget from reverting back to an untimely, unpredictable, and insufficient cycle, is to mandate advance appropriations. In this way, the Secretary will know at the beginning of the fiscal year the amount available to meet the needs of enrolled veterans. An additional advantage is it does not cost anything. In addition, it reveals one-year in advance the amount of funding available for VA medical care.

The American Legion sincerely appreciates the leadership of both Chairmen for introducing legislation, HR 1016 and S 423, the Veterans Health Care Budget Reform and Transparency Act of 2009. We thank you for the opportunity to

testify in support of these measures and the timely passage by your Committees and both chambers. The American Legion urges swift action on the bill. We look forward to the bill arriving on the President's desk for approval.

The American Legion is pleased that the Military Construction, Veterans' Affairs and Related Appropriations Act for FY 2010 in both chambers contains advance appropriations for VA medical care for FY 2011. The thank you and your colleagues for making this major change a reality.

The American Legion fully supports advance appropriations for VA medical care in this and future appropriations legislation.

MEDICAL CARE COLLECTIONS FUND

The Balanced Budget Act of 1997, Public Law (PL) 105-33, established the VA Medical Care Collections Fund (MCCF), requiring amounts collected or recovered from third-party payers after June 30, 1997, be deposited into this fund.

The MCCF is a depository for collections from third-party insurance, outpatient prescription co-payments and other medical charges and user fees.

Funds collected may only be used to provide VA medical care and services, as well as VA expenses for identification, billing, auditing and collection of amounts owed the federal government. The American Legion supported legislation to allow VA to bill, collect, and reinvest third-party reimbursements and co-payments; however, The American Legion adamantly opposes the scoring of MCCF as an offset to the annual discretionary appropriations since the majority of these funds come from the treatment of non-service-connected medical conditions. Previously, these collection goals have far exceeded VA's ability to collect accounts receivable. Since FY 2004, VHA's total collections increased from \$1.7 billion to \$2.4 billion in FY 2008; a 41.1 percent increase. During the same period, third-party component of VA's collections also

increased from \$960,000 to \$1.26 million; a 31.3 percent increase. VA's ability to capture these funds is critical to its ability to provide quality and timely care to veterans. Miscalculations of VA required funding levels result in real budgetary shortfalls. Seeking an annual emergency supplemental is not the most cost-effective means of funding the nation's model health care delivery system. Government Accountability Office (GAO) reports continue to raise the issue of VHA's ability to capture insurance data in a timely and correct manner. In addition, they continue to express concerns of VHA's ability to maximize its third-party collections.

A 2008 (GAO) report stated VA lacks policies and procedures and a full range of standardized reports for effective management oversight of VA-wide third-party billing and collection operations. Although VA management has undertaken several initiatives to enhance third-party revenue, many of these initiatives are open-ended or will not be implemented for several years. Until these shortcomings are addressed, VA will continue to fall short of its goal to maximize third-party revenue, thereby placing a higher burden on taxpayers.

In addition, GAO recommended an improvement of third-party billings; follow-up on unpaid amounts, and management oversight of billing and collections. In 2006, VA established a business operation model to improve operations and increase collections. This model, the Consolidated Patient Account Center (CPAC), is expected to generate \$1.7 billion in revenues for VA over the next 10 years. The American Legion believes all funds collected by CPACs on behalf of each individual VA Medical Center should be reserved for that respective facility. The American Legion opposes offsetting annual VA discretionary funding by the MCCF goal, especially since VA is prohibited from collecting any third-party reimbursements from the nation's largest Federally-mandated health insurer, Medicare.

MEDICARE

Veterans, like most American workers, pay into the Medicare system without choice. Their support of Medicare is continuous throughout their working lives, including while serving on active duty or as Reservists in the Armed Forces. A portion of each earned dollar is allocated to the Medicare Trust Fund and, although veterans must pay into the Medicare system, VA is prohibited from collecting any Medicare reimbursements for the treatment of allowable, non-service-connected medical conditions.

Since over half of VA's enrolled patient population is Medicare-eligible, this prohibition constitutes a multi-billion dollar annual subsidy to the Medicare Trust Fund. The American Legion believes Medicare-eligible veterans should be allowed to participate in the Medicare Advantage option by choosing VA as their primary health care provider.

The American Legion in the strongest terms supports HR 3365, Medicare VA Reimbursement Act of 2009, and appreciates the leadership of its author Chairman Filner.

VET CENTERS

The American Legion has supported the Vet Center program since its inception in 1979. During the developmental phase, some Vet Centers operated from local American Legion posts during their search for permanent locations. They were designed to provide services exclusively for veterans who served in theaters of conflict, or those who experienced military sexual trauma. Vet Centers are community-based facilities and veterans are assessed the same day they seek services. They also provide mental health counseling to those within the veteran's support system, such as spouse and children. In 2008, VA announced the addition of 39 Vet Centers.

These facilities are mandated for completion by the end of FY 2009.

During The American Legion's 2007 site visits to Vet Centers, it was acknowledged their overall challenge included limited staffing, which was a result of occurring and anticipated influx of returning OEF and OIF to include women veterans. Services have also expanded to provide bereavement counseling to family members of those who have died while fighting in support of OEF and OIF.

The American Legion continues to acknowledge the success of Vet Centers and the quality services they provide to the nation's veterans and their families. The Vet Centers' distinctive locations, personnel, and overall growing missions continue to stand beyond other programs offered by VA.

Vet Centers also provide services in a non-clinical environment, which may appeal to those who would be reluctant to seek mental health care in a medical facility. A high percentage of the staff, more than 80 percent, are combat veterans and can relate to the readjustment issues experienced by the those seeking services.

The most important aspect of Vet Centers is the provision of timely accessibility. Since Vet Centers are community-based and veterans are assessed within minutes of their arrival, eligible veterans are not subjected to long wait times for disability claims decisions to determine eligibility for enrollment, or long wait times for available appointments.

The American Legion revisited Vet Centers again during the 2009 site visits. Although Vet Centers have an extensive outreach plan, more outreach is required targeting other groups of veterans who are unaware they are eligible to use Vet Centers. According to VA, many veterans learn of Vet Centers by word-of-mouth; reaching veterans residing in rural areas continues to be a challenge. To improve their outreach, VA recently launched 50 mobile Vet Centers throughout the United States to reach veterans who are unaware of VA services and unable to travel to their nearest Vet Center for various reasons, to include financial and lack of transportation.

As more service members return from theater, the demand for services will increase. The American Legion urges VA to assess the surrounding areas to ensure the amount of mobile and stationary Vet Centers is adequate to accommodate these new veterans.

The American Legion believes all Vet Centers, mobile and stationary, should be fully staffed with qualified providers to insure combat veterans seeking care for readjustment are afforded the same standard of quality care, no matter which Vet Center they use.

TRAUMATIC BRAIN INJURY

Traumatic Brain Injury (TBI), also known as one of the invisible wounds of war, should remain at the forefront when screening veterans who served in Iraq and Afghanistan.

Recent reports acknowledged VA's faces a number of clinical challenges in its efforts to screen OEF and OIF veterans for mild TBI. Evaluation of those who screen positive on the TBI screening tool, is difficult due to the absence of objective diagnostic tests, such as laboratory tests or neuroimaging tests like MRI and computed tomography (CT) scans that can definitively and reliably identify mild TBI.

Other challenges include the similarity of many symptoms of mild TBI to symptoms associated with other conditions, such as Post Traumatic Stress Disorder (PTSD) making a definitive diagnosis of mild TBI more difficult to reach. OEF/and OIF veterans with mild TBI might not realize that they have an injury and should seek health care. The American Legion urges the

DOD and VA to heighten communication and screening of service members and veterans who served in Iraq and Afghanistan.

Recently, VA Office of Inspector General (OIG) issued a report entitled “Health Status of and Services for Operation Enduring Freedom and Operation Iraqi Freedom Veterans after Traumatic Brain Injury Rehabilitation.” The VA’s OIG examined VHA’s ability to meet the needs of OEF and OIF veterans who suffered from TBI. It reports that

52 patients from around the country – including Montana, Colorado, North Dakota, and Washington – were interviewed at least one year after completing inpatient rehabilitation from a Lead Center (Minneapolis, MN; Palo Alto, CA; Richmond, VA; and Tampa, FL).

Many of the obstacles for TBI veterans and their family members were similar. Some 48 percent of the patients indicated that there were few resources in the community for brain injury-related problems. Approximately 38 percent indicated that transportation was a major obstacle. Another 17 percent indicated that they did not have money to pay for medical, rehabilitation, and injury-related services.

Some of the challenges noted by family members who care for these veterans in rural settings include the necessity for complicated special arrangements and the absence of VA rehabilitative care in their communities. Case managers working at Lead Centers and several secondary centers noted limited ability to follow patients after discharge to rural areas and lack of adequate transportation.

These limitations place undue hardship on veterans’ families. Those contributing to the report, as well as veterans who have contacted The American Legion, have shared many examples where families have been overwhelmed by caring for TBI injured veterans. They have sacrificed financially, have lost jobs that provided the sole income for the family, and have endured extended separations from children.

The American Legion strongly supports HR 3155, Caregiver Assistance and Resource Enhancement Act, and urges Congress to provide additional support and accommodation for caregivers to veterans who have sacrificed careers and lifestyles to care for those who sacrificed on behalf of this nation.

POLYTRAUMA CENTERS

To date, VHA has designated five VA Medical Centers as Polytrauma Rehabilitation Centers (PRC). These Centers provide specialized care for returning service members and veterans who suffer from multiple and severe injuries. They also provide specialized rehabilitation to help injured service members or veterans optimize their level of independence and functionality. The Polytrauma Centers are located in Minneapolis, MN; Palo Alto, CA; Richmond, VA; San Antonio, TX; and Tampa, FL. Another unique aspect of the Polytrauma Center includes the administration of care for TBI, amputations, blindness and psychosocial/mental health issues in one location.

In addition to the five designated sites, VA has established 17 Polytrauma Network Sites (PNS) -- one in each Veterans Integrated Services Network (VISNs); and approximately 75 Polytrauma Support Clinic Teams to augment the care for those with multiple injuries.

During the “System Worth Saving” site visits to the PRC Centers, many had vacancies for highly specialized rehabilitative fields and nursing. The major challenge to filling vacancies included the inability to offer competitive salaries.

The American Legion recommends that VA adequately staff PRC's to maintain or enhance services provided to veterans and service members recovering from multiple injuries.

ACCESS TO CARE FOR RURAL VETERANS

Research conducted by VA indicated veterans residing in rural areas are in poorer health than their urban counterparts. It was further reported that nationwide, one in five veterans who enrolled to receive VA health care lives in rural areas. Providing quality health care in a rural setting has proven to be very challenging, given factors such as limited availability of skilled care providers and inadequate access to care. Even more challenging will be VA's ability to provide treatment and rehabilitation to rural veterans who suffer from the signature ailments of the on-going Global War on Terrorism—traumatic blast injuries and combat-related mental health conditions. VA's efforts need to be especially focused on these issues.

A vital element of VA's transformation in the 1990s was the creation of Community Based Outpatient Clinics (CBOCs) that proximate access to VA primary care within veterans' communities. Recently, VA scheduled the opening of 44 additional CBOCs in 21 states. The new clinics will be fully activated in 2009, increasing VA's network of independent and community-based clinics to 782. The American Legion believes the clinics are warranted due to the growing population of veterans within rural areas of the nation. Those numbers have grown from 1 million in 2008 to approximately 2.2 million in 2009. Studies have shown more veterans are also migrating to less populated areas voluntarily.

While VA has taken the right step with the addition of more CBOCs, The American Legion believes more are required. There continues to be great difficulty serving veterans in rural areas, such as Nebraska, Vermont, Nevada, Utah, South Dakota, Wyoming, and Montana where veterans face extremely long drives, a shortage of health care providers, and bad weather. VISNs rely heavily upon CBOCs to close the gap.

Many veterans continue to express concerns to The American Legion about their limited financial resources which stifle their ability to travel to VA. They cite the rising cost of gas, the limitations of the mileage reimbursement rate, and the need to pay for overnight accommodations as examples.

The American Legion believes that the provision of contracted care in highly rural communities -- when VA health care services are not currently possible--would alleviate the unwarranted hardships these veterans encounter when seeking access to VA health care.

SEAMLESS TRANSITION

VA has an Office of Seamless Transition that is available to participate in DOD, National Guard and Reserves Transition Assistance Programs (TAP) and Disabled Transition Assistance Programs (DTAP). However, The American Legion remains concerned that many Reserve component service members returning home from OEF and OIF duty are not being properly advised of the benefits and services available to them from VA and other Federal and State agencies. This is especially true of Reserve units that are demobilized at hometown Reserve Centers, rather than at active duty demobilization centers.

Legionnaires at the state level have briefed Guard and Reserve units on VA's benefits and services. Many transitioning service members were unaware of the existence of the Office of Seamless Transition and did not know the office has staff available to provide briefings to their respective units that had recently returned from or planned to deploy in support of GWOT.

The American Legion agrees that while communication between VA and the National Guard has

improved, the importance of improved communication between VA and Reserve cannot be overstated. In addition, there must be a concerted, proactive effort on behalf of DOD and VA to ensure every veteran is thoroughly screened and properly handed off from the during their transition from active duty to the community. In a recent GAO site visit to DOD medical facilities, it was discovered that health care providers were unaware a medical record review was required and that providers conducting the pre-deployment health assessment did not consistently review medical records.

The American Legion believes a system of checks and balances supported by current and future plans and policies will ensure ongoing communication and successful transition of the nation's heroes from DOD to VA.

THE AGING OF AMERICA'S VETERANS

VA's Long-Term Care Mission

Public Law (PL) 106-117, the Millennium Health Care and Benefits Act, enacted in November 1999, required VA to continue to insure 1998 levels of extended care services (defined as VA nursing home care, VA domiciliary, VA

home-based primary care, and VA adult day health care) in its facilities. Yet, VA continues to face the challenges of maintaining the 1998 bed levels mandated by law.

VA's inability to adequately address the long-term care problem facing the agency was most notable during the Capital Assets Realignment for Enhanced Services (CARES) process. The planning for the long-term care mission, one of the major services VA provides to veterans, was not addressed in the initial CARES initiative, which is touted as the most comprehensive analysis of VA's health care infrastructure ever conducted.

During The American Legion's 2008 site visits, which focused on VA Nursing Home Care Units, Task Force Members and Field Service Representatives discussed VA long-term care, as well as its support systems. In this round table

and physical tour engagement, The American Legion sought to ascertain that all items identified in the 2004 Implementation of the cultural transformation plan was actually being carried out. Challenges that continue to impede full operation include: budgetary issues and being understaffed.

The American Legion supports the publishing and implementation of a Long-Term Care (LTC) strategic plan that adequately addresses the rising long-term care needs of America's veterans. We are disappointed that four years since the CARES decision, no plan has been published. We assert VA should take proactive steps to provide the care mandated by Congress. Congress should provide adequate mandatory funding to VA to implement its mandates.

The American Legion will continue to support current legislation that will ensure appropriate payments for the cost of LTC provided to veterans in State Veterans' Homes, stronger oversight of payments to State Veterans' Homes, full reimbursement for the treatment of veterans 70 percent service-connected or higher, and the more efficient delivery of pharmaceuticals. The American Legion believes a periodic assessment is required to determine the adequacy of care and capacity to accommodate this ever changing unique population.

It is vital that VA meet the LTC requirements of the Millennium Health Care and Benefits Act. The American Legion urges your Committees to support adequate assured funding for VA to meet the LTC needs of America's veterans.

State Extended Care Facility Construction Grants Program

Since 1984, nearly all planning for VA inpatient nursing home care has centered on State Veterans' Homes (SVHs) and contracts with public and private nursing homes. The reason for this is cost effectiveness: VA pays a per diem of \$74.42 for each veteran placed in SVHs, compared to the FY 2002 \$354 VA claims cost to maintain a veteran for one day in its own nursing home care units (NHCUs).

Under the provisions of title 38, United States Code (USC), VA is authorized to make payments to states to assist in the construction and maintenance of SVHs. Today, there are 137 SVHs in 50 states and Puerto Rico with over

30,000 beds providing nursing home, hospital, and domiciliary care. Grants for Construction of State Extended Care Facilities provide funding for up to 65 percent of the total cost of building new veterans' homes. Recognizing the growing LTC needs of older veterans, it is essential the State Veterans' Home Program be maintained as an important alternative health care provider to the VA system.

The American Legion opposes attempts to place a moratorium on new SVH construction grants. State authorizing legislation has been enacted and state funds have been committed. Delaying projects will result in cost overruns from increasing building materials costs and may result in states deciding to cancel these much needed facilities.

Further The American Legion feels that the \$85 million (a 50 percent cut) in the proposed 2011 budget for State

Extended Care Facilities is a grave mistake. The American Legion supports:

- Increasing the amount of authorized per diem payments to 50 percent for nursing home and domiciliary care provided to veterans in State Veterans' Homes;
- Providing prescription drugs and over-the-counter medications to State Homes Aid and Attendance patients along with the payment of authorized per diem to State Veterans' Homes; and
- Allowing for full reimbursement of nursing home care to 70 percent service-connected veterans or higher, if veterans reside in a State Veterans' Home.

The American Legion recommends \$275 million for the State Extended Care Facility Construction Grants Program in FY 2011.

Medical and Nursing School Affiliations

VHA and its medical school affiliates continue to enjoy a long-standing and exemplary relationship that has endured for virtually 60 years. This relationship continues to thrive and evolve. Currently, there are 129 accredited medical schools in the United States. Of these, 107 have formal affiliation agreements with VA Medical Centers (VAMCs). More than 30,000 medical residents and 22,000 medical students receive a portion of their medical training in VA facilities annually. VA estimates that 70 percent of its physician workforce has university appointments.

VHA conducts the largest coordinated education and training program for health care professions in the nation. The medical school affiliations allow VA to train new health professionals to meet the health care needs of veterans and the nation. Medical school affiliations have been a major factor in VA's ability to recruit and retain high quality physicians. It also affords veterans access to the some of the most advanced medical technology and cutting edge research. VHA research continues to make meaningful contributions to improve the quality of life for veterans and the general population.

VHA's recognition as a leader in providing safe, high-quality health care to the nation's veterans

can be directly attributed to the relationship that has been fostered through the affiliates. The American Legion remains committed to this mutually beneficial affiliation between VHA and the medical schools of this nation. We also believe that medical school affiliates should be appropriately represented as a stakeholder on any national task force, commission, or committee established to deliberate on veterans' health care.

VA recently established a Nursing Academy to address the nationwide nursing shortage. The Nursing Academy has embarked on a five-year pilot program that will establish partnerships with a total of 12 nursing schools. The initial set of partnerships implemented this year included nursing schools in Florida, California, Utah and Connecticut. This pilot program will train nurses to understand the health care needs of veterans and make more nurses available to allow VA to continue to provide veterans with the quality care they deserve.

Academic Year (AY) 2007-08 was the first of a multi-year expansion in order to address the recommendations of the Federally Chartered External Advisory Committee on VHA Resident Education. The Advisory Committee was charged with an examination of the philosophy and deployment of VA's residency training positions.

The Committee acknowledged the critical role VA plays in provision of high-quality graduate medical education (GME) and recommended VA increase its proportional support of the national GME enterprise. With 2008 being the second year of expansion, the VA Office of Academic Affiliations has developed three Requests for Proposals (RFPs), which will create about 400 new, permanent resident positions nationwide in AY 2009-2010. In addition to the GME Enhancement initiative, 698 physician resident positions were awarded to 72 facilities in 61 specialty-training programs.

The American Legion affirms its strong commitment and support for the mutually beneficial affiliations between VHA and the medical and nursing schools of this nation.

MEDICAL AND PROSTHETICS RESEARCH

The VA's budget for prosthetics in FY 2008 was approximately \$411 million. The President's projected FY 2010 budget has allocated \$580 million to support the rising demand for prosthetics to improve severely wounded veterans quality-of-life through new and innovative technology.

The American Legion believes VA's focus in research should remain on understanding and improving treatment for conditions that are unique to veterans. Funding in this aspect is crucial.

Service members are surviving catastrophically disabling blast injuries due to the superior armor they are wearing in the combat theater and the timely access to quality triage. The unique injuries sustained by the new generation of veterans clearly demand particular attention. It has been reported that VA does not have state-of-the-art prostheses like DOD, and that the fitting of the prostheses for women has presented problems due to their smaller physique.

The American Legion supports adequate funding of other VA research activities, including basic biomedical research and bench-to-bedside projects for FY 2011.

Congress and the Administration should continue to encourage acceleration in the development and initiation of needed research on conditions that significantly affect veterans - such as prostate cancer, addictive disorders,

trauma and wound healing, post-traumatic stress disorder, rehabilitation, and others jointly with DOD, the National Institutes of Health (NIH), other Federal agencies, and academic institutions.

The American Legion recommends \$700 million for Medical and Prosthetics Research in FY 2011.

WOMEN VETERANS

Women veterans now constitute the fastest growing segment of eligible VA health care users. According to studies, the number of women veterans will double in the next five years. The number of female veterans is projected to increase from 7.7 percent in 2008 to 10 percent in 2018 and to 14.3 percent in 2033. Within the next 15 years, females are expected to represent one in every seven enrollees in VA health care versus one in every 16 today. Within the VA health care system there is currently a high enrollment and utilization rate by OIF and OEF women veterans.

Not only do male and female veterans differ with respect to observed and expected trends in their number and their respective share of the veterans' population, they also differ in their relative age as well. Women veterans are younger, in the aggregate, than their male counterparts. In 2009, for example, the median age of women veterans was 48, whereas the median age of male veterans was 61. Although the median age of women veterans is projected to increase steadily over the next two decades, women veterans are projected to be younger than male veterans in the aggregate.

It is The American Legion's position that must VA look for solutions to issues that prevent women veterans from utilizing care at VA medical facilities. These issues include childcare and continuity of care. For example, women veterans have to interrupt their appointments due to childcare issues. They also seek care within the public and private sector due to lack of continuity of specialty care.

In recognition of the changing demographics and the social health care needs of women, VA has established women's health as a research priority, and built an increasingly productive portfolio of biomedical, clinical, rehabilitation and health services since the early 1990s. The American Legion urges the VA Secretary to heighten services for gender specific care to prevent women veterans from falling through the gaps. An extremely important factor with women veterans is privacy. We further contend that there must be privacy throughout the VA health care system. This will encourage women and others who suffer from the effects of military sexual trauma (MST) to seek care at VA facilities.

There is an increasing recognition of women veterans' unique and complex health needs and VA must be prepared for an influx of younger women veterans. Finally, The American Legion urges VA to increase attention to comprehensive view of women's health beyond reproductive health issues and strengthen provider education and recruitment.

BLINDED VETERANS

There are currently approximately 38,000 blind veterans enrolled in the VA health care system. Additionally, demographic data suggests that in the United States, there are over 160,000 veterans with low-vision problems and eligible for Blind Rehabilitative Services. Due to staffing shortages, over 1,500 blind veterans will wait months to get into one of the 10 blind rehabilitative centers.

VA currently employs approximately 164 Visual Impairment Service Team (VIST) Coordinators to provide lifetime case management to all legally blind veterans, and all OEF and OIF patients and 38 Blind Rehabilitative Outpatient Specialists (BROS) to provide services to patients who are unable to travel to a blind center. The training provided by BROS is critical to the continuum of care for blind veterans. DOD medical system is dependent on VA to provide blind rehabilitative services.

The American Legion urges DOD and VA to heighten their awareness of the importance of

screening service members and veterans for blind eye issues during TBI and PTSD screening. Given the critical skills a BROS teaches to help blind veterans and their families adjust to such a devastating injury, The American Legion urges VA to recruit more specialists.

MEDICAL CONSTRUCTION AND INFRASTRUCTURE SUPPORT

Major Construction

The CARES process identified approximately 100 major construction projects in throughout the VA Medical Center System, the District of Columbia, and Puerto Rico. Construction projects are categorized as major if the estimated cost is over \$10 million. Now that VA has disclosed the plan to deliver health care through 2022, Congress has the responsibility to provide adequate funds.

VA has not had this type of progressive construction agenda in decades. Proper utilization of funds for major construction must be well planned. It is also imperative that adequate funding for temporary facilities is in place to accommodate displaced veterans as these facilities are completed.

The American Legion applauds recent plans to construct new VA Medical Centers in Orlando, Las Vegas, and New Orleans, Biloxi and the recent dedication of the Denver facility, however, the average age of VA Medical Centers remains at 45 plus years while the private and public sector's average facility age is 12 years.

The American Legion believes VA has effectively shepherded the CARES process to its current state by developing the blueprint for the future delivery of VA health care – we hereby continue to urge Congress act equally and adequately fund the implementation of this comprehensive and crucial undertaking.

The American Legion recommends \$2 billion for Major Construction in FY 2011. Minor Construction

VA's minor construction program has also suffered significant neglect over the past several years. Maintaining the infrastructure of VA's buildings is no small task. Due to the age of these building, continuous renovations, relocations and expansions are quite common. A slight hesitation in provision of funding leaves a profound impact, as it has in recent years. When combined with the added cost of the CARES program recommendations, it is easy to see that a major increase over the previous funding level is crucial and overdue.

The American Legion recommends \$1 billion for Minor Construction in FY 2011. Information Technology Funding

Since the data theft occurrence in May 2006, the VA has implemented a complete overhaul of its Information Technology (IT) division nationwide. The American Legion is hopeful VA takes the appropriate steps to strengthen

its IT security to renew the confidence and trust of veterans who depend on VA for the benefits they have earned.

Within VA Medical Center Nursing Home Care Units, it was discovered is an inconsistency among each respective VAMC regarding provision of Internet access to veteran residents. VA has acknowledged the Internet would represent a positive tool in the veteran's rehabilitation. The American Legion believes Internet access should be provided to these veterans without delay, for time is of the essence in the journey to recovery. The American Legion believes there should be a complete review of IT security within the VA. .

The American Legion supports the centralization of VA's IT. The quantity of work required to

secure information managed by VA is immense. The American Legion urges Congress to maintain close oversight of VA's IT restructuring efforts and fund VA's IT to ensure the most rapid implementation of all proposed security measures. In addition, it is equally imperative VA maintain an up to date and sound infrastructure to accommodate modern information technology. The American Legion recommends \$3.8 billion for Information Technology in FY 2011.

ENVIRONMENTAL EXPOSURES

Agent Orange

One of the top priorities of The American Legion has been to ensure that long overdue major epidemiological studies of Vietnam veterans who were exposed to the herbicide Agent Orange are carried out. In the early 1980s, Congress held hearings on the need for such epidemiological studies. The Veterans' Health Programs Extension and Improvement Act of 1979, Public Law 96-151, directed VA to conduct a study of long-term adverse health effects in veterans who served in Vietnam as a result of exposure to herbicides. When VA was unable to do the job, the responsibility was passed to the Centers for Disease Control (CDC). In 1986, CDC also abandoned the project, asserting that a study could not be conducted based on available records. The American Legion did not give up. Three separate panels of the National Academy of Sciences have agreed with The American Legion and concluded that CDC was wrong and that epidemiological studies based on DOD records are possible.

The Institute of Medicine (IOM) report, *Characterizing Exposure of Veterans to Agent Orange and Other Herbicides Used in Vietnam*, is based on the research conducted by a Columbia University team. Headed by principal investigator Dr. Jeanne Mager Stellman, the team has developed a powerful method for characterizing exposure to herbicides in Vietnam. The American Legion is proud to have collaborated in this research effort. In its final report on the study, the IOM urgently recommends that epidemiological studies be undertaken now that an accepted exposure methodology is available. The American Legion strongly endorses this IOM report.

On July 27, 2007, IOM released a report on veterans' herbicide exposure in Vietnam, *Veterans and Agent Orange: Update 2006 (Update 2006)*. That report elevated two conditions, hypertension and AL amyloidosis, from the "inadequate or insufficient evidence of association" category to the "limited or suggestive evidence of association" category. The "limited or suggestive" evidence finding meets the threshold of a positive association between the exposure of humans to a herbicide agent and the occurrence of a disease in humans, as set forth in Section 1116, title 38, United States Code, and has been used by VA to add other conditions, including type 2 diabetes, to the list of herbicide presumptive disabilities. In June 2008, VA's Compensation and Pension Service (C&P) informed its regional office service center managers that the Secretary, based on the findings of Update 2006, would be establishing a presumption of service connection for AL amyloidosis. C&P also informed the regional offices that the Secretary concluded that there was no evidence to support the presumption of service connection for hypertension. The American Legion subsequently received a letter from the VA Secretary on June 26, 2008, informing our organization that AL amyloidosis is the only condition, based on IOM's Update 2006, would be added to the list of disabilities presumed to be service-connected due to herbicide exposure. The Secretary specifically stated that he

has "determined that the evidence available at this time does not warrant the establishment of a new presumption of service connection based on service in Vietnam for any additional diseases

reviewed in the NAS report.” The

final regulation establishing presumption of service connection for Al amyloidosis based on herbicide exposure was published in the Federal Register on May 7, 2009. As provided under Section 1116, title 38, United States Code the VA Secretary has a maximum of 60 days after the date on which the IOM report is received to determine whether a presumption of service connection is warranted for each disease covered by the report. The VA Secretary then has a maximum of 60 days after making the determination to issue proposed regulations to establish a presumption in the event it is determined that presumption of service connection is warranted for any of the diseases covered in

the report. If presumption of service connection is not warranted for any of the diseases covered in the report, the Secretary has a maximum of 60 days to publish such determination in the Federal Register.

Unfortunately, as, at of the time of this writing, the Secretary has yet to publish notice of his determination, regarding hypertension and the other conditions addressed in Update 2006, in the Federal Register, which will include an explanation of the scientific basis for that determination. Not only is the Secretary in violation of specific reporting requirements set forth in Section 1116, title 38 USC The American Legion is unable to comment on the reasoning behind VA’s decision not to recognize hypertension as presumptively service-connected to herbicide exposure among Vietnam veterans. Rest assured, we will carefully review the VA Secretary’s determination once it is published in the Federal Register and take appropriate action, including, but not limited to, seeking a legislative remedy to correct this injustice.

Although VA has yet to resolve Update 2006, IOM released Update 2008 on July 24, 2009. This report held that all chronic B-cell neoplasms belong in the “sufficient evidence of an association” category with Hodgkin’s disease and non-Hodgkin’s lymphoma. The report also moved ischemic heart disease and Parkinson’s disease from

the “inadequate or insufficient evidence of an association” category to the “limited or suggestive evidence of an association” category. The American Legion will be closely monitoring the VA Secretary’s action on this report.

Presumption of Agent Orange/Herbicide Exposure

The American Legion strongly supports the extension of presumption of exposure to Agent Orange for veterans who served on naval vessels located in the territorial waters of Vietnam (known as Blue Water Navy veterans) but did not set foot on land in Vietnam. The IOM, in Update 2008, specifically stated that the evidence it reviewed makes the current definition of Vietnam service, for the purpose of presumption of exposure to Agent Orange, limited to those who actually set foot on land in Vietnam “seem inappropriate.” Citing an Australian study on the fate of the contaminant TCDD when sea water is distilled to produce drinking water, the IOM committee stated that

it was convinced that such a process would produce a feasible route of exposure for Blue Water veterans, “which might have been supplemented by drift from herbicide spraying.” (See IOM, Veterans and Agent Orange, Update 2008, p. 564; July 24, 2009) The IOM also noted that a 1990 Centers for Disease Control and Prevention study found that non-Hodgkin’s lymphoma, a classic Agent Orange cancer, was more prevalent and significant among Blue Water Navy veterans. The IOM subsequently recommended that, given all of the available evidence, Blue Water Navy veterans should not be excluded from the group of Vietnam-era veterans presumed to have been exposed to Agent Orange/ herbicides. The American Legion submits that not only

does this latest IOM report fully support the extension of presumption of Agent Orange exposure to Blue Water Navy veterans, it provides scientific justification to the legislation currently pending in Congress that seeks to correct this grave injustice faced by Blue Water Navy veterans.

Exposure to Agent Orange/Herbicides in Locations other than Vietnam

The American Legion is also extremely concerned about the timely disclosure and release of all information by DOD on the use and testing of herbicides in locations other than Vietnam during the war. Over the years, The American Legion has represented veterans who claim to have been exposed to herbicides in places other than Vietnam. Without official acknowledgement by the Federal government of the use of herbicides, proving such exposure is virtually impossible. Information has come to light in the last few years leaving no doubt that Agent Orange, and other herbicides contaminated with dioxin, were released in locations other than Vietnam. This information is slowly being disclosed by DOD and provided to VA.

In April 2001, officials from DOD briefed VA on the use of Agent Orange along the Korean demilitarized zone (DMZ) from April 1968 through July 1969. It was applied through hand spraying and by hand distribution of pelletized

herbicides to defoliate the fields of fire between the front line defensive positions and the south barrier fence. The size of the treated area was a strip 151 miles long and up to 350 yards from the fence to north of the civilian control line. According to available records, the effects of the spraying were sometimes observed as far as 200 meters downwind. DOD identified the units that were stationed along the DMZ during the period in which the spraying took place. This information was given to VA's Compensation and Pension Service, which provided it to all of the regional offices. VA Central Office has instructed its Regional Offices to concede exposure for veterans who served in the identified units during the period the spraying took place.

In January 2003, DOD provided VA with an inventory of documents containing brief descriptions of records of herbicides used at specific times and locations outside of Vietnam. The information, unlike the information on the Korean DMZ, does not contain units' involved or individual identifying information. Also, according to VA, this information is incomplete, reflecting only 70 to 85 percent of herbicide use, testing and disposal locations outside of Vietnam. VA requested that DOD provide it with information regarding the units involved with herbicide operations or other information that may be useful to place veterans at sites where herbicide operations or testing was conducted. Unfortunately, as of this date, additional information has not been provided by DOD.

Obtaining the most accurate information available concerning possible exposure is extremely important for the adjudication of herbicide-related disability claims of veterans claiming exposure outside of Vietnam. For herbicide-related disability claims, veterans who served in Vietnam during the period of January 9, 1962 to May 7, 1975 are presumed by law to have been exposed to Agent Orange. Veterans claiming exposure to herbicides outside of Vietnam are required to submit proof of exposure. This is why it is crucial that all information pertaining to herbicide use, testing, and disposal in locations other than Vietnam be released to VA in a timely manner. Congressional oversight is needed to ensure that additional information identifying involved personnel or units for the locations already known by VA is released by DOD, as well as all relevant information pertaining to other locations that have yet to be identified. Locating this information and providing it to VA must be a national priority.

The American Legion endorses both the 2006 and 2008 IOM reports and strongly urges VA to

make a timely decision on its recommendations and provide timely notification of the decision to add or not add to the presumptive list.

Gulf War Illness

In the Research Advisory Committee on Gulf War Veterans' Illness (RACGWI) initial report released in November 2004, it was found that, for a large majority of affected Gulf War veterans, their illnesses could not be explained

by stress or psychiatric illness and concluded that current scientific evidence supports a probable link between neurotoxin exposure and subsequent development of Gulf War veterans' illnesses. Earlier government panels concluded that deployment-related stress, not the numerous environmental and other exposures troops were exposed to during the war, was likely responsible for the numerous unexplained symptoms reported by thousands of Gulf War veterans.

The Research Advisory Committee on Gulf War Veterans' Illnesses released their most recent report November 2008. In the report, the committee concluded that Gulf War Illness is a physical condition. The report indicates that Gulf War illness is a serious condition that affects at least one fourth of the 697,000 U.S. veterans who served in the 1990-1991 Gulf War. The panel also determined that Gulf War illness fundamentally differs from trauma and stress-related syndromes described after other wars. Studies have indicated that Gulf War veterans have a lower rate of Post-Traumatic Stress Disorder (PTSD) than veterans of other war. Upon review of extensive scientific evidence, the committee determined that two neurotoxin exposures are causally associated with Gulf War Illness. A drug given

to service members to protect them from nerve gas known as pyridostigmine bromide (PB) pills and pesticides used during deployment. The American Legion strongly supports this report and urges the VA Secretary to act quickly on the committee's recommendations. In addition, VA must continue to fund research projects consistent with the recommendations of the RACGWI.

The VA Office of Inspector General (VAOIG) conducted a recent review of the contract between VA and the University of Texas Southwestern Medical Center (UTSWMC) and determined that the contract did not adhere to Public Law 109-

114. Ultimately, the VAOIG recommended that the contract be terminated as a result of default. The Department of Veterans Affairs has since decided to cancel that contract with the UTSWMC. The VA attributed their decision to the research team's noncompliance with contract terms and performance deficiencies. In light of this recent development, The American Legion strongly encourages VA to not allow this to be a deterrent but to find other effective avenues to continue their research efforts. It would be a grave disservice to these veterans if there is any further delay in research to discover medical treatments that will alleviate veterans' suffering as well as to find the causes of that suffering.

VA must continue to fund research projects consistent with the recommendations of the Research Advisory Committee on Gulf War Veterans' Illness (RACGWI). It is important that VA continues to focus its research on finding medical treatments that will alleviate veterans' suffering as well as on figuring out the causes of that suffering.

Public Law 103-210, which authorized the VA Secretary to provide priority health care to the veterans of the Persian Gulf War who have been exposed to toxic substances and environmental hazards, allowed Gulf War Veterans--and veterans of the Vietnam War--to enroll into Priority Group 6. The last sunset date for this authority is December 31, 2011. Since this date, information provided to veterans and VA hospitals has been conflicting. Some hospitals continue to honor Priority Group 6 enrollment for ill Gulf War veterans seeking care for their ailments.

Other hospitals, well aware of the sunset date, deny Priority Group 6 enrollment for these veterans and notify them that they qualify for Priority Group 8. To these veterans' dismay, they are completely denied enrollment because of VA's restricted enrollment for Priority Group 8 since January 2003. Even more confounding is the fact that eligibility information disseminated via internet and printed materials does not consistently reflect this change in enrollment eligibility for Priority Group 6. VA has assured The American Legion that this issue will be rectified.

Although these veterans can file claims for these ailments and possibly gain access to the health care system once a disability percentage rate is granted, those whose claims are denied cannot enroll. Unfortunately, the denial rate for Gulf War undiagnosed illness claims is approximately 75 percent. Due to their nature, these illnesses are difficult to understand and information about individual exposures may not be available, many ill veterans are not able to present strong claims. They are then forced to seek care from private physicians who may not have enough information about Gulf War Veterans' illnesses to provide appropriate care.

VA published its comments on the IOM's Gulf War and Health, Volume 2: Insecticides and Solvents report, released in February 2003 in the Federal Register. The Department decided not to establish a presumption of service connection for any diseases, illnesses or health effects considered in the report, based on exposure to insecticides or solvents during service in the Persian Gulf during the Persian Gulf War. Many of VA's justifications for not establishing presumption mirror the reasons why ill Gulf War veterans have problems justifying their claims. The IOM report notes that little information is known about the use of solvents in the theater.

VA notes that veterans may still be granted service connection, if evidence indicates an association between their diseases and their exposures. This places the burden of proof on Gulf War veterans to prove their exposures and that the level of exposure is sufficient enough to warrant service connection. IOM and VA have acknowledged that there is insufficient information on the use of the identified solvents and pesticides during the Gulf War.

VA states that PL105-277 does not explain the meaning of the phrase, "known or presumed to be associated with service in the Armed forces in the Southwest Asia theater of operations during the Persian Gulf War" and that there is no legislative history explaining the meaning of the phrase. VA has had adequate time to get Congress to clarify the statute's intent and should have clarified the intent prior to delivering a charge to the IOM for the report. VA's interpretation is that Congress did not intend VA to establish presumptions for known health effects of all substances

common to military and civilian life, but that it should focus on the unique exposure environment in the Persian Gulf during the war. The IOM was commissioned to ascertain long-term health effects of service in the Persian Gulf during the war, based on exposures associated with service in theater during the war as identified by Congress, not exposures unique to the Southwest Asia Theater. The determination to not grant presumption for the ailments identified should be based solely on the research findings, not on the legitimacy of the exposures identified by Congress.

The IOM has a similar charge to address veterans who served in Vietnam during the war. Herbicides were not unique to the operations in the Southeast Asia theater of conflict and there had not been, until recently, a definitive

idea of the amounts of herbicides to which service members had been exposed. Peer-reviewed,

occupational studies are evaluated to make recommendations on which illnesses are associated with exposure to the herbicides—and their components known to be used in theater. For ailments that demonstrate sufficient evidence of a causal relationship, sufficient evidence of an association, and limited evidence of an association, the Secretary may consider presumption. Gulf War and Health Volume 2 identifies several illnesses in these categories. However, the VA Secretary determined that presumption is not warranted.

VA needs to clearly define what type of information is required to determine possible health effects, for instance clarification of any guidance or mandate for the research. VA also needs to ensure that its charge to the IOM is specific enough to help it make determinations about presumptive illnesses. VA noted that neither the report, nor the studies considered for the report identified increased risk of disease based on episodic exposures to insecticides or solvents and that the report states no conclusion whether any of the diseases are associated with “less than chronic exposure,” possibly indicating a lack of data to make a determination. If this was necessary, it should have been clearly identified.

Finally, Section 1118, title 38, USC, mandates how the VA Secretary should respond to the recommendations made in the IOM reports. The VA Secretary is required to make a determination of whether or not a presumption for service connection is warranted for each illness covered in the report no later than 60 days after the date the report is received. If the Secretary determines that presumption is not warranted for any of the illnesses or conditions considered in the report, a notice explaining scientific basis for the determination has to be published in the Federal

Register within 60 days after the determination has been made. Persian Gulf War and Health, Volume 2 was released in 2003, four years ago. Since then, IOM has released several other reports and VA has yet to publish its determination on those reports as well.

The American Legion urges VA to provide clarity in the charge for the IOM reports. The VA must identify what type of information is needed to make determinations of presumption of service connection for illnesses that may be associated with service in the Gulf during the war. The American Legion urges VA to request clarification from Congress on the intent of the phrase “known or presumed to be associated with service in the Armed Forces in the Southwest Asia theater of operations during the Persian Gulf War.” Additionally to obtain clarification from the IOM committee concerning missing information as possible, and re-evaluate the findings of the IOM report with the clarification provided.

The American Legion also urges Congress to provide oversight to ensure VA provides timely responses to the recommendations made in the IOM reports.

Atomic Veterans

Since the 1980s, claims by Atomic Veterans exposed to ionizing radiation for a radiogenic disease, for conditions not among those listed in Section 1112(c)(2), title 38, USC, have required an assessment to be made by the Defense Threat Reduction Agency (DTRA) as to nature and amount of the veteran’s radiation dosing. Under this guideline, when dose estimates provided are reported as a range of doses to which a veteran may have been exposed, exposure at the highest level of the dose range is presumed. From a practical standpoint, VA routinely denied the claims by many atomic veterans on the basis of dose estimates indicating minimal or very low-level radiation exposure.

As a result of the court decision in *National Association of Radiation Survivors v. VA* and studies by GAO and others of the U.S.’s nuclear weapons test program, the accuracy and reliability of the assumptions underlying DTRA’s dose estimate procedures have come into question. On May

8, 2003, the National Research Council's Committee to Review the DTRA Dose Reconstruction Program released its report. It confirmed the complaints of thousands of Atomic Veterans that DTRA's dose estimates have often been based on arbitrary assumptions resulting in underestimation of the actual radiation exposures. Based on a sampling of DTRA cases, it was found that existing documentation of the individual's dose reconstruction, in a large number of cases, was unsatisfactory and evidence of any quality control was absent. The Committee concluded their report with a number of recommendations that would improve the dose reconstruction process of DTRA and VA's adjudication of radiation claims.

The American Legion was encouraged by the mandate for a study of the dose reconstruction program; nonetheless, we are concerned that the dose reconstruction program may still not be able to provide the type of information that is needed for Atomic Veterans to receive fair and proper decisions from VA. Congress should not ignore the National Research Council's findings and other reports that dose estimates furnished VA by DTRA over the past 50 years have been flawed and have prejudiced the adjudication of the claims of tens of thousands of Atomic Veterans. It remains practically impossible for Atomic Veterans or their survivors to effectively challenge a DTRA dose estimate.

It is not possible to accurately reconstruct the radiation dosages to which these veterans were exposed. The process prolongs claims decisions on ionizing radiation cases, ultimately delaying treatment and compensation for veterans with fatal diseases.

The American Legion believes the dose reconstruction program should be discontinued. We urge the enactment of legislation to eliminate this provision in the claim of veterans with a recognized radiogenic disease who were exposed to ionizing radiation during military service.

Mustard Gas Exposure

In March 2005, VA initiated a national outreach effort to locate veterans exposed to mustard gas and Lewisite as participants in chemical warfare testing programs while in the military. The purpose of the testing programs was to evaluate the effectiveness of various types of protective clothing, ointments and equipment that could be used to protect American soldiers on the battlefield. Some participants were exposed during full-body exposure wearing various degrees of protective gear and some were tested by having a droplet of the agent applied to their forearms. For this recent initiative, VA is targeting veterans who have been newly identified by DOD for their participation in the testing, most of which had participated in programs conducted during WWII. DOD estimated 4,500 service members had been exposed. Since the most recent VA outreach effort was announced, The American Legion has been contacted by veterans who contend that the number of participants identified was understated by tens of thousands, and that participation in these clandestine chemical programs extended decades beyond the World War II era. Investigators have not always maintained thorough records of the events; adverse health effects were not always annotated in the service member's medical records; and participants were warned not to speak of the program. Without adequate documentation of their participation, participants may not be able to prove their current ailments are related to the testing.

It is important DOD commits to investigating these claims as they arise to determine if they have merit. It is also important VA commit to locating those identified by DOD in a prompt manner, as many of them are WWII era veterans. Congressional oversight may be necessary to ensure these veterans are granted the consideration they deserve.

COMPENSATION AND PENSION

VETERANS BENEFITS ADMINISTRATION

VA has a statutory responsibility to ensure the welfare of the nation's veterans, their families, and survivors. Providing quality decisions in a timely manner has been, and will continue to be one of VA's most difficult challenges.

CLAIMS BACKLOG

At the end of FY 2008, more than 2.9 million veterans received disability compensation benefits. Providing quality decisions in a timely manner has been, and will continue to be, one of the VA's most difficult challenges. A majority of the claims processed by the Veterans Benefits Administration's (VBA) 57 regional offices involve multiple issues that are legally and medically complex and time consuming to adjudicate.

At the end of FY 2008, there were more than 382,000 rating cases pending in the VBA system, down approximately 9,000 from FY 2007. Of these, more than 82,000 (21.8 percent) were pending for more than 180 days. Including non-rating claims pending, the total compensation and pension claims backlog was more than 616,000, with 20.3 percent of these claims pending more than 180 days. There were also more than 181,000 appeals pending at VA regional offices, with more than 159,000 requiring some type of further adjudicative action. At the end of FY 2008, the average number of days to complete a claim from date of receipt (178.9 days) was down 3.6 days from FY 2007.

As of August 1, 2009, there were more than 739,000 claims pending in VBA, 413,048 of which were rating claims. There were also more than 194,000 appeals pending, with more than 173,000 requiring further adjudicative action. All three categories represent increases, some significant, since the end of FY 2008. VBA only considers claims pending more than 125 days to be its "backlog." Even when using this standard there were more than 144,000 rating claims pending at the end of June 2009 (35.6 percent of its entire pending case inventory). In FY 2008, VBA received 880,000 rating claims and 775,000 non-rating claims for a total of more than 1.6 million claims.

POTENTIAL SOLUTIONS

As VA's total claims backlog approaches one million, the number of bills and other potential initiatives introduced to address this very serious dilemma have also increased significantly. While The American Legion supports the concept of "out of the box thinking" and new ways of doing business, we do not support anything that would compromise the basic integrity of the disability claims adjudication system or cause more problems in the end (initially reduce the backlog but end up with a bunch of new claims, reversals, appeals, etc down the road). Temporary fixes or solutions that would end up causing more harm than good in the end must be avoided at all costs.

While there is no means of controlling the number of service-members who are injured or develop lifelong conditions in service to this country, measures must be taken to ensure that when they do seek the benefits to which they are entitled, they do not face needless and frustrating delays. Some solutions to this growing problem can be fixed administratively by VA, while others will require legislative action to help facilitate a reduction in the backlog. Overall, the strategy is clear. The primary focus must be on completing the claims correctly. Claims done right the first time will not needlessly clog the system with unnecessary appeals that end up bouncing around in the system for years.

To this end, VA, internally, can do several things to improve their quality. To begin with, the VA must opt for a system of counting work that is accountable to errors. No longer should the same

work credit be given whether a claim is handled properly or improperly. When there is no incentive to stress quality of work, then speed becomes the focus and crucial details are often skipped. The American Legion has long supported a system of counting work credit that credits claims only when they have been finally adjudicated. In such a system, the incentive would shift to

properly executing the claims at every step of the way to minimize the time such claims would languish in the system.

VA must also work to reduce needless overdevelopment in claims. Oftentimes veterans are scheduled for

examinations when the medical information needed to grant the claim is already in the file.

Internal changes to the manner in which the VA confirms evidence should be closely examined.

In addition to the current pilot program being conducted to expedite the treatment of fully developed claims, as mandated by P L 110-389, VA should, in general, place greater emphasis on conducting triage to identify and expedite claims that are substantially complete (very little or no development needs to be completed in order to rate the claim) at the time they are submitted.

Then C&P exams should be ordered as soon as possible in cases where the only development that is needed in order to rate the claim is an exam. Although there are mandatory notification requirements under the Veterans Claims Assistance Act (VCAA) VA can streamline its waiver process in those cases where the claim is substantially complete and or veterans do not have any additional evidence to submit. This would allow VA to proceed with the adjudication process in a timely manner without having to wait for the expiration of the time period for a veteran to submit additional evidence or otherwise respond to the VCAA letter.

VA has already moved to improve the efficiency in confirming the "in-country" status of naval veterans by relaxing restrictions to include, for presumption of herbicide exposure purposes, those Navy veterans whose ships docked

in Vietnam. Such recognition will avoid needless delays in processing these claims by not requiring the veteran to prove he actually went ashore while his ship was docked. While The American Legion continues to urge Congress to restore the presumption of exposure to Agent Orange/herbicides to Navy veterans who served in the territorial waters of Vietnam, we also recognize that this is a helpful step from VA in the right direction, and a step taken through the process of working constructively with the veterans' service organizations.

In a legislative sense, there are other solutions presently being considered which could improve the process. The expansion of the provisions of Section 1154(b), title 38 USC, to include all veterans who serve in a combat zone is an important recognition of the exigencies of modern warfare. It can no longer be denied that the face of modern warfare recognizes no clear lines of battle. The original provisions of this section were intended to recognize the difficulties of record keeping in the rigors of combat. Now, combat is clearly omnipresent on the non-linear battlefield, and a modern interpretation of this statute seems needed. This change would simplify the confirmation of incidents consistent with the rigors and experiences of combat, and would go a long way towards reducing unnecessary delays and red tape faced by our combat veterans.

Additional legislation currently pending addresses one of the chief problems with the Appeals Management Center. As of now, there is little effective means of capturing the common errors made on a local level and to report them back to the Regional Offices for correction. While it is important to maintain a center dedicated to facilitating the appeals process, the information about

common errors is useless if these mistakes cannot be captured, catalogued, and returned to the Regional Offices-and indeed disseminated amongst all Regional Offices when a problem is determined to be widespread-so that corrective measures can be implemented. The American Legion supports legislation which would ensure that these common errors are captured, catalogued, reported and utilized for training purposes to improve overall operation of the VA. The American Legion also supports legislation which would allow the Board of Veterans' Appeals (BVA) to consider new evidence without waiver of regional office review in instances where the BVA can grant the appeal. Such legislation would cut down on needless delays in the adjudication process by eliminating remands in instances where evidence was submitted to the BVA without waiver but the evidence is sufficient for BVA to grant the appeal.

VETERANS MEMORIALS

NATIONAL CEMETERY ADMINISTRATION

The mission of the National Cemetery Administration (NCA) is to honor veterans with final resting places in national shrines and with lasting tributes that commemorate their service to this nation. The NCA mission is to serve all veterans and their families with the utmost dignity, respect, and compassion. Every national cemetery should be a place that inspires visitors to understand and appreciate the service and sacrifice of our nation's veterans.

The American Legion recognizes NCA's excellent record in providing timely and dignified burials to all veterans who opt to be buried in a National Cemetery. Equally noteworthy is NCA's fine record in providing memorial headstones, markers and Presidential Memorial Certificates (PMC) to all who request such benefits. We also recognize the hard work that is required to restore and maintain National Cemeteries as national shrines and applaud NCA for its commitment and success toward that endeavor. Fortunately, this NCA is consistently ranked as one of the highest examples of service to their clientele of any organization in America, and this praise is a testament to the commitment they display towards fulfilling their mission.

The American Legion is supportive of and appreciates the ongoing stated goal of NCA to ensure that burial in a National or State Cemetery is a realistic option by locating cemeteries within 75 miles of 90% of all veterans.

National Cemetery Expansion

The requested overall budget for 2011 is \$242 million. Interments in FY 2013 are expected to be about 109,000, a 6 percent increase from FY 2008. The total number of graves maintained is also expected to increase during the planning time frame from almost 2.9 million in FY 2008 to over 3.3 million in FY 2013.

Since it takes approximately 20 to 30 FTEs to run a national cemetery (depending on the size and workload); and whereas it takes 8 to 10 FTEs to run a newly opened cemetery (cemeteries are opened to interments long before completion of the full site) it seems reasonable to believe that at least 50 new employees would be needed to operate the 6 new cemeteries that NCA plans to bring online in FY 2008. It is likely that they will need the full 20 to 30 by FY 2009. The average employee salary with benefits is \$67,000.

The American Legion recommends and that monies for additional employees also be included in the FY 2011 budget. Burial Benefit Increase

As with any other aspect of an economy, rising costs affect funereal expenses, yet VA has long lagged behind the curve in providing an adequate benefit to families to cope with these rising funeral costs. In 2001 the plot allowance was increased for the first time in more than 28 years, to

\$300 from \$150, which covers approximately 6 percent of funeral costs for a non-service related death, and to \$2,000 for a death related to service. These numbers are far below what could be construed as an equitable benefit. The original benefit was scaled to represent 22% of these expenses, so clearly this has fallen well behind. The time has long since passed for Congress to approve an increase to these funds, commensurate with an equitable contribution in line with the present economy. Furthermore, a mechanism must be put in place for more frequent adjustments to these amounts so they will not be allowed to lag behind as they have done in the past. The American Legion waiting another 28 years for another adjustment does not do justice to the families of these service members. The American Legion recommends that the burial allowances for families of service-members be increased to amounts more commensurate with the present economy. The American Legion further recommends that a mechanism for regular review and adjustment be put in place to address this in perpetuity

National Shrine Commitment

Maintaining cemeteries as national shrines is one of NCA's top priorities. This commitment involves raising, realigning and cleaning headstones and markers to renovate gravesites. Adequate funding is the key to maintaining this very important commitment. The American Legion supported NCA's goal of completing the National Shrine Commitment within five years. VA assessed burial sections, roadways, buildings, and historic structures and identified 928 potential improvement projects at an estimated cost of \$280 million. With the addition of six new national cemeteries, between late 2008 and mid 2009, resources have been strained. The American Legion recommends that \$60 million be put toward the National Shrine Commitment in order to fulfill this commitment.

The American Legion recommends \$260 million for the National Cemetery Administration in FY 2011. State Cemetery Construction Grants Program

VA's State Cemetery Grants Program complements VA's 130 national cemeteries across the country. The program helps states establish, expand or improve state veterans' cemeteries. To date, this VA program has helped establish 73 veterans' cemeteries in 38 states, Saipan and Guam, which provided more than 25,000 burials in FY 2008. Since the program began in 1980, VA has awarded 174 grants totaling nearly \$340 million.

NCA received \$32 million for the 2008 fiscal year to be used for this program to establish new State cemeteries as well as improve existing ones. Determining an "average cost" to build a new state cemetery or to expand an existing one is very difficult. Many factors influence cost, such as location, size and the availability of public utilities. The NCA has requested \$42 million for the 2010 Fiscal Year to continue the work of this worthy program.

The American Legion believes States will increasingly use the State Cemetery Grants Program to fill the needs of veteran populations that are still not well served by the "75-mile service area / 170,000 veteran population"

threshold that currently serves as the benchmark for establishing a new national cemetery. New state cemeteries, and expansions and improvements of existing cemeteries are therefore likely to increase. With increasing costs, especially the high costs of land in urban areas, and increased demand, The American Legion suggests that the amount of money for the State Cemetery Grants Program be substantially increased.

The American Legion recommends \$50 million for the State Cemetery Grants Program in FY 2011.

VETERANS ECONOMIC ISSUES

STATE APPROVING AGENCIES

The American Legion is deeply concerned with the timely manner that veterans, especially returning wartime veterans, receive their education benefits. Annually, approximately 300,000 service members (90,000 of them belonging to the National Guard and Reserve) return to the civilian sector and use their earned education benefits from the VA. Any delay in receipt of education benefits or approval of courses taken at institutions of higher learning can adversely affect a veteran's life.

State Approving Agencies (SAAs) are responsible for approving and supervising programs of education for the training of veterans, eligible dependents, and eligible members of the National Guard and the Reserves. SAAs grew out of the original GI Bill of Rights that became law in 1944. Though SAAs have their foundation in Federal law, SAAs operate as part of state governments. SAAs approve programs leading to vocational, educational or professional objectives. These include vocational certificates, high school diplomas, GEDs, degrees, apprenticeships, on-the-job training, flight training, correspondence training and programs leading to required certification to practice in a profession.

Effective March 1, 2001, SAAs assumed responsibility for approving organizations offering tests required to secure local, state, Federal or industry-based licenses or certifications. SAAs maintain a computer database that lists all approved education and training facilities in the state and their approved program offerings. The mission of these SAAs is to provide technical assistance and regulatory expertise to educational and training administrators to ensure that quality programs are available to veterans and other eligible persons.

It should be noted that SAAs have not had an increase in funding in the last four years (inflation rose 14 percent during this time period). VA has conducted hiring to process new claims. By contrast, SAAs despite the same increase in demand for services have not been allowed to hire additional staff. SAAs will require an additional \$5 million per year for the next three years (total of \$15 million). This funding would allow SAAs to continue to fulfill the following duties:

Make determinations regarding the quality and integrity of all kinds of learning experiences (institutional, job training, flight, correspondence, etc.);

- Work with employers to develop and enroll veterans in job training programs (Apprenticeships and OJT);
- Assess and approve tests for professional and occupational licensing and certification;
- Perform outreach activities to increase the utilization of the GI Bills including briefings during transition assistance programs (TAP) and retirement seminars, and sending out mailings to recently discharged veterans and Selected Reserve personnel;
- Provide advice and guidance to veterans, guardsmen, reservists, and other GI Bill benefit recipients, as well as educators, trainers, and others who counsel veterans; and,
- Train VA School Certifying Officials at all educational institutions and job training establishments.

The Post 9/11 GI Bill has dramatically changed the work requirement for SAAs. Adequate funding will provide additional staffing and other resources for SAAs to fulfill its mission. The benefit stream flows through SAAs as well as the VA, and without fully functioning SAAs, veterans and other benefit recipients will not receive their educational benefits in an efficient and timely manner.

In March 2007, a GAO report in March 2007 entitled VA Student Financial Aid: Management

Actions Needed to Reduce Overlap in Approving Education and Training Programs and to Assess State Approving Agencies (GAO- 07-3 84) focused on the need to “ensure that Federal dollars are spent efficiently and effectively.” GAO recommended

that VA should require SAAs to track and report data on resources spent on approval activities, such as site visits, catalog review, and outreach in a cost-efficient manner. Additionally, GAO recommended that VA establish outcome- oriented performance measures to assess the effectiveness of SAAs efforts. Finally, GAO recommended that VA should collaborate with other agencies to identify any duplicate efforts and use the agency’s administrative and regulatory authority to streamline the approval process.

The American Legion fully agrees with these recommendations.

The American Legion strongly supports SAAs and is committed to working with them along with the VA and other Federal agencies to ensure that America’s veterans receive the finest education and training programs so they can live a dignified and successful life after serving this great nation. The American Legion recommends \$24 million for the State Approving Agencies for FY 2011.

POST 9/11 GI BILL

The American Legion strongly supported these enhancements to the Montgomery GI Bill and is pleased that Congress passed the Post 9/11 GI Bill. The President signed this vital piece of legislation on June 30, 2008. This new bill helps to pay for tuition and fees; additionally many veterans who served after September 11, 2001, will get full tuition and fees, a new monthly housing stipend, and a \$1,000 a year stipend for books and supplies. Additionally, the bill gives Reserve and Guard members who have been activated since 9/11 access to the same GI Bill benefits. However, this bill only covers Institutes of Higher Learning (IHLs).

Not all veterans attend IHLs. Many veterans prefer traditional employment and/or may require employment for personal or family reasons. The American Legion recommends that these programs be included under the Post 9/11 GI Bill:

- flight training;
- correspondence schools;
- vocational schools;
- apprentice programs; and,
- On-the-job training programs.

The Post 9/11 GI Bill should be modified to include non-college degree programs. Veterans using their educational benefits for other than IHLs are able to use them under the existing Section 1606 or 1607, title 10 USC. However,

in those instances the benefit recipients are not entitled to either the housing stipend or the allowance for books and supplies. The American Legion believes that veterans should never be limited in the manner they use their educational benefits.

According to VA, four of the top ten institutions serving veterans and the active military are online institutions. In FY 2008, over 645,000 active duty military took voluntary education courses that were paid by DOD, and 60 percent of these students chose to study online. Further, in FY 2006, there were approximately 840,000 military students (active and veterans) enrolled in voluntary education programs both at the secondary and post-secondary level, with approximately 75 percent of instruction being offered via online institutions. The current practice of paying veterans a lesser benefit when they receive credit via distance learning is unfair to those veterans.

Veterans choose to attend online institutions because of location, job, family commitments, or disability. Additionally, high participation of veterans in distance learning is partly due to the emphasis on adults. Online universities are noted for their “GI-friendly” policies and practices. Online programs are offered throughout the year, allowing veterans to take lighter course loads or to finish their degree programs in shorter time periods. Accordingly, The American Legion recommends that the allowances for distance learning be made similar to those in effect for residential learning. This assures equity for veterans including single parents (particularly women veterans) and veterans with significant medical disabilities.

Other improvements would include provisions for lifelong learning and additional financial support for educational institutions providing programs and services to veterans. The Post 9/11 GI Bill was hard earned and is certainly well deserved for the men and women who have protected, sacrificed, and served this country honorably. With some modest refinements, this bill can have the same economic and social effect as the original GI Bill signed in 1944.

VOCATIONAL REHABILITATION AND EMPLOYMENT SERVICE (VR&E)

Since the 1940s, VA has provided vocational rehabilitation assistance to veterans with disabilities incurred during military service. The Vocational Rehabilitation and Employment (VR&E) Amendments of 1980, PL 96-466, changed the emphasis of services from training aimed at improving the employability of disabled veterans, to helping veterans obtain and maintain suitable employment and achieve maximum independence in daily living. VR&E program employment goals are accomplished through training and rehabilitation programs authorized under Chapter 31

title 38, USC. Title 38, USC provides a 12-year period of eligibility after the veteran is discharged or first notified of a service-connected disability rating. To be entitled to VR&E services, veterans must have at least a 20 percent service connected disability rating and an employment handicap or less than a 20 percent disability and a serious employment handicap. The mission of the VR&E program is to help qualified, service-disabled veterans achieve independence in daily living and, to the maximum extent feasible, obtain and maintain suitable employment. The American Legion fully supports these goals. As a nation at war, there continues to be an increasing need for VR&E services to assist OIF and OEF veterans in reintegrating into independent living, achieving the highest possible quality of life, and securing meaningful employment. The success of the rehabilitation of severely disabled veterans is determined by the coordinated efforts of every Federal agency (DOD, VA, Department of Labor, Office of Personnel Management,

Department of Housing and Urban Development, etc.) involved in the seamless transition from the battlefield to the civilian workplace. Timely access to quality health care services, favorable physical rehabilitation, vocational training, and job placement play a critical role in the “seamless transition” of each veteran, as well as his or her family.

Administration of VR&E and its programs is a responsibility of the VBA. Providing effective employment programs through VR&E must become a priority. Until recently, VR&E’s primary focus has been providing veterans with skills training, rather than providing assistance in obtaining meaningful employment. Clearly, any employability plan that doesn’t achieve the ultimate objective -- a job -- is falling short of actually helping those veterans seeking assistance in transitioning into the civilian workforce. Eligible veterans who are enrolled in the education

and training programs receive a monthly allowance; those veterans who use VR&E for assistance with immediate employment do not. This policy denies needed assistance to veterans who for economic reasons, must look for immediate employment.

Another problem hindering the effectiveness of the VR&E program as cited in reports by GAO is exceptionally high workloads for the limited number of staff. This hinders the staff's ability to effectively assist individual veterans with identifying employment opportunities. A recent GAO report noted that 54 percent of all 57 regional offices stated they have fewer counselors than they need and 40 percent said they have fewer employment coordinators than they need. As in the past, achieving ample staffing in VR&E is a major concern. Especially considering the high number of OIF and OEF veterans without a sufficient number of well trained staff, the success of VR&E programs becomes extremely challenging. VR&E also needs relevant data concerning the number of veterans who are applying for disability benefits, so they can project future workload and hire staff accordingly.

Vocational counseling also plays a vital role in identifying barriers to employment and matching veterans' transferable job skills with those career opportunities available for fully qualified candidates. Becoming fully qualified becomes the next logical objective toward successful transition. Veterans' preference should play a large role in vocational counseling as well. The Federal government has a number of employment opportunities that educated, well-trained, and motivated veterans can fill given a fair and equitable chance to compete. Working together, all Federal agencies should identify those vocational fields, suitable for VR&E applicants. Career fields such as information technology, claims adjudications, and debt collection offer employment opportunities and challenges for career-oriented applicants.

INTERAGENCY COOPERATION BETWEEN DOL-VETS AND VA

It is our experience that the interagency collaboration and communication between the VR&E program, and the Department of Labor (DOL) Veterans Employment and Training Service (VETS) has been lacking in the past; however, there has been improvement recently.

In recent years, many states did not refer veterans from the VR&E program to VETS for assistance in obtaining employment. Veterans with high-tech skills and advanced education were referred to expensive commercial placement agencies that do not specialize in employment assistance for veterans, and difficult to place veterans were sent to VETS. Therefore, to assist in the correction of these deficiencies a memorandum of understanding between VA and DOL was developed and signed in October 2005 stating that each agency would work for the smooth transition of veterans to the civilian work force. This agreement is authorized in accordance with Section 4102A (b) (3), title 38, USC.

In discussions with numerous VETS representatives across the country, The American Legion is hearing a variety of opinions on the current implementation process and progress of the Memorandum Of Understanding (MOU). Some states report a total lack of communication and information sharing while other states already enjoy a strong relationship between the local VETS and VR&E Offices.

A majority of VETS representatives contacted spoke of a markedly improved level of communication between the two agencies, along with other positive developments such as improvement in local data sharing and combined training on the local and national levels. In addition, national representatives from the two agencies are currently reporting a close and cooperative relationship, and the expectation is that this relationship will continue to improve

over time.

In some states, however, it has been reported that the signing of the MOU has not led to an improvement in cooperation between the two agencies. Some problems cited were a difference in the perceptions of the primary mission, differing education levels of VA case managers and the DVOPs and LVERs, and the unenforceable mandate for the two agencies to communicate and cooperate on a local level. The DVOPs and LVERs are controlled by each individual state and have their own requirements, making a state and federal program difficult to synchronize.

While poor coordination between VR&E counselors and their VETS counterparts has contributed to the shortfalls of the VR&E program, a number of states have begun to improve communications. A majority of VETS representatives have commended their VR&E counterparts for their willingness to ensure the successful implementation of the MOU that is designed to improve rehabilitation, training and employment outcomes for disabled veterans.

Rehabilitation and Employment Outcomes

Numbers of Rehabilitated/Employed Veterans

FY 2003 9,549 7,525

FY 2004 11,129 8,392

FY 2005 12,013 9,279

FY 2007 11,008 8,252

FY 2008 11,066 8,831

In FY 2008, VR&E funding was \$770 million, and the program served 97,116 veterans. The average annual salary for the 8,831 veterans rehabilitated in suitable employment was \$32,359.

The veterans average annual salary before entering VR&E was \$5,641.

The American Legion recommends exploring possible training programs geared specifically for VR&E Counselors through the National Veterans Training Institute (NVTI). Contracting for standardized or specialized training for VR&E employees could very well strengthen and improve overall program performance. NVTI serves as a valuable resource for VETS employment specialists and has contributed to a marked improvement in VETS performance.

No VA mission is more important especially now when this country is at war and in financial crisis, than enabling injured veterans with disabilities to have a seamless transition from military service to a successful rehabilitation suitable employment. The success of the VR&E program will be measured by the success of these veterans' ability to obtain gainful employment. To meet America's obligation to these veterans, VA and DO leadership must continue to focus on improvements in case management, vocational counseling, and most importantly, job placement. With more than 33,000 service members, VR&E's services are more critical than ever. The American Legion strongly supports VR&E programs and is committed to working with VA and other Federal agencies to ensure that America's wounded veterans are provided with the highest level of service and employment assistance.

Provide military occupational skills and experience translation for civilian employment counseling

The American Legion notes that due to the current demands of the military, greater emphasis on the Reserve component of the Armed Forces created employment hardships for many Reservists. DOD provides some of the best vocational training in the nation for its military personnel and establishes measures and evaluates performance

standards for every occupation with the Armed Forces. There are many occupational career fields in the armed forces that can easily translate to a civilian counterpart. Many occupations in the civilian workforce require a license or certification. In the Armed Forces, these unique occupations are performed to approved military standards that may meet or exceed the civilian license or certification criteria.

Upon separation, many former military personnel, certified as proficient in their military occupational career, are not licensed or certified to perform the comparable job in the civilian workforce, thus hindering chances for immediate civilian employment and delaying career advancement. This situation creates an artificial barrier to employment upon separation from military service.

A study by the Presidential Commission on Service Members and Veterans Transition Assistance identified a total of 105 military professions where civilian credentialing is required. The most easily identifiable job is that of a Commercial Truck Driver in which there is a drastic shortage of qualified drivers. Thousands of veterans must venture through each state's laws instead of a single national test or transfer of credentials from the military. We have testified alongside members of the trucking industry to the House Veterans' Affairs Subcommittee on Economic Opportunity for the need for accelerated MGIB payments for these courses and other matters.

The American Legion supports amending Section 4 101(5), title 38, USC, to add Subsection (D) to the list of "Eligible Persons" for Job Counseling, Training, and Placement Service for Veterans, to include members in good standing of Active Reserve and Guard Units of the Armed Forces of the United States who have completed basic and advanced Duty for Training (ACDUTRA) and have been awarded a Military Occupation Specialty.

The American Legion supports efforts to eliminate employment barriers that impede the transfer of military job skills to the civilian labor market, and supports efforts by DOD to take appropriate steps to ensure that service members be trained, tested, evaluated and issued any licensure or certification that may be required in the civilian workforce.

The American Legion supports efforts to increase the civilian labor market's acceptance of the occupational training provided by the military.

DEPARTMENT OF LABOR (DOL) VETERANS EMPLOYMENT AND TRAINING SERVICE (VETS)

The American Legion's position regarding VETS programs is that this is and should remain a national program with Federal oversight and accountability. The American Legion is eager to see this program grow and especially would like to see greater expansion of entrepreneurial based, self-employment opportunity training. The mission of VETS is to promote the economic security of America's veterans. This stated mission is executed by assisting veterans in finding meaningful employment. The American Legion believes that by strengthening American veterans, we in turn strengthen America. Annually, DOD discharges approximately 300,000 service members. Recently separated service personnel will seek immediate employment or increasingly have chosen some form of self-employment. In order for the VETS program to assist these veterans to achieve their goals, it needs to:

- Improve by expanding its outreach efforts with creative initiatives designed to improve employment and training services for veterans;
- Provide employers with a labor pool of quality applicants with marketable and transferable job skills;

- Provide information on identifying military occupations that require licenses, certificates or other credentials at the local, state, or national levels;
- Eliminate barriers to recently separated service personnel and assist in the transition from military service to the civilian labor market;
- Strive to be a proactive agent between the business and veterans' communities in order to provide greater employment opportunities for veterans; and
- Increase training opportunities, support and options for veterans who seek self-employment and entrepreneurial careers.

The American Legion believes staffing levels for Disabled Veterans' Outreach Program Specialists and Local Veterans' Employment Representative (LVERs) should match the needs of the veterans' community in each state and not be based solely on the fiscal needs of the state government. Such services will continue to be crucial as today's active duty service members, especially those returning from combat in Iraq and Afghanistan, transition into the civilian world. Education, vocational and entrepreneurial training and employment opportunities will enable these veterans to succeed in their future endeavors. Adequate funding will allow the programs to increase staffing to provide comprehensive case management job assistance to disabled and other eligible veterans.

Section 4 103(a), Title 38, USC requires that all DVOP specialists shall be qualified veterans and preference be given to qualified disabled veterans in appointment to DVOP specialist positions.

Section 4 104(a) (4), Title 38, USC states:

“[I]n the appointment of local veterans' employment representatives on or after July 1, 1988, preference shall be given to qualified eligible veterans or eligible persons. Preference shall be accorded first to qualified service-connected disabled veterans; then, if no such disabled veteran is available, to qualified eligible veterans; and, if no such eligible veteran is available, then to qualified eligible persons.”

The American Legion believes that the military experience is essential to understanding the unique needs of the veteran and that all LVERs, as well as all DVOPs, should be veterans and should be additionally educated to be able to address the needs of veterans who desire entrepreneurial support.

The American Legion also supports legislation that will restore language to Chapter 41, title 38, USC, that require that half-time DVOP/LVER positions be assigned only after approval of the DVET, and that the Secretary of Labor would be required to monitor all career centers that have veterans on staff assigned. PL 107-28 8 has eliminated the requirement that DOL-VETS review all workforce centers annually and this has minimized Federal oversight of the programs since the Assistant Secretary of Veterans Employment and Training, has drastically cut funds allocated for this activity and established a policy that only 10 percent of the centers operated under title 38, USC will be reviewed,

PL 107-288 has removed the job descriptions of the DVOPs and LVERs from Chapter 41, title 38, USC, and given the states the ability to establish the duties and responsibilities, thus weakening the VETS program across the country by eliminating the language that required these staff positions provide services only to veterans. Additionally, The American Legion seeks legislation that will transfer the DVOP and LVER program to DOL-VETS for oversight in order to ensure that the individuals employed to serve veterans are not used for other programs.

Veterans returning from Afghanistan, Iraq and other tours of duty are not always coming back to

a hero's welcome -- at least from employers. According to DOL, the unemployment rate for veterans younger than 24 was 14.1 percent in 2008, outpacing the non-veteran rate of 11.6 percent for the same age group. Additionally, in DOL's non-seasonally-adjusted numbers for the second quarter of 2009, veterans younger than 24 had a 26.8 percent unemployment rate, compared with 16.8 percent for non-veterans. The unemployment rate for all veterans serving since 9/11 was 10.3 percent, compared with 8.9 percent for non-veterans. Numerous national publications have reported veterans are having a more difficult time finding jobs than non-veterans. According to a recent national survey, one in five veterans said finding a job took six months or longer; one in 10 said it took more than a year. The employment market is tougher for young veterans. This is a major key reason why the funding for the VETS program is so critical.

Veterans need proper training and tools to begin new careers after they leave military service. The Veterans Workforce Investment Program (VWIP) account has only received \$7.6 million in annual funding, which has allowed the program to operate in only 11 states. This is absolutely unacceptable. There are thousands of veterans available for work, but they lack marketable, technological skills, especially for those jobs that exist in the Information Age economy. The problem is clearly a lack of adequate funding for veterans who are the only participants in this program. The budget baseline needs to increase to allow VETS to train eligible veterans in all 50 states in FY 2011.

Make Transitional Assistance Program (TAP)/Disabled Transitional Assistance Program (DTAP) a Mandatory Program

The American Legion is deeply concerned with the timely manner that veterans, especially returning wartime veterans, transition into the civilian sector. Annually, for the past 6 years, approximately 300,000 service members, 90,000 of them belonging to the National Guard and Reserve, enter the civilian sector each year.

DOD estimates that 68 percent of separating service members attends the full TAP seminars and only 35 percent of the Reserve components attend. The American Legion believes this low attendance number is a disservice to all

transitioning service members, especially the Reserve component. Currently, numerous National Guard and Reserve troops have returned from the war in Iraq and Afghanistan only to encounter difficulties with their Federal and civilian employers at home, and the number of destroyed and bankrupt businesses due to military deployment is still being realized.

In numerous cases brought to the attention of The American Legion by veterans and other sources, many of these returning service members have lost jobs, promotions, businesses, homes, and cars and, in a few cases, become homeless. The American Legion strongly endorses the belief that service members would greatly benefit by having access to the resources and knowledge that the Transitional Assistance Program (TAP) and Disabled Transitional Assistance Program (DTAP) can provide and the TAP/DTAP program needs to update their program to recognize the large number of National Guard and Reserve business owners who now require training, information and assistance while they attempt to salvage or recover from a business which they abandoned to serve their country.

Any delay in reintegration into the civilian workforce can adversely affect a veteran's life. Every effort should be made to ensure that veterans are afforded all the opportunities that this great country can offer without delay.

The American Legion strongly supports the TAP and DTAP. Additionally, The American Legion supports that DOD require all separating, active-duty service members, including those from

Reserve and National Guard units, be given an opportunity to participate in TAP and DTAP training not more than 180 days prior to their separation or retirement from the Armed Forces.

DOD's TAP program was designed to help smooth the transition of military personnel (and family members) leaving active duty. TAP is a partnership among DOD, DOL, and VA. The program consists of four components:

1. DOD Pre-separation Counseling;
2. DOL Employment Workshops;
3. VA Benefits Briefing; and
4. Disabled Transition Assistance Program (DTAP).

Once a service member has completed the four workshops above, they are eligible for one-on-one counseling and employment assistance training through their service. For demobilizing Guard and Reserve: DOD Pre-separation Counseling, DOL Uniformed Services Employment and Reemployment Rights Act (USERRA) Briefing, VA Benefits Briefing, and VA DTAP Briefing are provided on major military installations by the Transition Assistance Offices. TAP Employment Workshops are provided to transitioning service members at most military installations in the United States as well as in eight overseas locations. The two and one-half day employment workshops help service- members prepare a plan for obtaining meaningful civilian employment when they leave the military. The workshop focuses on skills assessment, resume writing, job counseling and assistance, interviewing and networking skills, labor market information, and familiarization with America's workforce investment system.

Studies have shown that service members who participate in TAP employment workshops find their first civilian jobs three weeks earlier than veterans who do not participate in TAP.

According to DOL-VETS, it is estimated that about 65 percent of service members leaving active duty do attend a TAP workshop. VETS is vital in ensuring that every TAP participant leaves the session with a draft resume, a practice interview session, and having visited their state job board.

DOL-VETS program is critical in supporting veterans as they transition from the military and into the private sector, assisting veterans to be awarded federal employment using their earned veterans' preference, and assisting veterans to achieve substantially gainful employment.

At the end of the Cold War, DOD dramatically downsized its personnel strength. In an attempt to assist separating service members in making a successful transition back into the civilian workforce, Congress enacted PL 101-510 that authorized the creation of the TAP that provides separating service members with three days of comprehensive training with emphasis on such topics as networking, how to conduct a job search, resume writing, career decision- making, interview techniques, as well as current occupational and labor market conditions.

VETS provide professional veterans' employment personnel, DVOPs and LVERs, to participate in the TAP program. Higher demands placed on LVERs to deliver TAP modules, in addition to their normal employment assistance programs, has the potential for weakening their overall capability.

To ensure that all veterans, both transitioning and those looking for employment assistance well past their discharge, receive the best care, the DOL-VETS program must be adequately funded. However, we feel that the current funding levels are inadequate.

More services and programs are needed and yet since 2002 the VETS program has only received a modest four percent increase. Transition assistance, education, and employment are each a pillar of financial stability. They will prevent homelessness, afford the veteran to compete in the

private sector, and allow our nation's veterans to contribute their military skills and education to the civilian sector.

By placing veterans in suitable employment sooner, the country benefits from increased income tax revenue and reduced unemployment compensation payments, thus greatly offsetting the cost of TAP training. The necessity and severity of the situation is now.

The American Legion recommends \$404.2 million to DOL-VETS for FY 2011.

Employment

DVOPs provide outreach services and intensive employment services to meet the employment needs of eligible veterans, with priority to disabled veterans and special emphasis placed on those veterans most in need. LVERs conduct outreach to local employers to develop employment opportunities for veterans, and facilitate employment, training and placement services to veterans. In particular, many LVERs are the facilitators for the Transition Assistance Program employment workshops.

There are inadequate appropriations to several states because of policies and practices that cause these states to receive fewer positions and/or less funding. This procedure caused a deterioration of the available services provided to veterans in those states, and adversely impacts the level of services provided.

Homelessness (DOL - VETS)

The American Legion notes that there are approximately 131,000 homeless veterans on the street each night. This number, compounded with 300,000 service members entering the private sector each year since 2001 with at least a third of them potentially suffering from mental illness, requires that intensive and numerous programs to prevent and assist homeless veterans are available.

Homeless Veterans Reintegration Program (HVRP) is a competitive grant program. Grants are awarded to states or other public entities and non-profits, including faith-based organizations, to operate employment programs that reach out to homeless veterans and help them become gainfully employed. The purpose of the HVRP is to provide services to assist in reintegrating homeless veterans into meaningful employment within the labor force and to stimulate the development of effective service delivery systems that will address the complex problems facing veterans. HVRP is the only nationwide program focused on assisting homeless veterans to reintegrate into the workforce.

The American Legion recommends \$50 million for HVRP in FY 2011. Training

The National Veterans' Employment and Training Services Institute (NVTI) was established to ensure a high level of proficiency and training for staff that provide veterans employment services.

NVTI provides training to Federal and state government employment service providers in competency based training courses. Current law requires all DVOPs and LVERs to be trained within 3 years of hiring. The American Legion recommends that newly-hired DVOPs and LVERs should be trained within 1 year.

The American Legion recommends \$6 million of funding for NVTI in FY 2011. Veterans Workforce Investment Program (VWIP)

VWIP grants support efforts to ensure veterans' lifelong learning and skills development in programs designed to serve the most-at-risk veterans, especially those with service-connected disabilities, those with significant barriers to employment, and recently separated veterans. The

goal is to provide an effective mix of interventions, including training, retraining, and support services, that lead to long term, higher wages and career potential jobs.

The American Legion recommends funding of \$20 million for VWIP in FY 2011. Veterans' Preference

The American Legion is deeply concerned with the protection of the veteran and the prevention of illegal hiring practices. Currently, veterans are filing claims after the non-compliance employment event occurred and may become financially disadvantaged while waiting for results of the claim. Proactive measures and continuous oversight must be exercised to protect veterans from unfair hiring practices, not just reactionary investigations.

The following are steps taken by the Federal government to protect veterans' employment and demonstrate reactionary measures to assist veterans which may take months to resolve. Many veterans give up or do not file complaints because they must seek employment elsewhere or face serious financial difficulties.

The Office of Personnel Management (OPM) administers entitlement to Veterans' Preference in employment. DOL, through VETS, provides assistance to all persons having claims under USERRA. DOL is the enforcement authority for USERRA, and it processes all formal complaints of violations of the law. The veteran may then request that the Department of Justice (DOJ) litigate on their behalf.

The following excerpt is from the DOJ website (www.usdoj.gov):

“If VETS is unsuccessful in resolving the complaint, the claimant may request that VETS refer the complaint to Office of Special Counsel (OSC). If the Special Counsel believes there is merit to the complaint, OSC will initiate an action before the Merit Systems Protection Board (MSPB) and appear on behalf of the claimant.

“The DOJ is responsible for enforcing the provisions of the USERRA against state and local government employers and private employers. If the Department of Justice takes your case, it will serve as your attorney if you work for a private employer or a local government. If you work for a state government, the Department of Justice may bring a lawsuit in the name of the United States.”

The DOJ website continues to state:

“USERRA authorizes the Department of Justice Office of Special Counsel (OSC) to investigate alleged violations of the act by Federal Executive Agencies, and to prosecute meritorious claims before the Merit Systems Protection Board on behalf of the aggrieved person. Under the Veterans Employment Opportunities Act of 1998 (VEOA),

in order to seek corrective action, a preference eligible [veteran] is to file a written complaint with the U.S. Department of Labor, Veterans Employment and Training Service (VETS), within 60 days of the alleged violation.

If the Secretary is unable to resolve a complaint within 60 days, the Secretary is to provide notification of an unsuccessful effort to resolve the complaint to the complainant.”

Veterans' Preference is authorized by the Veterans' Preference Act (VPA) of 1944, and it only applies to Federal government employment. It provides that most veterans are to receive an extra five points (ten points for disabled veterans) in receiving and keeping Federal jobs. The Veterans' Employment Opportunity Act (VEOA) of 1998 extended certain rights and remedies to recently separated veterans. VETS was given the responsibility to investigate complaints filed by veterans who believe their Veterans' Preference rights have been violated and to conduct an extensive compliance assistance program.

Veterans' Preference is being ignored by numerous agencies. Figures show a decline in claims by newer veterans compared to Gulf War I. In reality, employment opportunities are not being broadcast. Federal agencies as well as subcontractors are required by law to notify OPM of job opportunities but these vacancies are rarely made available to the public.

The American Legion reiterates its position that protection of veterans' employment rights should be proactive and continuous oversight must be emplaced to protect veterans from unfair hiring practices. Reactionary investigations and lawsuits are not sufficient.

The American Legion further recommends that the veteran must be protected at the onset of the hiring process, corrective actions to remedy the veteran's situation in the veteran's favor are not guaranteed.

The American Legion recommends that DOJ provide a detailed description of their veterans' employment activities. The Uniformed Services Employment and Reemployment Rights Act (USERRA)

For almost 70 years, federal law has accorded the right to reemployment to those who left civilian jobs for voluntary or involuntary service in the uniformed services. In 1940, Congress enacted the Selective Training and Service Act (STSA), which provided for drafting millions of young men for World War II. A provision in the STSA gave those drafted the right to reemployment in their civilian jobs. A year later, as part of the Service Extension Act, Congress expanded the reemployment provision to make it apply to voluntary enlistees as well as draftees. In 1994, Congress enacted USERRA, a long-overdue rewrite of the reemployment statute. USERRA is codified in Sections 4301-4335, title 38, USC.

The reemployment statute applies to essentially all employers in this country, including the Federal Government, state and local governments, and private employers, regardless of size. This law applies to persons who leave civilian jobs

to serve in the regular military, as well as the National Guard and Reserve. To have the right to reemployment under USERRA, an individual must meet five simple conditions:

- a. Must have left a position of employment for the purpose of performing service in the uniformed services. A period of service can be anything from five hours to five years, and in some cases longer.
- b. Must have given the employer prior oral or written notice.
- c. The individual's cumulative period or periods of uniformed service, relating to the employer relationship for which the person seeks reemployment, must not have exceeded five years. All involuntary service and some voluntary service are excluded from the computation of the five-year limit.
- d. Must have been released from the period of service without having received a punitive or other-than-honorable discharge.
- e. Must have made a timely application for reemployment with the pre-service employer after release from the period of service.

If the individual meets these conditions, the employer has the legal obligation to reemploy the individual in the position of employment that he or she would have attained if he or she had remained continuously employed, or in another position for which the individual is qualified that is of like seniority, status, and pay. The fact that the job is filled is not a defense to the employer's obligation to reemploy. In some cases, it is necessary for the employer to displace another employee to make room for the returning veteran. The reemployed veteran must be treated as if he or she had been continuously employed by the civilian employer, during the

time the individual was away from work for service, for seniority and pension purposes. Section 4311, title 38, USC makes it unlawful for an employer to deny an individual initial employment, retention in employment, promotion, or a benefit of employment because of the individual's membership in a uniformed service, application to join a uniformed service, performance of uniformed service, or application or obligation to perform future service.

The American Legion favors vigorous and effective enforcement of USERRA with respect to all employers, and especially with respect to the Federal government. USERRA's very first section expresses the "sense of Congress that the Federal Government should be a model employer in carrying out the provisions of this chapter" in 4301(b) title 38, USC. Congress needs to provide adequate funding for ESGR, DOL-VETS, DOJ, and OSC, with respect to USERRA enforcement.

The American Legion recommends funding of \$61 million for Program Management that encompasses USERRA and VEOA in FY 2011.

MILITARY OCCUPATIONAL SPECIALTY TRANSITION (MOST) PROGRAM

The American Legion supports the new legislation, H.R. 929 to amend title 38, United States Code, to require the Secretary of Veterans Affairs to carry out a program of training to provide eligible veterans with skills relevant to the job market, and for other purposes, introduced by Representative Welch (VT). This legislation, if enacted, would authorize \$60 million for the next ten years to fund the Military Occupational Specialty Transition (MOST) program. MOST is modeled after a former veterans' employment program that was extremely successful, the Service Members' Occupational Conversion and Training Act (SMOCTA). SMOCTA was a training program developed in the early 1990s for separated service members with few or no transferable civilian market place job skills. . . If enacted, MOST would be the only Federal job training program available strictly for veterans and the only Federal job training program specifically designed and available for use by state veterans' employment personnel to assist veterans with barriers to employment.

Veterans eligible for assistance under MOST are those with a primary or secondary military occupational specialty that DOD has determined is not readily transferable to the civilian workforce or those veterans with a service- connected disability rating of 30 per cent or higher. MOST is a unique job training program because there is a job waiting for the newly trained veteran upon completion of training so that they can continue to contribute to the economic well being of the nation.

In March 1993, DOD, VA, and DOL signed a MOU, which defined their roles and responsibilities in the implementation of SMOCTA and DOD provided funding for SMOCTA. Both VA and DOL were responsible for administering the program. Many LVERs and DVOPs publicly praised the effectiveness of this program because it successfully returned veterans to the civilian workforce.

The American Legion recommends authorization of MOST and \$60 million for funding in FY 2011.

VETERAN AND SERVICE-DISABLED VETERAN-OWNED BUSINESSES

The American Legion views small businesses as the backbone of the American economy. It is the driving force behind America's past economic growth and will continue to be the major factor as we move further into the 21st Century. Currently, more than nine out of every ten businesses are

small firms, which produce almost one-half of the Gross National Product. Veterans' benefits have always included assistance in creating and operating veteran-owned small businesses. The impact of deployment on self-employed Reservists is tragic with a reported 40 percent of all businesses owned by veterans suffering financial losses and in some cases bankruptcies. Many small businesses have discovered they are unable to operate and suffer some form of financial loss when key employees (who are members of the Reserve component) are activated. The Congressional Budget Office in a report, "The Effects of Reserve Call-Ups on Civilian Employers," stated that it "expects that as many as 30,000 small businesses and 55,000 self-employed individuals may be more severely affected if their Reservist employee or owner is activated." Additionally, the Office of Veterans' Business Development within the Small Business Administration (SBA) remains crippled and ineffective due to a token funding of \$750,000 per year. This amount, which is less than the office supply budget for the SBA, is expected to support an entire nation of veterans who are entrepreneurs. The American Legion feels that this pittance is an insult to American military veterans who are small business owners; consequently, this undermines the spirit and intent of PL 106-50 and continues to be a source of embarrassment for this country.

The American Legion strongly supports increased funding of the efforts of the SBA's Office of Veterans' Business Development in its initiatives to provide enhanced outreach and specific community-based assistance to veterans and self-employed members of the Reserves and National Guard.

The American Legion also supports legislation that would permit the Office of Veterans Business Development to enter into contracts, grants, and cooperative agreements to further its outreach goals and develop a nationwide community-based service delivery system specifically for veterans and members of Reserve components. The American Legion recommends \$15 million in FY 2011 to enable the implementation of a nationwide community-based assistance program to veterans and self-employed members of the Reserves and National Guard.

SMALL BUSINESS AND THE CREDIT CRUNCH

Small businesses are another casualty of the credit crunch caused by the ongoing financial crisis. By the end of 2008, more than half of the nation's small businesses looking for credit were unable to obtain a loan. This credit freeze

will force many businesses to shut their doors, while others will be unable to expand. In either case, it means a loss of American jobs. Congress should supplement current efforts to thaw the credit market for small businesses by

establishing a direct lending program within the SBA. This program could provide loans to small businesses that can't otherwise find credit, thereby potentially saving or creating tens of thousands of American jobs.

During the fourth quarter of 2008, 70% of banks reported tightening their lending standards for small firms. As a consequence, fewer than half of the small businesses that tried to get a loan in the fourth quarter of 2008 were able to

get one. When small businesses that tried to obtain a new line of credit, only three in ten succeeded. The credit crisis is hitting small businesses across the board, including those that have been current in their payments and have no ties to high-risk sectors of the economy such as housing.

From November 2007 to November 2008, more than one quarter of small businesses reported a

decline in the number of jobs at their companies. In December 2008, only one in eight small businesses said they planned to hire new employees in the next twelve months, a 48% drop since August 2008. In addition, the number of small businesses filing for bankruptcy rose 54% from 2007 to 2008.

The 7(a) loan program is the SBA's largest and most used lending program. Under this program, SBA provides a guaranty of up to 85% for loans provided by private-sector to small businesses. But because 7(a) loans are offered through private-sector banks, which are reeling from the current crisis, small businesses may not be able to get the relief they need. From the first quarter of 2008 to the first quarter of 2009, the number of loans approved by the 7(a) program dropped 57%. Moreover, the SBA is expected to guarantee only about \$10 billion in loans this year, down from its historic norm of \$20 billion per year.

To help ease the credit crisis for small businesses, The American Legion urges Congress to establish a direct lending program through the SBA. This effort would offer low-interest loans to otherwise healthy veteran-owned and service-disabled veteran-owned businesses that are having trouble obtaining the credit they need for necessary operating expenses or expansion.

The American Legion believes the SBA's Office of Veterans' Business Development should be the lead agency to ensure that OIF and OEF veterans are provided with Entrepreneurial Development Assistance. Comprehensive training should be handled by the SBA and Resource Training Centers should include DOD and VA facilities. Currently, many military families are suffering financial hardship while their loved ones are recuperating in military hospitals around the country. Many spouses leave their jobs to be with that disabled service member only to watch their finances deteriorate. Seamless transition in many cases is just a wishful thought; however, if business development training was offered to military members, a small home based business that is feasible could be the answer in guaranteeing a constant source of revenue for the family, in turn making them less dependent on the Federal government.

The American Legion has encouraged Congress to require reasonable "set-asides" of Federal procurements and contract for businesses owned and operated by veterans. The American Legion supported legislation in the past that sought to add service-connected disabled veterans to the list of specified small business categories receiving 3 percent set-asides. PL 106-50, "The Veteran Entrepreneurship and Small Business Development Act of 1999," included veteran-owned small businesses within Federal contracting and subcontracting goals for small business owners and within goals for the participation of small businesses in Federal procurement contracts. It requires the head of each Federal agency to establish agency goals for the participation by small businesses owned and controlled by service-connected disabled veteran, within that agency's procurement contracts.

Agency compliance with PL 106-50 has been minimal with only two agencies self-reporting that they have met their goals (VA and the Department of Homeland Security). In 2004, an Executive Order 13360 was issued to strengthen opportunities in Federal contracting for service-disabled veteran-owned businesses. The American Legion strongly supports Service-Disabled Veteran-Owned Small Businesses (SDVOSBs) FAR Part 19.1406 language be changed to more closely reflect the intent of Congress to "shall" vs. "may".

Recommendations

Incorporate Executive Order 13360 into SBA Regulations and Standard Operating Procedures

- "Require all Agencies that do not meet their Service-Disabled Veteran-Owned Small Business spending goal to annually report to the House and Senate Small Business (SDVOSB) Committee

the number of contract actions that were awarded to SDVOSB Joint Ventures (e.g. no later than 90 days after the close of the fiscal year).

- Eliminate the requirement in Section 36 (a) (1) of the Small Business Act, which states “2 or more small business concerns owned and controlled by service-disabled veterans will submit offers for a contracting opportunity”.
- Require the Procurement Technical Assistance Centers (PTACs) to develop a standardized Joint Venturing training program for Small Businesses.
- Require Prime Contractors that do not meet their Small Business Subcontracting Plans to contribute up to 3% of the profit on their effected contracts to a National Small Business Capacity Development Fund, which will be administered by the SBA.
- Allow Small Business subcontracting goals to apply to all international requirements and contract actions.

HOME LOAN GUARANTY PROGRAM

VA's Home Loan Guaranty program has been in effect since 1944 and has afforded 18.6 million veterans the opportunity to purchase homes. The Home Loan programs offer veterans a centralized, affordable and accessible method of purchasing homes in return for their service to this nation. The program has been so successful over past years that not only has the program paid for itself, but has also shown a profit in recent years. Administrative costs constitute a relatively small portion -- less than 10 percent -- of the total capital and operating costs. The predominant costs are claims costs and other costs associated with foreclosure and alternatives taken to avoid foreclosure. Each claim costs the Federal government about \$20,000. However, revenues that VA collects from different sources, including the funding fee that borrowers pay, property sales, and proceeds from acquired loans and vendee loans, offset this cost.

The VA funding fee is required by law and is designed to sustain the VA Home Loan Program by eliminating the need for appropriations from Congress. Congress is not required to appropriate funding for this program; however, because veterans must now 'buy' in to the program, it no longer serves the intent of helping veterans afford a home.

The fee, currently 2.15 percent on no-down payment loans for a first-time use, is intended to enable the veteran who obtains a VA home loan to contribute toward the cost of this benefit, and thereby reduce the cost to taxpayers. The funding fee for second time users who do not make a down payment is 3.3 percent. The idea of a higher fee for second time use is based on the fact that these veterans have already had a chance to use the benefit once, and also that prior users have had time to accumulate equity or save money towards a down payment.

- The following persons are exempt from paying the funding fee:
- Veterans receiving VA compensation for service-connected disabilities.
- Veterans who would be entitled to receive compensation for service-connected disabilities if they did not receive retirement pay.
- Surviving spouses of veterans who died in service or from service-connected disabilities (whether or not such surviving spouses are veterans with their own entitlement and whether or not they are using their own entitlement on the loan).

The funding fee makes the VA Home Loan program less beneficial than compared to a standard, private loan, in some aspects. The current rate for mortgages (July 2009) is 5.56 percent. The funding fee would be in addition to the

rate given by the lender. A \$300,000 loan would generate a fee in addition to any rate the veteran

would achieve. The funding fee mandates the participant to buy in to the program; however that goes directly against the intention of the law, to provide veterans a resource for obtaining a home.

The American Legion believes that it is unfair for veterans to pay high funding fees of 2 to 3 percent, which can add approximately \$3,000 to \$11,000 for a first time buyer. The VA funding fee was initially enacted to defray the costs of the VA guaranteed home loan program. The current funding fee paid to VA to defray the cost of the home loan has had a negative effect on many veterans who choose not to participate in this highly beneficial program.

Therefore, The American Legion strongly recommends that the VA funding fee on home loans be reduced or eliminated for all veterans whether active duty, Reservist, or National Guard.

Specially Adaptive Housing

The American Legion is pleased to support the VA Secretary's efforts to improve the housing arrangements to better suit disabled veterans' needs, with specific emphasis on severe burn injuries. The American Legion additionally applauds efforts to assist disabled veterans to receive adaptive equipment for automobiles.

The American Legion conveys that specially adaptive housing should also include those veterans suffering from Traumatic Brain Injury (TBI), and other debilitating injuries. We are also concerned with the ambiguity of the term "severe" in that there are many different levels of injury where a severe injury to one individual may not be as severe to another.

HOMELESS VETERANS

The American Legion supports the efforts of public and private sector agencies and organizations with the resources necessary to aid homeless veterans and their families. The American Legion supports proposals that will provide medical, rehabilitative and employment assistance to homeless veterans and their families.

Homeless veteran programs should be granted full appropriations to provide supportive services such as, but not limited to outreach, health care, habilitation and rehabilitation, case management, daily living, personal financial planning, transportation, vocational counseling, employment and training, and education.

Veterans need a sustained coordinated effort that provides secure housing, nutritious meals, essential physical health care, substance abuse aftercare and mental health counseling, as well as personal development and empowerment. Veterans also need job assessment, training and placement assistance. The American Legion believes all programs to assist homeless veterans must focus on helping veterans reach their highest level of self-management.

Homeless Providers Grant and Per Diem Program Reauthorization

In 1992, VA was given authority to establish the Homeless Providers Grant and Per Diem Program under the Homeless Veterans Comprehensive Service Programs Act of 1992, PL 102-590. The Grant and Per Diem Program is offered annually (as funding permits) by the VA to fund community agencies providing service to homeless veterans.

VA can provide grants and per diem payments to help public and nonprofit organizations establish and operate supportive housing and/or service centers for homeless veterans. Funds are available for assistance in the form of grants to provide transitional housing (up to 24 months) with supportive services, supportive services in a service center facility for homeless veterans not in conjunction with supportive housing, or to purchase vans. VA partners with 500 community organizations and has authorized an estimated 15,000 beds through the GPD program -- 10,000

plus beds available now and more than 15,000 veterans served annually.

The American Legion strongly supports increasing the funding level for the Grant and Per Diem Program to \$200 million annually.

VBA has 20 full-time and 37 part-time homeless veteran outreach coordinators to enhance prompt claims for homeless and at-risk veterans. VBA identified and expedited more than 28,000 claims from homeless veterans since 2003. Approximately 44 percent of compensation claims and 77 percent of pension claims are approved annually.

Health Care for Homeless Veterans (HCHV) sites provide outreach, physical and psychiatric treatment, referrals, and case management to homeless veterans. HCHV staffs assist over 40,000 homeless veterans each year and place homeless veterans into community-based facilities under contract to local VA medical facilities.

Domiciliary Care for Homeless Veterans Program (DCHV) operates 42 sites, with 2100 dedicated domiciliary beds, providing time limited residential treatment with long-term physical, psychological, and rehabilitative counseling and services including aftercare. This program annually provides residential treatment to nearly 5,000 homeless veterans.

VA's Mental Health Residential Rehabilitation Treatment Program (MH RRTP)

This program identifies and addresses goals for rehabilitation, recovery, health, maintenance, and community integration. This program provides state-of-the-art residential rehabilitation and treatment for veterans with multiple and severe mental illness, addiction and other psychosocial deficits to include homelessness. MH RRTP operates more than 8,300 beds and treats 33,000 homeless veterans annually.

Health Care for Re-Entry Veterans (HCRV)

HCRV is an outreach program for veterans at risk of becoming homeless that are awaiting discharge from state or federal prison. VA has 39 Incarcerated Veteran Outreach Specialists to provide outreach and coordinated transitioning into the community. In 2008, 5,145 veterans were seen in 450 prisons.

The FY 2008 VA Community Homelessness Assessment, Local Education and Networking Groups (CHALENG) report estimates that approximately 131,000 veterans are homeless at any point in time. Prior reports state that one out of every three homeless men sleeping in doorways, alleys or boxes in our cities and rural communities has put on a uniform and served this country. According to the February 2007 Homeless Assessment Report to Congress (Department of Housing and Urban Development), veterans represent 19 percent of all homeless people in America.

For FY 2008, The VA Health Care for Homeless Veterans (HCHV) reports that 40,000 homeless veterans are enrolled in their programs. Community-based organizations are attempting to assist the overwhelming remainder of veterans who are homeless.

In addition to the complex set of factors affecting all homelessness (the extreme shortage of affordable housing, livable income, and access to health care), a large number of displaced and at-risk veterans live with lingering effects of PTSD, substance abuse, and a lack of family and social support networks. Many times these veterans have mental health disorders related to their honorable service to their country, and are unable to compensate for their condition. They unfortunately deteriorate to unrecognizable individuals compared to their pre-military experience.

Potential homeless veterans of Operation Iraq Freedom and Operation Enduring Freedom (OIF/

OEF)

Some Offend OEF veterans are at high risk of becoming homeless. Combat veterans of Offend OEF and the Global War on Terror who need help – from mental health programs to housing, employment training and job placement assistance – are beginning to trickle into the nation's community-based homeless veterans' service organizations. Already stressed by an increasing need for assistance by post-Vietnam Era veterans and strained budgets, homeless services providers are deeply concerned about the inevitable rising tide of combat veterans who will soon be requesting their support.

Since 9/11, over 1.8 million American men and women have served or are serving in a war zone. Rotations of troops returning home from Iraq are now a common occurrence. Military analysts and government sources say the deployments and repatriation of combat veterans is unlike anything the nation has experienced since the end of the Vietnam War.

There are signs of a serious crisis as VA by its' own numbers is under considerable pressure to stretch dollars. VA estimates it provides healthcare to about 100,000 homeless veterans each year, and provides housing with supportive services to approximately 40 percent of those veterans. Hundreds of community-based organizations nationwide struggle to provide assistance to as many of the other veterans, but the need far exceeds available resources.

VA reports over 1,049 Offend OEF era homeless veterans with an average age of 33 years have been served in homeless specific programs. VA further reports that nearly 65 percent of these homeless veterans experienced combat. Now receiving combat veterans from Iraq and Afghanistan daily, the VA is reporting that a high percentage of those casualties need treatment for mental health problems. That is consistent with studies conducted by VA and other agencies that conclude anywhere from 15% to more than 35 percent of combat veterans will experience some clinical issues related to PTSD, depression or other psychosocial problems.

Homeless Women Veterans and Children

Homeless veterans service providers' clients have historically been almost exclusively male. That is changing as more women veterans, especially those with young children, have sought help. Additionally, the approximately 200,000 female Iraq veterans are isolated during and after deployment making it difficult to find gender-specific peer-based support. Reports show that one of every ten homeless veterans under the age of 45 is now a woman. Access to gender-appropriate care for these veterans is essential.

More women are engaging in combat roles in Iraq where there are no traditional front lines. In the past 10 years, the number of homeless women veteran has tripled. In 2002, the VA began a study of women and PTSD. The study includes subjects whose PTSD resulted from stressors that were both military and non-military in nature. Preliminary research shows that women currently serving have much higher exposure to traumatic experiences, rape and assault prior to joining the military. Other reports show extremely high rates of sexual trauma while women are in the service (20-40 percent). Repeated exposure to traumatic stressors increases the likelihood of PTSD. Researchers also suspect that many women join the military, at least in part, to get away from abusive environments. Like the young veterans, these women may have no safe supportive environment to return to, adding yet more risk of homeless outcomes.

CHALENG sites continue to report increases in the number of homeless veterans with families (i.e., dependent children) being served at their programs. It reports that 118 sites (85 percent of all sites) reported a total of 1,282 homeless veteran families seen. This was a 24 percent increase

over the previous year's 1,038 homeless veteran families. (FY 2008 VA CHALENG report)

Homeless veterans service providers recognize that they will have to accommodate the needs of the changing homeless veteran population, including increasing numbers of women and veterans with dependents. Access to family housing through the distribution of the thousands of new Section 8 vouchers that will be made available through the HUD-VASH program will offer an important new resource allowing VA staff to assist the veteran and her family. The American Legion supports adequate funding for all domiciliary programs for all qualified veterans. Homelessness impacts every community in the nation. Approximately 500 community based veterans' service organizations across the country have successfully reached homeless veterans through specialized programs. Veterans who participate in these programs have a higher chance of becoming productive citizens again.

A full continuum of care – housing, employment training and placement, health care, substance abuse treatment, legal aid, and follow-up case management – depends on many organizations working together to provide services and adequate funding. The availability of homeless veteran services, and continued community and government support for them, depends on vigilant advocacy and public education efforts on the local, state and Federal levels.

SUMMARY

The American Legion appreciates the strong relationship we have developed with both Committees. With increasing military commitments worldwide, it is important that we work together to ensure that the services and programs offered through VA are available to the new generation of American service members who are returning home.

The American Legion is fully committed to working with each of you to ensure that America's veterans receive the entitlements they have earned. Whether it is improved accessibility to health care, timely adjudication of disability claims, improved educational benefits or employment services, each and every aspect of these programs touches veterans from every generation. Together we can ensure that these programs remain productive, viable options for the men and women who have chosen to answer the nation's call to arms.