

STATEMENT OF JOSEPH A. VIOLANTE, NATIONAL LEGISLATIVE DIRECTOR OF THE
DISABLED AMERICAN VETERANS

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OF THE
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BEFORE THE
COMMITTEE ON VETERANS' AFFAIRS
UNITED STATES SENATE
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Mr. Chairman and Members of the Committee:

I am pleased to have this opportunity to appear before you on behalf of the Disabled American Veterans (DAV), one of four national veterans organizations that create the annual Independent Budget (IB) for veterans programs, to summarize our recommendations for fiscal year (FY) 2008.

As you know Mr. Chairman, the IB is a budget and policy document that sets forth the collective views of DAV, AMVETS, Paralyzed Veterans of America (PVA), and Veterans of Foreign Wars of the United States (VFW). Each organization accepts principal responsibility for production of a major component of our Independent Budget, but it is a budget and policy document on which we all agree. Reflecting that division of responsibility, my testimony focuses primarily on the variety of Department of Veterans Affairs' (VA) benefits programs available to veterans.

In preparing this 21st Independent Budget, the four partners draw upon our extensive experience with veterans' programs, our firsthand knowledge of the needs of America's veterans, and the information gained from continuous monitoring of workloads and demands upon, as well as the performance of, the veterans benefits and services system. As a consequence, this Committee has acted favorably on many of our recommendations to improve services to veterans and their families. We ask that you give our recommendations full and serious consideration again this year.

The Veterans Benefits Administration is Still Understaffed and Overwhelmed

To improve administration of VA's benefits programs, the IB recommends Congress provide the Veterans Benefits Administration (VBA) \$752 million in additional funding in FY 2008 compared to the existing FY 2007 funding level (assumed at the time of submission of this statement to be that level approved for VBA by the other Body in H. J. Res. 20, the Continuing Resolution for Fiscal Year 2007, now pending consideration by the Senate). These additional funds, which would raise total funding for VBA to \$1.9 billion in FY 2008, will provide the means to support a workable long-term strategy for improvement in claims processing and more adequate staffing for the discretionary programs under the jurisdiction of VBA. Included in our funding recommendation are new resources needed for additional VBA staff, training programs and information technologies to correspond with a more effective and efficient benefits delivery

system. In total, if Congress accepts our recommendations for necessary funding increases to the General Operating Funds account, these new funds would bring new capabilities to VBA to better serve disabled veterans.

Mr. Chairman, a core mission of VA is to provide financial disability compensation, dependency and indemnity compensation, and disability pension benefits to veterans and their dependent family members and survivors. These payments are intended by law to relieve economic effects of disability (and death) upon veterans, and to compensate their families for loss. For those payments to effectively fulfill their intended purposes, VA should deliver them promptly and based on sound adjudications. The ability of disabled veterans to feed, clothe, and provide shelter for themselves and their families often depends on VA benefits. Also, the need for financial support among disabled veterans can be urgent. While awaiting action by VA on their pending claims, they and their families must suffer hardships; protracted delays can lead to privation and even bankruptcy and homelessness. Some veterans have died while their claims for VA disability compensation or pension were unresolved for years at VA. In sum, VA disability benefits are critical to veterans and their families, Mr. Chairman. We believe meeting the needs of disabled veterans should always be a top priority of the federal government.

Diversion from the Real Problem

Recently VA has adopted a tactic of diverting public attention away from the growing claims backlog it holds by demonstrating great speed and efficiency in adjudicating the claims of soldiers and Marines who were severely wounded in the current conflicts in Iraq and Afghanistan. While VA is crowing that it is breaking all records in awarding these new veterans their rightful benefits, hundreds of thousands of claims from older veterans of prior conflicts and military service during earlier periods lie dormant, awaiting a vague future resolution. While we applaud VA's efforts to help new veterans, VA continues to fail older veterans every day that the backlog grows.

Mr. Chairman, the backlog is unquestionably growing. Rather than making headway and overcoming the chronic claims backlog and consequent protracted delays in disposition of its claims, VA actually has lost ground on that problem. In fact, looking retrospectively over the past six years, the backlog of claims has moved from the December 2000 total of 363,412, to the January 13, 2007 level of 606,239, a more-than 80 percent increase during a period when three VA Secretaries of both political parties have stated publicly on multiple occasions that reducing this backlog was their highest management priority. We also note that during this same period as these promises were being made in public, VBA staffing has essentially remained flat at about 9,000 full-time employee equivalents (FTEE). As late as one week ago, representatives of our organizations heard senior VA officials brief us on the President's Fiscal Year 2008 budget, with what we could only call "hopeful thinking" that the backlog will be brought under control, but without disclosing any particular plan to fulfill that hope. It will not occur with the level of resources requested by the Administration.

We believe that adequate staffing is essential to any meaningful strategy to get claims processing and backlogs under control. The IB recommends 10,675 FTEE for Compensation and Pension Service (C&P). During FY 2004 and FY 2005, the total number of compensation, pension, and burial claims received in C&P Service increased by 9 percent, from 735,275 at the beginning of

FY 2003 to 801,960 at the end of FY 2005. This represents an average annual growth rate in claims of 4.5 percent. During this same period, the number of pending claims requiring rating decisions increased by more than 33 percent. As the VA Under Secretary for Benefits has stated, "[c]laims that require a disability rating determination are the primary workload component because they are the most difficult, time consuming, and resource intensive." With an aging veteran population and escalating US military operations in Iraq and Afghanistan, we have no reason to believe that growth rate will decline. With a 9 percent increase over the FY 2005 number of claims in 2006, VA should be expecting 874,136 claims in C&P Service in FY 2007. Moreover, legislation requiring VA to invite veterans in six States to request review of past claims decisions and to require VA to conduct outreach to invite new claims from other veterans in these States will add substantially to the growing workload. Much of this new workload carried over into FY 2007. Also, the Secretary's recent announcement of a special VA outreach effort to ensure non-service connected disability pensioners become aware of their potential eligibility for Aid and Attendance and Housebound benefits is sure to add even more claims to the existing backlog. While we appreciate such outreach efforts, as well as efforts to correct past injustices that may have occurred in particular States, VBA has a co-equal responsibility to ensure it maintains a system capable of managing workload growth. We have not seen that system at work.

In its budget submission for FY 2007, VBA projected production based on an output of 109 claims per direct program FTEE. We have long argued that VA's production requirements do not allow for thorough development and careful consideration of disability claims, resulting in compromised decisions, higher error and appeal rates, and even more overload on the system. In addition to recommending staffing levels more commensurate with the workload, we have maintained that VA should invest more in training adjudicators and that it should hold them accountable for higher standards of accuracy. In response to survey questions from VA's Office of Inspector General, nearly half of the VBA adjudicators responding admitted that many claims are decided without adequate record development. They saw an incongruity between their objectives of making legally correct and factually substantiated decisions, with management objectives of maximizing output to meet production standards and reduce backlogs. Nearly half reported that it is generally, or very difficult, to meet production standards without compromising quality. Fifty-seven percent reported difficulty meeting production standards as they attempt to assure they have sufficient evidence for rating each case and thoroughly reviewing the evidence. Most attributed VA's inability to make timely and high quality decisions to insufficient staff. Also they indicated that adjudicator training had not been a high priority in VBA.

To allow for more time to be invested in training, we believe it prudent to recommend staffing levels based on an output of 100 cases per year for each direct program FTEE. With an estimated 930,000 incoming claims in FY 2007, that effort would require 9,300 direct program FTEE in Fiscal Year 2008. With support FTEE added, this would require C&P to be authorized 10,675 total FTEE for FY 2008.

Instead of requesting the additional funds and personnel needed to accomplish better results over the past five years, the Administration sought, and Congress provided, fewer VBA resources. Recent budgets have requested actual reductions in full-time employees—the workforce that processes claims. Any reductions in VBA staffing would be clearly at odds with the realities of

VBA's growing workload and its own well-established adjudication procedures. Adjudication of veterans' claims is a labor-intensive and "hands on" system of personal decision-making, with lifelong consequences for disabled veterans. These management and political decisions to cut funding and reduce staffs have contributed to a diminished VA's quality of claims processing and to VA's loss of ground against its backlog. During Congressional hearings, VA is routinely forced to defend VBA budgets that it knows to be inadequate to the task at hand. The priorities and goals of the immediate stagnation are at odds with the need for a long-term strategy to fulfill VBA's mission and confirm the nation's moral obligation to disabled veterans.

Historically, many underlying causes have acted in concert to bring on this seemingly intractable problem. These include poor management, misdirected goals, lack of focus or the wrong focus on cosmetic fixes, poor planning and execution, and outright denial of the existence of the problem -- rather than the development and execution of real strategic measures. These dynamics have been thoroughly detailed in several studies and reviews of the continuing problem, but they persist without remedy. While the problem has been exacerbated by lack of action, the IBVSOs believe most of the causes can be directly or indirectly traced to availability of resources. The problem was primarily triggered and is now perpetuated by chronic and insufficient resources.

Unmet Needs in Information Technology

Mr. Chairman, in addition to boosting its staffing, we believe VBA must continue to upgrade its information technology infrastructure and revise its training tools to stay abreast of modern business practices, to maintain efficiency, and to meet increasing workload demands. In recent years, however, Congress has actually reduced funding for such VBA initiatives. With restored investments in its initiatives, VBA could complement staffing increases for higher workloads with a support infrastructure designed to increase operational effectiveness. VBA could resume an adequate pace in its development and deployment of information technology solutions, as well as upgrade and enhance training systems, to improve operations and service delivery. Some of these initiatives for priority funding are:

Replacement of the antiquated and inadequate Benefits Delivery Network (BDN) with VETSNET for C&P, The Education Expert System (TEES) for Education Service, and Corporate WINRS (CWINRS) for VR&E:

VETSNET serves to integrate several subsystems into one nationwide information system for claims development and adjudication and payment administration. TEES serves to provide for electronic transmission of applications and enrollment documentation along with automated expert processing. CWINRS is a case management and information system allowing for more efficient award processing and sharing of information nationwide.

Continued development and enhancement of data-centric benefits integration with "Virtual VA" and modification of The Imaging Management System (TIMS), which serve to replace paper-based records with electronic files for acquiring, storing, and processing claims data:

Virtual VA supports pension maintenance activities at three Pension Maintenance Centers. Further enhancement would allow for the entire claims and award process to be accomplished electronically.

TIMS is the Education Service's system for electronic education claims files, storage of imaged documents, and workflow management. This initiative is to modify and enhance TIMS to make it fully interactive to allow for fully automated claims and award processing by Education Service and VR&E nationwide.

Upgrading and enhancement of training systems:

VA's Training and Performance Support Systems (TPSS) is a multimedia, multi-method training tool that applies Instructional Systems Development (ISD) methodology to train and support employee performance of job tasks. These TPSS applications require technical updating to incorporate changes in laws, regulations, procedures, and benefit programs. In addition to regular software upgrades, a help desk for users is needed to make TPSS work effectively.

VBA initiated its "Skills Certification" instrument in 2004. This tool aids VBA in assessing the knowledge base of Veterans Service Representatives. VBA intends to develop additional skills certification modules to test Rating Veterans Service Representatives, Decision Review Officers, Field Examiners, Pension Maintenance Center employees, and Education Veterans Claims Examiners.

Accelerated implementation of Virtual Information Centers (VICs):

By providing veterans regionalized telephone contact access from multiple offices within specified geographic locations, VA achieves greater efficiency and improved customer service. Accelerated deployment of VICs will more timely accomplish this beneficial effect.

Congress has reduced funding for VBA initiatives every year since 2001, from \$82 million in FY 2001 to \$23 million in FY 2006. The IB calls for restoration of funding for this purpose to the 2001 level, with a 5 percent adjustment for each year to cover inflation and increased demands upon the system. The IB therefore recommends that Congress provide \$115.4 million for VBA initiatives in FY 2008.

The record should show we made many of these same recommendations last year, but unfortunately they did not attract supportive appropriations. The lack of funding for these existing VBA priorities manifests in reinforcing the existing backlogs and failing to serve disabled veterans.

To meet its ongoing workload demands and to implement the important new initiatives the VA Vocational Rehabilitation and Employment Task Force recommended, VR&E needs increased staffing. As a part of its strategy to enhance accountability and efficiency, the Task Force recommended creation and training of 200 new staff positions for this purpose. Other new initiatives recommended by the Task Force also require an investment of personnel resources. With its increased reliance on contract services, VR&E also needs approximately 50 additional FTE for management and oversight of contract counselors and employment service providers.

VA has been striving to provide more timely and efficient service to its claimants for education benefits. Though the workload (number of applications and recurring certifications, etc.) increased by 11 percent during FY 2004 and FY 2005, direct program FTEE were reduced from 708 at the end of FY 2003 to 675 at the end of FY 2005. Based on experience during FY 2004 and FY 2005, it is very conservatively estimated that the workload will increase by 5.5 percent in FY 2008. VA must increase staffing to meet the existing and added workload, or service to veterans seeking educational benefits will decline. Based on the number of direct program FTEE at the end of FY 2003 in relation to the workload at that time, VBA must increase direct program staffing in its Education Service in FY 2008 to 873 FTEE, 149 more direct program FTEE than authorized for FY 2006. With the addition of the 160 support FTEE as currently authorized, Education Service should be provided 1,033 total FTEE for FY 2008.

The benefit programs are effective for their intended purposes only to the extent VBA can deliver benefits to entitled veterans and dependents in a timely fashion. However, in addition to ensuring that VBA has the resources necessary to accomplish its mission in that manner, Congress must also make adjustments to the programs from time to time to address increases in the cost of living and needed improvements. We invite your attention to the IB itself for the details of those issues, but the following summarizes a number of recommendations to adjust rates and improve the benefit programs administered by VBA:

- ? cost-of-living adjustments for compensation, specially adapted housing grants, and automobile grants, with provisions for automatic annual increases in the housing and automobile grants based on increases in the cost of living
- ? a presumption of service connection for hearing loss and tinnitus for combat veterans and veterans who had military duties involving high levels of noise exposure who suffer from tinnitus or hearing loss of a type typically related to noise exposure or acoustic trauma
- ? removal of the provision that makes persons who first entered service before June 30, 1985, ineligible for the Montgomery GI Bill, along with other improvements to the program
- ? no increase in, and eventual repeal of, funding fees for VA home loan guaranty
- ? increase in the maximum coverage and adjustment of the premium rates for Service-Disabled Veterans' Life Insurance
- ? increase in the maximum coverage available on policies of Veterans' Mortgage Life Insurance
- ? legislation to restore protections for veterans' benefits against awards to third parties in divorce actions
- ? legislation to increase Dependency and Indemnity Compensation for certain survivors of veterans, and to no longer offset DIC with Survivor Benefit Plan payments

We hope the Committee will review these recommendations and give them consideration for inclusion in your legislative plans for 2007 and will support their funding in the eventual Congressional Budget Resolution for Veterans Benefits and Services for FY 2008.

The Federal Appeals Court for Veterans Claims

Another important component of our system of veterans' benefits is the right to appeal VA's benefits decisions to an independent court. The IB includes recommendations to improve the processes of judicial review in veterans' benefits matters. Again, we invite the Committee's attention to the IB for the details of these recommendations. In addition, the IB recommends that

Congress enact legislation to authorize and fund construction of a courthouse and justice center for the United States Court of Appeals for Veterans Claims.

A Related and Urgent Concern: Assured Funding for VA Medical Care

A continuing major concern of this Independent Budget is gaining and keeping adequate funding for veterans medical care. Because the Administration typically seeks funding substantially below the amount necessary to maintain health care services for veterans and because discretionary appropriations have continually fallen short of what is needed, the IB supports legislation to fund VA medical care under a mandatory account or an assured formula to obviate the political wrangling we have observed every year for the past twelve fiscal years, and now including this year as well. Pending his return to duties in the Senate, Senator Tim Johnson of South Dakota has committed to the veterans service organization community his pledge to again introduce a bill this year that would resolve VA health care's chronic funding shortages. Mr. Chairman, as soon as practicable, we urge you to schedule a legislative hearing on this bill, and we ask for an opportunity to testify on its merits.

The Importance of National Guard and Reserve Benefits

Mr. Chairman, the decade-long trend of the nation's increasing reliance on National Guard, Air National Guard, and the Reserve forces of the Army, Navy and Marine Corps, Air Force and Coast Guard, for national security and disaster call-ups at home, and for peacekeeping and combat deployments overseas, bears no sign of abatement. Our reliance on Guard and Reserve forces has grown since the pre-Persian Gulf War era, and this trend continues even though both Reserve and active duty force levels remain far below their Cold War peak.

Since September 11, 2001, over 410,000 individuals who serve in National Guard and Reserve forces have been mobilized for a variety of military, police and security actions. Increasing demands on these serving members impose significant and repeated family separations and create additional uncertainties and interruptions in their civilian career opportunities. Furthermore, Guard and Reserve recruiting, retention, morale and readiness are already at considerable risk. The nation cannot afford to promote the perception that we undervalue the great sacrifices and level of commitment being demanded from the Guard and Reserve community.

Various incentive, service and benefit programs designed a half century ago for a far different Guard and Reserve philosophy and mission are no longer adequate to address demands on today's Guard and Reserve forces. Accordingly, we believe steps must be taken by Congress to upgrade National Guard and Reserve benefits and support programs to a level commensurate with the sacrifices being made by these patriotic volunteers. Such enhancements should provide Guard and Reserve personnel a level of benefits comparable to their active duty counterparts and provide one means to ease the tremendous stresses now being imposed on Guard and Reserve members and their families, and to bring the relevance of these benefits into 21st century application. With concern about the current missions of the Guard and Reserve forces, Congress must take necessary action to upgrade and modernize Guard and Reserve benefits, to include more comprehensive health care, equivalent Montgomery G.I. Bill educational benefits, and full eligibility for the VA Home Loan guaranty program.

Mr. Chairman, the members of the serving Guard and Reserve forces are now "veterans" for purposes of the benefits and services authorized under Title 38, United States Code. However, the Code was fashioned over the past 65 years primarily to address the needs of the "citizen soldier," an individual who either enlisted in war or was conscripted, served the minimum enlistment or period required, then returned to civilian life as a veteran. The current generation of Guard and Reserve members present very different needs as a consequence of their service, and the kind and variety of service we demand of them as a Nation. We ask the Senate to closely examine the needs of Guard and Reserve members now serving and to consider measures to provide them with effective benefits and services of a grateful government.

Attorneys in VA Claims

Mr. Chairman, my final concern today is a serious one of DAV and also of some of our sister organizations, but in deference to some that take an alternate view, it is not a major issue in the Independent Budget. As directed by law, VA has a duty to assist veterans in developing and presenting their claims for disability. Congress established the Federal Court discussed above to hear disputes that arise after VA adjudicates those claims, and veterans possess the right by law to appeal their disagreements with decisions and to redress their grievances to a unique Board of Veterans Appeals. That self-checking, unique, system exists because national veterans organizations, including the IBVSOs, have insisted historically that veterans' war injuries and other service-related health problems be dealt with in a humane manner, and without friction or rancor to the greatest extent practicable. Despite the problems we encounter in VBA decision-making and operations as related above, we believe that design works, although not as well as intended. The question before the Senate is resources to empower those mechanisms to work better and additional oversight to ensure it works as intended.

The DAV believes that each veteran who is awarded compensation is entitled to full payment, and that no disabled veteran should be forced to obtain a private attorney to secure an accurate and humane disability rating from VA. Nevertheless, against the advice of the DAV and others, last year in Public Law 109-461 Congress authorized private attorneys and agents to engage for pay in veterans' disability claims representation duties, opening the way for significantly altering the foundations of the disability claims adjudication system--a system that has been in place since the founding of the Nation. We at DAV continue to believe this was an unwise action and ask for its repeal.

Mr. Chairman, on adoption of a motion by Representative Stevenson Archer of Maryland, on December 22, 1813, the House of Representatives established the predecessor to its current Committee on Veterans Affairs, for the following stated purpose: "to take into consideration all such petitions, and matters, or things, touching military pensions, and, also claims and demands originating in the Revolutionary War, or arising therefrom, as shall be presented, or shall or may come in question, and be referred to them by the House; and to report their opinion thereupon together with such propositions for relief therein, as to them shall seem expedient." [Emphasis added.] What this history demonstrates, Mr. Chairman, is that almost 200 years ago Congress, then playing a primitive executive role, intended to provide disabled Revolutionary veterans their rightful relief?and with expediency. While throughout our history that goal has never flagged,

your 21st century injection of private attorneys into that non-adversarial process may serve to change it now.

We at DAV do not believe private attorneys will ease resolution of veterans' claims, reduce the claims backlog, nor get these claims resolved on an expedient basis--the historical intent of Congress. We have been advised by professionals in VBA that your adding attorneys to the claims system will only complicate, lengthen and make more fractious the resolution of veterans' disability claims. As an organization that furnishes 260 National Service Officers to aid veterans with their claims, we believe our own work at DAV will be compromised and made much more expensive once private lawyers enter in. How such an inevitably contentious new direction will actually help sick and disabled veterans receive their just compensation, pension and survivor benefits, we cannot foretell, but we know it will not be easy. We ask the Committee to take legislative action to repeal this measure at the earliest date possible.

Mr. Chairman, thank you for inviting DAV and other member organizations of the Independent Budget to testify before the Senate today. I will be happy to answer any of your or other Members' questions concerning these issues.