STATEMENT OF
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BEFORE A
JOINT SESSION OF THE
VETERANS' AFFAIRS COMMITTEES
UNITED STATES CONGRESS
ON
LEGISLATIVE PRIORITIES OF THE AMERICAN LEGION
SEPTEMBER 26, 2000

Messrs. Chairmen and Members of the Committees:

As the newly elected National Commander of The American Legion, I thank you for the opportunity to present the views of its 2.8 million members on issues under the jurisdiction of your committees. At the conclusion of The American Legion's Eighty-Second National Convention in Milwaukee, Wisconsin, over 4,000 delegates adopted 160 mandates for the 107th Congress. These mandates establish the legislative agenda for The American Legion during my year as National Commander.

The American Legion greatly appreciates the role these committees play in shaping the substance and direction of veterans' benefits and services. Although we may sometimes disagree on specific issues, we are in unanimous agreement to do what is right for America's veterans and their families. Fortunately, for the veterans' community, both committees have distinguished Members and dedicated professional staff willing to work in a bipartisan manner to address important issues concerning veterans' health care, rehabilitation, compensation and pension, home loan guarantees, education, burial benefits, and survivor's benefits.

The American Legion believes Congress has a unique obligation to ensure that veterans' benefits are regularly reviewed and improved to keep pace with the needs of all veterans and other beneficiaries in a changing social and economic environment. The American Legion salutes the Chairmen and the Members of these Committees for the landmark veterans' legislation enacted over the past several years. Eligibility reform, patient enrollment, entitlement to long-term care, access to emergency care, enhanced VA/DOD sharing, improved preference rights of veterans in the federal government, enhancement of the Montgomery GI Bill, and other initiatives recognize the debt this country owes to those who served.

The American Legion greatly appreciates the actions of all Members of Congress regarding an increase in VA health care funding for Fiscal Year (FY) 2001. During FY 2000 and FY 2001, VA will realize approximately $3 billion in new funding. The American Legion believes such an increase is long overdue and will allow VA to better meet the needs of veterans who seek care for their many medical problems. The American Legion believes

the Department of Veterans Affairs (VA) should receive full funding to provide a world-class health care system. The Veterans Health Administration (VHA) will continue to require over a billion dollars of new funding each year into the foreseeable future, just to maintain existing services.

The American Legion is very appreciative that Congress realized that the flat-line funding imposed on VA health care under the Balanced Budget Act of 1997 was a bad idea. Just like the Medicare and Medicaid systems, VA health care requires an annual funding increase to maintain its existing service level and to fund new mandates. For years, VA managers were asked to do more with less. The recent funding increases now allow VHA to do more with more, and will hopefully repair some of the problems related to patient waiting times and access to care.

The past five years have witnessed a significant reorganization and realignment of VHA resources and programs. More has been done to improve VA health care in the past five years than was accomplished over the past several decades. Quality, efficiency and effectiveness are the hallmarks of today's VHA. In order to sustain the progress made in VHA since 1995, several additional objectives must be met. These essential actions include Medicare subvention, and greater cooperation with the Department of Defense (DOD) health care system.

Congress must continue to increase VHA funding to maintain a world-class health care system. There are precious little additional efficiency savings expected throughout the system. Yet, those veterans now enrolled and using the system will continue to rely on VHA for the foreseeable future. Therefore, The American Legion believes that Congress must examine how to balance the annual appropriations process with additional funding that will not be offset by the Office of Management and Budget (OMB). *The American Legion believes that a strategic goal of VHA should be to seek opportunities to increase non-appropriated funding.* The now invalid 30-20-10 strategic goals sought to enhance the annual appropriations process by increasing non-appropriated revenues by ten percent by the year 2002. This goal should be revived.

The guiding principle for VA must be improved service to veterans, and to their dependents and survivors. This requires improving access to and the timeliness of veterans' health care, increasing quality in the benefit claims process, and enhancing access to national cemeteries and to state cemeteries. Specific goals yet to be achieved include:

- **Set the veterans' health care system on a sound financial footing for meaningful long-term strategic planning and program performance,**
- **Improve clinic appointment scheduling for access to medical treatment,**
- **Enact Medicare subvention legislation,**
- **Establish pilot programs to provide health care to certain dependents of eligible veterans,**
- **Improve cooperative arrangements between VA and DOD's Tricare system,**
- **Reduce the benefits claims backlog and improve the quality of the claims process,**
- **Continuous enhancement of the Montgomery GI Education Bill,**

- **Repeal of section 1103, title 38, United States Code, concerning service connection of tobacco-related illnesses,**
- **Increase the rate of beneficiary travel reimbursement.**

I will now offer perspectives and recommendations on specific VA programs. I will also provide funding recommendations for particular VA programs for Fiscal Year (FY) 2002.

THE AMERICAN LEGION BUDGET PROPOSALS FOR SELECT VA PROGRAMS - FISCAL YEAR 2002

	FY 2000 Actual	President's Proposed FY 2001	American Legion Proposal FY 2002
Medical Care (Appropriations)	$19 billion	$20.3 billion	$21.6 billion
Medical and Prosthetic Research	$321 million	$321 million	$375 million
Construction			
• Major	$65 million	$ 62 million	$250 million
• Minor	$160 million	$162 million	$175 million
Grants for State Extended Care Facilities	$90 million	$60 million	$80 million
National Cemetery Administration	$97 million	$110 million	$115 million
State Cemetery Grants Program	$25 million	$25 million	$25 million
General Operating Expenses	$939 million	$1 billion	$1.2 billion

VETERANS HEALTH ADMINISTRATION

The American Legion commends VHA for the evolutionary changes made over the past several years. Most, if not all, of these alterations were long overdue and necessary. This includes eligibility reform, enrollment, the reorganization of the 172 medical centers into 22 integrated service networks, the elimination of certain fiscal inefficiencies, and the expansion of community-based outpatient clinics. For many years, VHA's annual budget appropriation was the guiding principle behind its management decisions. To a degree this is

still true. However, today there is growing evidence that VHA strategic planning will help guide future budget development.

The primary short-term objectives of VHA must be to improve patient access and health services delivery. The American Legion's VA Local User Evaluation (VALUE) guidebook cites patient access as the largest single source of continuing veteran complaints. Paradoxically, as VA annual inpatient admissions have decreased by 32 percent since 1994, ambulatory care visits have increased 35 percent. This phenomenon, along with a large decrease in administrative and clinical staff, and a significant increase in patient enrollments over the past few years, has placed a huge strain on VHA's ability to meet its workload in a timely and consistent manner. As VHA becomes more proficient in attracting new patients, it must also provide consistent access to care across all 22 Veterans Integrated Service Networks (VISNs).

Currently, the national average waiting time for a routine, next-available appointment for Primary Care/Medicine is 64 days (with a range of 36-80 days). The next available appointments for specialty care:

Specialty Care	Average Days	Range
Eye Care (combined Ophthalmology & Optometry)	94	42-141
Audiology	50	22-91
Cardiology	53	19-78
Orthopedics	47	12-69
Urology	79	39-108

There are additional concerns about the average clinic appointment waiting times for dermatology and pulmonary clinics. However, these specialty clinics are not included in the VISN director's performance standards. Therefore, no national average waiting times were reported. In the main, these waiting times indicate that there are serious access differences between VA health care and private sector health care.

There are also reported concerns about large distances that veterans in rural areas have to travel for certain care. For example, veterans in eastern Montana must travel nearly 700 miles to Fort Harrison, Montana for routine inpatient surgery. For complex surgical procedures, these same veterans are required to travel to Salt Lake City or Denver. This excessive travel places great strain on veterans and their families. Since 1994, the Miles City, Montana VA Medical Center has reduced its payroll over $7 million per year by eliminating nearly 145 full time employee positions. The American Legion questions why contract services for required surgery have not been acquired to reduce excessive travel requirements.

In some cases, The American Legion believes VHA has gone too far, too fast in attempting to improve its fiscal efficiency. Veterans should not have to increase their travel time for the benefit of VA. Rather, VHA needs to improve its cooperation with other federal, states and private health care providers to improve the quality and timeliness of care for veterans.

Several years ago, The American Legion created a blueprint for meeting the current and future health care needs of America's veterans and for supplementing VHA's annual health care appropriation. By now, Members of these Committees should be familiar with the proposed GI Bill of Health. Once fully implemented, the GI Bill of Health would expand VHA's patient base and increase its non-appropriated funding through new revenue sources.

VHA's short-term and long-term future must be clearly defined to be responsive to the veterans' community. All individuals who enter military service should be assured that there is a health care system dedicated to serving their needs upon leaving the military. That concept is especially important to disabled veterans and to military retirees. The GI Bill of Health would ensure that all honorably discharged veterans would be eligible for VA health care on a permanent basis, as they would fall into one of the core entitlement categories. A unique feature of the GI Bill of Health is that it would also permit certain dependents of veterans to enroll in the VA health care system. The American Legion advocates that dependents and surviving spouses of veterans be allowed to use the system and that all monies recovered from any source based on such treatment be returned to VA. An additional significant step will be to enact VA-Medicare subvention.

At the current workload level, VHA requires an annual appropriation increase of approximately $1 billion to maintain current services and meet its prosthetics and pharmacy costs. The amount of potential efficiency savings is decreasing yearly. The projected $3 billion funding increase over FY 2000-2001 must compensate for the flat line budgets of FY 1997-99, and fully fund the provisions of the Millennium Act. Consequently, there is a continuing need to adequately fund VHA's uncontrollable cost increases at an acceptable level.

Change within VHA, over the past several years, has been the result of a series of small steps. The American Legion acknowledges that the progress made within VHA has been extraordinary. However, this progress has to be sustained and reinforced. In order to accomplish this goal, Congress must unlock the creative potential of VHA to develop alternative revenue sources to complement the annual appropriations process.

At a recent VA planning meeting, VHA unveiled six strategic goals to be accomplished by 2006:

- Put quality first,
- Provide easy access to medical knowledge, expertise and care,
- Enhance, preserve and restore patient function,
- Exceed customers' expectations,
- Maximize resource use to benefit veterans, and
- Build healthy communities.

The American Legion believes these are important goals. We also think VHA must continue to improve its efficiency. *However, we believe VHA must explore all opportunities to develop alternative revenue sources to complement its annual appropriations*. To do less will continue to force VHA to solely rely on the annual budget process to establish patient

treatment priorities. There is a distinct possibility that if future funding does not keep pace with the needs the veterans who seek treatment through VHA, the current open access to all seven-priority groups will close.

To enable VHA to meet all of its mandated responsibilities in a quality and timely manner, The American Legion recommends $21.6 billion in VHA appropriations in Fiscal Year 2002.

MEDICARE SUBVENTION

Public Law 105-33, the Balanced Budget Act of 1997, established the Department of Veterans Affairs Medical Care Collection Fund (MCCF) and requires that amounts collected or recovered after June 30, 1997, be deposited in this account. Beginning October 1, 1997, amounts collected in the fund are available only for furnishing (1) VA medical care and services during any fiscal year; and for (2) VA expenses for identification, billing, auditing and collection of amounts owed the government. Public Law 105-33 also extended to September 30, 2002, the following Omnibus Budget Reconciliation Act (OBRA) provisions:

- Authority to recover co-payments for outpatient medications, nursing home and hospital care;
- Authority for certain income verification; and
- Authority to recover third-party insurance payments from service-connected veterans for nonservice-connected conditions.

The Health Service Improvement Fund was established to serve as a depository for amounts received or collected under the following areas as authorized by title 38, U.S.C., Section 1729B:

- Reimbursements from DOD for Tricare-eligible military retirees;
- Enhanced-use lease proceeds; and
- Receipts attributable to increases in medication co-payments.

The Extended Care Revolving Fund was also established by the Millennium Act and was to receive per diems and co-pays from certain patients receiving extended care services authorized in title 38, U.S.C., Section 1710B. Amounts deposited in the fund are used to provide extended care services.

Clearly, Congress is providing VA with the authority to bill, collect, retain and use revenues from sources other than direct, federal discretionary appropriations. However, one of the major health care payers (Medicare) is exempt from billing; however, its beneficiaries are welcomed and encouraged to receive treatment in VA medical facilities.

Currently, approximately 10.1 million veterans are Medicare-eligible solely based on their age. Criteria for Medicare-eligibility are different than eligibility for treatment in VA. In the VA health care network, certain veterans are eligible for treatment at no cost for

medical conditions determined to be service-connected. Other veterans are eligible for treatment at no cost because they are economically indigent. All other veterans must pay for treatment received.

Medicare subvention would allow VA to seek reimbursement from the Health Care Financing Administration (HCFA) for treatment of nonservice-connected medical conditions of Medicare-eligible veterans, especially those veterans who are military retirees, because they lose their access to Tricare providers upon becoming Medicare-eligible.

More than 734,000 Medicare beneficiaries have lost HMO coverage over the past two years and another 934,000 seniors will be dropped by their HMO plans next year. Many VA eligible beneficiaries are included in those dropped from coverage and will eventually come to VA for care. The argument that VHA is already reimbursed for its Medicare population and that Medicare subvention will result in double funding is mistaken. VHA is now mandated to provide care to all seven priority groups. As more Medicare eligible veterans seek first time care in VHA, health care costs and subsequent waiting times will increase. It is imperative that Congress examines this issue and takes the actions necessary to ensure that VHA receives all funding necessary to execute its health care mission in a quality and timely manner.

TRICARE

The most significant recent change in military health care is the introduction of Tricare; the Department of Defense regional managed care program. Introduced in 1995, Tricare today is being challenged to maintain a quality health care delivery system for active duty military personnel, certain military retirees, and dependents.

Today, DOD is having severe administrative problems with Tricare. The American Legion is extremely concerned how DOD will fix these problems and how favorably DOD Health Affairs can guarantee Tricare's long-term success.

There are multiple reasons why Tricare is failing to meet the expectations of its beneficiaries. Some of these include:

- Infrastructure and financial problems,
- Problems with provider networks – resulting in weak network links to subcontractors,
- The inability to attract and retain qualified health care contractors,
- No financial tracking system outside of the Military Treatment Facilities,
- Difficulties in processing claims in a timely manner,
- Tricare lacks portability between all 12 regions,
- Military retirees and their dependents are required to pay an annual enrollment fee, and
- Active duty dependents must make copayments for care.

The American Legion believes that the Veterans Health Administration can greatly assist DOD through expanded authority to provide care to Tricare beneficiaries. With limited

budgets, both VA and DOD must discover innovative ways to provide care to active duty personnel, to all veterans and military retirees, and to eligible dependents.

Congress recognized the utility of having VHA play a greater role in the treatment of Tricare beneficiaries when it passed the Veterans Millennium Health Care and Benefits Act (PL 106-117). This legislation requires VA and DOD to enter into an agreement to reimburse VA for the cost of care provided to retired servicemembers who are eligible for Tricare and who are enrolled as Priority 7 veterans. These veterans would not be required to pay VA inpatient and outpatient copayments. The program is to be phased in as DOD enters into Tricare contracts after November 30, 1999.

Five years ago, it was impractical to suggest that VHA was capable of assisting DOD in resolving many of its patient treatment problems. Today, although not without concerns of its own, VA is in a much better position, both financially and organizationally, to assist with the delivery of health care to DOD beneficiaries. The American Legion believes that VA and DOD should integrate medical care services to the extent possible, thereby eliminating duplication of effort and achieving greater cost efficiencies. With active planning, VHA can become the largest single provider of health care to America's veterans, military retirees, and their spouses and dependents. DOD could then assume the responsibility of providing health care to active duty servicemembers, Reserve Component members, and their spouses and dependents.

MEDICAL AND PROSTHETIC RESEARCH

The contributions of VA medical research include many landmark advances, such as the successful treatment for tuberculosis, the first successful liver and kidney transplants, the concept that led to development of the CAT scan, drugs for treatment of mental illness, and development of the cardiac pacemaker. The VA biomedical researchers of today continue this tradition of accomplishment. Among the latest notable advances are identification of genes linked to Alzheimer's disease and schizophrenia, new treatment targets and strategies for substance abuse and chronic pain, and potential genetic therapy for heart disease. Many more important potentially groundbreaking research initiatives are underway in spinal cord injury, aging research, brain tumor treatment, diabetes and insulin research, and heart disease, among others.

Dollar for dollar, others recognize VA as conducting a very effective research program. VA devotes 75 percent of its research funding to direct clinical investigations and 25 percent to bioscience. Patient-centered research comprises one of every two dollars spent on research within VA. During FY 1999, three new Rehabilitation Centers of Excellence were established in ambulated technologies, VAMC Pittsburgh; spinal cord injury/multiple sclerosis, VAMC West Haven; and brain research, VAMC Gainesville. This brings to nine the number of Rehabilitation Centers of Excellence within VA.

The "Quality Enhancement Research Initiative" - QUERI - currently targets 10 high priority research areas. After an initial evaluation period, VA hopes to fund additional areas of high quality research in the most promising QUERI programs. If sufficient funding is

unavailable, VA may only be able to continue half of the QUERI initiatives. Without proper funding, certain major projects in the Cooperative Studies Program may have to be terminated. These projects include major studies in the Hepatitis C virus, prostate cancer and certain Gulf War illnesses. VA has submitted various proposals for further research in the Cooperative Studies Program and how additional funding will be used.

Three years ago, the Administration committed to a goal of doubling VA's research budget over a five-year period. The budget was then approximately $282 million. VA's overall research program requires a significant increase in funding above current service levels in each of the next several years to perform important research and evaluation studies, and to meet the Administration's funding goal.

The American Legion recommends a VA research budget of $375 million for FY 2002.

GULF WAR VETERANS' ILLNESSES

The American Legion continues to actively support Gulf War veterans and their families, as it has since August 1990. The American Legion created two particular programs specifically for Gulf War veterans, the Family Support Network in October 1990, and the Persian Gulf Task Force in October 1995. Today, The American Legion serves Gulf War veterans and their families at the community, state, and national levels through 15,000 local posts and an array of programs and services.

Thousands of Gulf War veterans, who suffer undiagnosed illnesses with a range of symptoms, know as "Gulf War veterans' illnesses," are not receiving adequate care or compensation from VA and DOD. In this regard, The American Legion makes the following recommendations:

- VA and DOD should conduct their respective exams in a standard and uniform way as well as create a database that will merge the individual data from both exams so that patterns in health can be better analyzed,
- VA and DOD should aggressively move to educate its medical doctors about newly defined illnesses (Chronic Fatigue Syndrome, Fibromyalgia, etc.) that are commonly misdiagnosed as psychological conditions. VA should also discourage its doctors from giving diagnoses for common symptoms unless diagnosed properly and so that the Registry and CCEP data will be accurate,
- VA and DOD should conduct extensive follow-up to Gulf War veterans who participate in the Registry and CCEP examinations to monitor health status.

Additionally, earlier this month the Institute of Medicine (IOM) released a much-anticipated report on the health effects of exposures during the Gulf War. Unfortunately, due to the lack of evidence and quality research on the long-term health effects of the various exposures these veterans faced during the Gulf War, IOM was unable to make any determinations regarding veterans' health due to exposures. Although this report, the first in a

series, did not provide many answers for our nation's sick Gulf War veterans, it did highlight the importance of closely monitoring the health of deployed forces and developing reliable methods of measuring exposure to potentially harmful agents.

The American Legion urges Congress to continue aggressive oversight of the implementation of the landmark Gulf War legislation passed by the 105th Congress (PL 105-368).

MEDICAL CONSTRUCTION AND INFRASTRUCTURE SUPPORT

Major Construction

The VA major construction program is not being funded in an adequate manner. The major construction appropriation over the past few years has allowed for only one or two projects per year. Meanwhile, the number of priority projects continues to accumulate. For FY 2001, 16 major ambulatory care or seismic correction projects were submitted to OMB. Of this number, only one major VHA project is recommended. For FY 2002, 28 major projects are submitted for funding.

VHA currently has 66 patient care and other related use buildings that require significant seismic correction. Along with the necessary ambulatory care and patient safety projects, it will require from $250 million to nearly $1 billion to address VHA's current major construction requirements. Of the 28 major projects submitted for funding consideration for FY 2002, 22 are ambulatory care related and six are seismic correction projects.

The American Legion objects to efforts to close VHA medical facilities for the sake of cost cutting. At a time that access to care and service delivery is eroding, the Capital Asset Realignment Study (CARES) process may find that VHA needs to expand service in certain areas. It is unthinkable that the expansion of care option would not be part of the CARES review. No planning options should be excluded; that includes contraction, expansion, and maintaining the status quo. In the final analysis, the CARES process must consider what is best for the veteran, not what is best for VHA.

VHA needs to use the disposal authority it already has to begin to reduce its unused building inventory. The CARES process may be too time consuming to allow VHA to divest itself of unneeded buildings in an appropriate timeframe.

Currently, ten major medical center projects are considered high priority. Additionally, two parking structures are rated as priority projects. These are:

- Long Beach – Seismic Correction/Clinical -- $26.6 million
- San Diego – Seismic Correction/Bldg. 1 -- $51.7 million
- Miami – Hurricane and Flood Addition -- $23.6 million
- Augusta – Spinal Cord Injury Modernization -- $18.3 million

- Cleveland (Brecksville) – Renovate Buildings for Special Emphasis Programs -- $39 million
- VISN 6 – Special Emphasis Beds -- $28.9 million
- Dallas – Mental Health Enhancement -- $27.2 million
- Atlanta – Modernize Patient Wards -- $12.8 million
- Fargo – Ambulatory Care/Patient Environment -- $18.4 million
- Cleveland (Wade Park) – Clinical Consolidation -- $18.6 million
- West Haven – Patient Environment -- $13.8 million
- St. Louis – Parking Structure -- $5.2 million
- Tampa – Parking Structure -- $10.7 million

Due to the rising cost of construction and to adequately address VHA's priority projects, The American Legion recommends $250 million for major construction in Fiscal Year 2002.

Minor Construction

Annually, VHA must meet the infrastructure requirements of a system with approximately 4,700 buildings, 600,000 admissions and over 35 million outpatient visits. To do so requires a substantial inventory investment. For the past several years, minor construction has been funded in the annual range of $175 million. It is penny wise and pound-foolish to reduce this investment. If Congress fails to appropriate $175 million for minor construction in FY 2001 stands, VHA will have to delay approximately one-third of its priority minor projects.

The American Legion believes that Congress must be consistent from year to year in the amount invested in VHA's infrastructure, and recommends minor construction funding of $175 million for Fiscal Year 2002.

GRANTS FOR THE CONSTRUCTION OF STATE EXTENDED CARE FACILITIES

Currently, this nation is faced with the largest aging veterans' population in its history. VA estimates the number of veterans 65 years of age or older will peak at 9.3 million in the year 2000. By 2010, 42 percent of the entire veteran population, an estimated 8.5 million veterans, will be 65 or older, with half that number above 85 years of age. By 2030, most Vietnam Era veterans will be 80 years of age or older. The State Veterans' Home Program must therefore continue, and even expand its role as an extremely vital asset to VA. Additionally, state homes are in a unique position to help meet the long-term care requirements of the Veterans Millennium Health Care and Benefits Act.

State homes provide over 24,000 beds with a 90 percent occupancy rate that will generate more than seven million days of patient care each year. The authorized bed capacity of these homes is 90 nursing care units in 40 states (17,844 beds); 46 domiciliaries in 32 states (5,841 beds); and 5 hospitals in 4 states (469 beds). For FY 1999, VA spent $255 per day to

care for each of their long term nursing care residents, while paying private-sector contract nursing homes an average per diem of $149 per contract veteran. The national average daily cost of caring for a state veterans' home nursing care resident during FY 1999 was $137. VA reimbursed state veterans' homes a per diem of only $40 per nursing care resident.

On the basis of the available funding in FY 2000 and the President's FY 2001 budget request, a total of 42 priority one state home construction grant projects with an estimated cost of $110 million will remain unfunded. Additionally, the estimated backlog does not take into account the applications that are received between August 1999 and August 2000. As many VA facilities reduce long-term care beds and VA has no plans to construct new nursing homes, state veterans' homes are relied upon to absorb a greater share of the needs of an aging veteran population. If VA intends to provide care and treatment to greater numbers of aging veterans, it is essential to develop a proactive and aggressive long-term care plan. VA should work with the National State Veterans' Homes' Directors to convert some of its underutilized facilities on large multi-building campuses to increase the number of available long-term care beds.

For Fiscal Year 2002, The American Legion requests $80 million for the State Veterans' Home Extended Care Construction Grants Program.

NATIONAL CEMETERY ADMINISTRATION

The National Cemetery Administration (NCA) oversees 119 national cemeteries in 39 states in the United States and Puerto Rico. The Army or the Department of the Interior administers sixteen other national cemeteries. Currently 57 national cemeteries are closed to first interments. Recently, new national cemeteries were opened in Chicago, IL; Albany, NY; Cleveland, OH; and Dallas, TX. Major construction projects are planned at other existing sites to extend the active life of the cemeteries for as long as possible.

The National Cemetery Administration has no national cemeteries in some critically needed areas. Among these are Atlanta, GA; south Florida; Pittsburgh, PA; Sacramento, CA; Detroit, MI; and Oklahoma City, OK. Additionally, some existing cemeteries will soon run out of available space without significant expansion.

The National Cemetery Administration statistics project over 80,000 burials during Fiscal Year 2000. The number of veterans' deaths is projected to peak at 620,000 in 2008 and slowly returns to the 1995 level of 500,000 by 2020. Notwithstanding the development of six new national cemeteries over the past 10 years, there is an urgent requirement to continue the recent expansion. Without a strong commitment from Congress to take on this effort, VA will not be able to improve access to burial in national cemeteries for millions of veterans and their eligible dependents.

The American Legion believes that Congress should remove the current restriction on eligibility to an appropriate government furnished marker for veterans that have a marked grave. There are over 20,000 families per year that are affected by this outmoded statute.

This restriction should be removed so NCA can be of assistance to all families that seek appropriate recognition of a veteran's honorable military service.

The American Legion recommends that Congress provide $115 million for the operational requirements of NCA in Fiscal Year 2002. Additionally, Congress should commit to building six new national cemeteries by 2008, and provide appropriate funding in VA's major construction program for this purpose.

GRANTS FOR THE CONSTRUCTION OF STATE VETERANS' CEMETERIES

The State Cemetery Grants Program is an excellent complement to NCA. The enactment of PL 105-368 in November 1998 significantly improves the state grants program, but does not ensure that the states will commit to developing veterans' cemeteries in the areas of greatest need. Therefore, to strengthen the program, Congress must increase the burial plot allowance paid to the states and make the allowance applicable to all veterans. Additionally, to lessen the demand to invest millions of dollars in the construction and long-term maintenance of new national cemeteries, a significant increase in state grants applications funding must be provided. The American Legion believes that if done right, the state grants program can serve as a favorable alternative to the National Cemetery Administration.

The American Legion recommends approximately $25 million in new state cemetery grants applications funding for Fiscal Year 2002.

VETERANS BENEFITS ADMINISTRATION

Given the number of veterans and other eligible beneficiaries who file claims each year and with an annual expenditure of over $19 billion in compensation and pension payments, it is imperative that Congress maintain strong oversight of the operations of the Veterans Benefits Administration's (VBA) Compensation and Pension Service.

Over the last several years, the backlog of pending claims has fallen from approximately 450,000 to less than 325,000 cases. However, it still routinely takes six months to a year or more to process disability compensation claims, because of the increased number of issues per claim and their legal complexity. In addition, annually, some 30,000 to 40,000 new appeals are initiated and it will take over two years for an appeal to reach the Board of Veterans Appeals (BVA or the Board). The Board is currently reviewing appeals docketed in April and May of 1999. Of the cases decided by the Board during the first nine months of FY 2000, 25.9 percent were allowed and 29.3 percent were sent back to the regional office for further development and readjudication. Remanded cases may be pending for another year or two in the regional office, and a substantial percentage will eventually be returned to the Board. Sometimes, cases are remanded two and three times, because the regional office fails to complete the specified corrective action, which adds several more

years to the appeal. It is little wonder that veterans are angry and frustrated. The system appears all too often to be adversarial and unresponsive to their needs.

Despite this history, The American Legion believes VBA is committed to bringing about much needed change to the claims adjudication system with the overall goal of providing quality, timely service to veterans and its other stakeholders. In recent years, VBA's strategic plans have made many promises and we have, in fact, seen the implementation of a variety of programmatic and procedural changes. However, it is obvious that progress toward major improvements in service continues to be slow and that much remains to be done. Unfortunately for thousands of veterans and other claimants, the overall quality of regional office decision-making remains inconsistent and problematic.

Beginning in late 1997, The American Legion implemented a program of formal visits to VA regional offices (VAROs) to gain greater insight into the underlying causes for veterans' complaints about unacceptably long processing times, the high number of appeals, and the substantial overturn rate by the Board. These visits have provided our staff the opportunity to evaluate, firsthand, the quality of recently adjudicated Legion cases. We have been very pleased with the level of cooperation received and the support expressed for this program by VA Central Office and regional office officials. Over this period, our staff has reviewed approximately 350 claims involving original and reopened claims for service connection and entitlement to an increased rating for a service-connected disability at 15 VAROs. Some type of substantive error was found in 40 to 50 percent of the cases reviewed. An exit briefing has been held with the regional office director and the service center manager at the conclusion of each visit to discuss specific findings. Subsequently, the regional office director, the Under Secretary for Benefits and his staff, and Legion officials are provided a written report covering management issues and the individual case review findings.

Comparing the reports of the past two years, we find there has been little overall improvement in the way claims are being adjudicated. At most of the offices, there has been a pattern of recurring problem issues, which continue to have a direct and adverse effect on the quality and timeliness of regional office claims adjudication. They relate to budget, staffing, training, quality assurance, accountability, and attitude. These findings confirm our long-held view that quality must be VBA's highest priority. Without guaranteed quality, along with personal and organizational accountability, thousands of claims will continue to revolve unnecessarily through the system. Much of VBA's valuable financial and personnel resources will be wasted, and veterans will not receive the benefits and services they are entitled to and that Congress intended they should have.

VBA must continue its information technology initiatives, develops for succession planning, conforms to the decisions of the U.S. Court of Appeals for Veterans Claims, and adopt new strategies to meet the predictable and unforeseen challenges of the future. Additionally, VBA must adjust to new education benefit mandates, meet the regulatory requirements for presumption of service connection for the Hepatitis C-virus and the presumption service connection for diabetes related to exposure to Agent Orange, and comply with the intent of anticipated legislation regarding VA's "Duty to Assist."

The American Legion recommends a funding level of $1.2 billion in VBA-GOE appropriations in FY 2002.

TOBACCO-RELATED CLAIMS

The American Legion believes that with the passage of PL 105-206, the Transportation Equity Act for the 21st Century, the 105th Congress turned its back on tens of thousands of veterans who had developed tobacco-related illnesses. There was a conscious decision to ignore the federal government's historical role in promoting the use of tobacco products by the members of the armed forces. With this legislation, the majority was willing to put politics before principle and take away veterans' historic right to file a claim with the Department of Veterans Affairs for a disability (or death) that began during or resulted from their active military service. The American Legion urges Congress to recognize the injustice that was done and to remove this arbitrary bar to benefits.

In 1993, the VA General Counsel determined that VA could establish service connection for a disability or death that was traceable to the veteran's use of tobacco products during their period of military service. Once service connection was granted, compensation would be payable based on the severity of the disability. This would also entitle them to free VA medical care. Despite this ruling, VA deferred adjudicating any tobacco-related claims until 1997, when a second VA General Counsel opinion confirmed the 1993 determination. Rather than acknowledging the federal government's responsibility to redress veterans for tobacco-related illnesses, the administration proposed legislation to deny benefits for any tobacco-related disease acquired after discharge from service. Tobacco use in service is now portrayed as synonymous with willful misconduct, despite scientific studies indicating that nicotine is highly addictive. VA provided questionable data in support of the called-for legislation - they would be inundated with a half million claims or more and the cost would be $15 billion. Even though VA's own data proved to be erroneous, with less than 9,000 claims received between 1993-1997 with total payments of less than $60 million, Congress passed this anti-veteran legislation over the strenuous objections of The American Legion and the other veterans' service organizations.

The American Legion is deeply disappointed that the 106th Congress decided not to consider any bills that would have restored this group of disabled veterans' rights. This issue will be one of our legislative priorities in the 107th Congress. In addition to seeking the repeal of the current law, The American Legion has advocated that the federal government pursue a legal settlement with the tobacco industry for the medical care and benefit costs incurred by VA. In September 1999, the Department of Justice filed suit against the tobacco companies to recover the health-care costs incurred by the federal government for the treatment of military personnel, veterans, and civilians with tobacco-related illnesses. The American Legion believes the current suit is too limited in scope. We strongly believe there is the need for action to mandate that part of any monies resulting from this suit must go toward the payment of compensation benefits to veterans with tobacco-related illnesses or to the survivors of veterans who may have died from such illnesses.

HEPATITIS C

The American Legion is deeply concerned by the prevalence of the Hepatitis C-virus in the veteran population. According to government estimates, there are approximately 4 million Americans with this virus and many have serious health problems, such as cirrhosis of the liver and liver cancer. According to VA estimates, 400,000 veterans may be infected with this disease. The reason why veterans are more likely to have Hepatitis C than the non-veteran population is because of the increase in exposure to a variety of risk factors that are present in military service.

Hepatitis C has become a national public health challenge. We believe Congress must address the need to compensate those veterans who may have contracted the disease as a result of their service to this nation. To meet the federal government's responsibility, VA must also have the necessary resources to conduct comprehensive programs of outreach, education, and treatment. Several bills have been introduced in the 106th Congress, to provide a presumption of service connection for Hepatitis C, provided the veteran experienced one or more specified risk factors involving exposure to potentially contaminated blood or blood products. This legislation reflects the growing body of scientific knowledge about the insidious nature of this disease. It also takes into consideration certain health hazards inherent in military life and legal requirements to establish service connection for a current disability. Millions of men and women have fought and bled in countries around the world over the last half century. Hepatitis C was unknown until a few years ago and before 1992, there were no tests to identify the condition. Now, years later, many veterans find that there were risks other than enemy shells and bullets.

Although the House Veterans' Affairs Subcommittee on Benefits held a hearing on legislation to provide presumptive service connection for Hepatitis C in May 2000, no further action is planned before the end of this Congress. Without the benefit of such legal presumption, many veterans with this debilitating and often fatal disease find themselves facing the almost insurmountable hurdle of "proving" exactly when and where they contracted the virus. Military medical records are not always reliable or full and complete. Many veterans had their records destroyed in the 1973 fire at the National Personnel Records Center. We are hopeful appropriate legislation will be reintroduced early next year and that it will be favorably considered. We would also like to express our support for other legislative efforts to support current testing and treatment programs.

The American Legion is generally pleased by VA's responsiveness to the Hepatitis C problem. In light of study data showing an increased incidence of this disease among the veteran population, The American Legion asked the Secretary to consider issuing regulations providing for presumptive service connection. Proposed regulations are now under development and will, hopefully, be available for public comment later this year. While these regulations will help make it easier for many veterans to establish entitlement to disability and medical care benefits, we believe that Congress should codify by statute the presumptions which will apply to Hepatitis C claims. This will ensure VA has the necessary resources to fully and fairly adjudicate this type of claim and provide the support needed for its outreach, information, and treatment programs.

The good news today is that veterans can now request a blood test for Hepatitis C at their local VA medical facility. VA has underway an effort to screen all enrolled veterans for the Hepatitis C-virus. The American Legion is encouraging all veterans who believe they might be at risk to get tested. The other important good news is that Hepatitis C is treatable. In addition to working with VA in promoting public awareness, The American Legion is also developing an outreach program to inform veterans and their families about the disease and the availability of Hepatitis C testing and treatment through VA.

BOARD OF VETERANS APPEALS (BVA)

Most veterans view the Board of Veterans Appeals as just another part of the benefit claims process. They do not realize that it is a separate operating component of the Department of Veterans Affairs with its own statutes, rules and regulations. The problems affecting the quality and timeliness of regional office decision-making, discussed earlier, as well as other external factors directly contribute to the Board's continued heavy appellate workload. The effectiveness of initiatives by the Veterans Benefits Administration to improve training for claims adjudicators, make individuals and managers accountable for the quality of the work produced, and resolve a greater number of appeals at the regional office level also has a direct impact on the Board's workload.

We believe veterans' dissatisfaction with slow service and poor quality decision-making by their local regional offices is reflected in the large number of new appeals. In 1999, approximately 40,000 Notices of Disagreement were filed and most of these cases will eventually come to the Board. These, together with over 27,000 remands pending regional office action, represent a significant future workload for the Board. In addition during 1999, over 12,000 previously remanded cases were returned to the Board from the regional offices following further development and readjudication. Many of these cases had been remanded in 1996 and 1997.

The Board's operations are also directly affected by frequent changes in its policies and procedures mandated by the precedent decisions of the United States Court of Appeals for Veterans Claims (CVAC) and the United States Court of Appeals for the Federal Circuit. Of the 1,960 cases decided in 1999 by the CVAC, 1,274 (65 percent) were remanded back to the Board. This further adds to the Board's existing workload and response time. Many of these court remands involved major precendential decisions, such as *Morton v. West*. These decisions have long range and profound affects not only on the Board, but also all regional office operations. We believe the sustained high court remand rate demonstrates a serious disparity between the Board's and the Court's interpretation and application of the law and the need for efforts to further improve the quality of the Board's decision-making.

The Board's mission is to render final decisions on appeals of regional office decisions. Over the past several years, the Board has made progress toward providing more timely service. Through an infusion of additional staffing and other measures, the time to issue a decision at the Board level went from 334 days to 195 days by the end of 1999. However, the rising volume of incoming appeals and returning remands has caused the Board's response time to increase to 237 days. This trend is of concern, since veterans and

other appellants must wait, on average of a year and a half before their cases even reach the Board. While this is far too long for anyone to wait for appellate review, we are optimistic that through continued, concerted, cooperative efforts by the Board and the regional offices, the overall appeal response time can be reduced much further in the near future. It will be important that Congress and the administration support VA's efforts to ensure the claims adjudication and appeals process is responsive to the needs of veterans and provides quality and timely service.

The American Legion recognizes that the Board along with the Veterans Benefits Administration is in a state of transition. We believe there has been a realization that these programs are closely interrelated and interdependent. The Board has established a strategic plan for improvement and progress is being made on a variety of service initiatives. This includes greater cooperation and involvement with the Veterans Benefits Administration's efforts to improve regional office decision-making and appeals resolution. The American Legion believes the Board will require additional resources in FY 2001. We support the requested increase in the Board's staffing from 476 FTE to 500 FTE, in light of workload trends. There is also a need to provide continued support to the Board's strategic plans for improving its overall operating efficiency and the quality and timeliness of service to veterans. We urge Congress to provide the necessary support to ensure the Board is able to carry out these plans.

VETERANS EDUCATION BENEFITS

The American Legion firmly believes the transition from the military lifestyle into the civilian workforce can be among the most difficult challenges veterans will face during their lifetime. Recently separated veterans are most likely to need assistance in making decisions about employment and education, because most military occupational skills are not directly transferable to the civilian workplace. The Montgomery GI Bill (MGIB) was enacted in 1987 to assist veterans in making this transition. It has also been used by the armed forces as an important recruitment and retention incentive.

However, in recent years, The American Legion has become deeply concerned by the increasing disparity between benefit levels and the actual cost of higher education. In contrast to the GI Bill program that ended with the Vietnam era, the payment to veterans (with no financial contribution required) covered between 90 to 100 percent of college costs, MGIB payments of $520 per month cover only a little more than half the cost of college. In addition, MGIB participants must make a $1,200 generally non-refundable contribution while on active duty. Clearly, MGIB education benefits make military service with its experiences and hazards less attractive to young Americans. This along with the continued downsizing of the active duty, reserves, and National Guard, make many seriously question the value of military service, especially since so many other opportunities now exist with similar benefits with relatively little or no personal sacrifice.

Messrs. Chairmen, for years, The American Legion has appeared before your committees advocating increased benefits for MGIB participants as well as other program improvements. The American Legion is pleased that Montgomery GI Bill benefits are

proposed to increase in FY 2001. However, other changes and improvements are also necessary within the program.

The American Legion recently adopted a resolution at its 82nd National Convention in support of certain changes and enhancements to the current MGIB. The American Legion proposes:

- The dollar amount of the entitlement should be indexed to the average cost of a college education including tuition, fees, textbooks, and other supplies for a commuter student at a public university. This index should be reviewed and adjusted annually,
- If a veteran enrolled in the MGIB becomes eligible for training and rehabilitation for service-connected disabilities, the veteran should be reimbursed the $1200 reduced from the veteran's military basic pay,
- If a veteran enrolled in the MGIB acquired educational loans prior to enrolling in the Armed Forces, MGIB benefits may be used to repay existing educational loans,
- Enrollment in the MGIB shall be open throughout the term of enlistment; however, benefits will not be awarded until the eligibility criteria have been met,
- The military payroll deduction ($1200) requirement for enrollment in the MGIB must be terminated,
- A veteran may request an accelerated payment of all educational monthly benefits at any time after meeting the criteria for eligibility for financial payments,
- Veterans seeking a license or credential must be able to use educational benefits to pay for the cost of taking any written or practical test or other measuring device,
- If a servicemember fails to enroll in the program at the time of enlistment and later wishes to participate in the Montgomery GI Bill, that veteran shall have 180 days after discharge to make an election to participate,
- Select Reservists should have up to five years from the date of separation to use their Montgomery GI Bill benefits.

The American Legion strongly believes that Congress has a responsibility to maintain an up-to-date, viable, attractive GI Bill as an integral part of the armed forces recruiting and retention programs and to promote higher education for America's military veterans. Since World War II, the GI Bill has proven to be a wise investment by the federal government in the nation's future.

VETERANS' EMPLOYMENT AND TRAINING PROGRAMS

Members of the armed forces should enjoy the very freedoms and opportunities they safeguard. Honorable military service should provide prospects not create obstacles. In 1944, The American Legion wrote the Servicemen's Readjustment Act, better known as the GI Bill. The American Legion continues to support meaningful transitional opportunities for recently separated veterans. Many lawmakers consider the original GI Bill as one of the greatest pieces of social legislation ever enacted. Unfortunately, this masterpiece legislation no longer provides the true defenders of democracy with benefits enjoyed by their predecessors.

Veterans' Employment and Training Service (VETS): Veterans' employment and training programs are designed to help veterans -- those who face employability barriers and those who are job ready. VETS gives priority service to all veterans, with the highest priority afforded to disabled veterans. VETS also focuses special attention on military personnel preparing to separate from active duty.

VETS programs include the Disabled Veterans' Outreach Program (DVOP) and Local Veterans' Employment Representative (LVER) program, which VETS funds through state employment security agencies. Following are other programs administered by VETS:

- The Homeless Veterans Reintegration Projects,
- Section 168 of the Workforce Investment Act to fund training of veterans in useful career skills,
- Veterans' Reemployment Rights (VRR),
- The Transition Assistance Program (TAP) for military servicemembers, which is funded through states and contractors in partnership with the Departments of Veterans Affairs and Defense,
- The Federal Contractor Job Listing Program, and
- Federal Veterans' Preference monitoring.

Recently separated veterans are most likely to need assistance in finding a job. In many cases, some military combat-arms skills are not easily transferable to the civilian job market. Veterans also face difficulties in establishing and maintaining contacts for employment purposes. Military personnel are usually stationed away from their local community. This is an employment barrier because similarly situated non-veterans from the community are able to develop a network of contacts to help them obtain jobs in their chosen field. Servicemembers stationed away from their community for three years or more lack such a network. Servicemembers serving overseas (as happens in the case of one out of every five military personnel separating from active duty) further compounds job search efforts.

With an unemployment rate in excess of 11 percent, recently separated servicemembers (particularly those who are 20 to 34 years of age) suffer the highest unemployment rates of all veterans. VETS works hard to help these young recently separated veterans with a multitude of integrated services to prevent extended unemployment and ease their transition to careers in the civilian labor market.

License and Certification: While on active duty, veterans attend some of the finest technical and professional training schools in the world. Many of their skills require some type of license or certificate to pursue a career in the civilian workforce. In many cases, this license or certificate requires schooling, which is comparable to that already completed at armed forces training institutions. Unfortunately, too often agencies that issue the license or certificate do not recognize the military training or experience already completed. As an example, a qualified combat medic, who treated gunshot wounds in Operation Desert Storm, cannot be certified as an emergency medical technician in the nation's cities without additional (and often redundant) schooling. The American Legion conducted a study and found 105 professions, with direct application to civilian careers, for which the military

services provide training and for which a credential of some kind is required in civilian life. Efforts must continue to persuade civilian authorities to recognize formal military training.

SUMMARY

Messrs. Chairmen, the Veterans Health Administration and the Veterans Benefits Administration have made considerable progress in addressing many of their shortcomings over the past several years. In this statement, The American Legion has laid out the priority issues still facing the Department of Veterans Affairs. Many of the issues cited will not be resolved overnight. There is a lot of agreement within VA and among the Members of these Committees that many of the subjects discussed justly require priority attention. That being so, let's commit to developing effective short-term and long-range strategies to address these matters and as a result, improve the services and programs of the Department for current and future generations of America's veterans.

There are many important issues before the Congress of the United States. However, The American Legion believes that Congress must focus on finding effective solutions to veterans' concerns. The veterans of this nation have always answered when their country called. It is time to make a fundamental commitment to make the programs and services of VA second to none in helpfulness, effectiveness and efficiency. The priority challenges facing VA today:

- Increase access to VA health care and improve the timeliness of such care,
- Develop new non-appropriated revenue streams to complement the VA health care appropriations process, without OMB funding offsets,
- Enact the Medicare subvention provision of the GI Bill of Health,
- Enact the dependents care provision of the GI Bill of Health,
- Increase resource sharing and cooperation between VA and DOD health care,
- Provide adequate medical research and medical construction funding,
- Maintain strong oversight of Persian Gulf War statutes,
- Make veteran friendly improvements to the Montgomery GI Bill,
- Continue the recent expansion of newly constructed national and state veterans' cemeteries,
- Amend the current statute that restricts veterans' eligibility to obtain an appropriate VA headstone or marker for previously marked graves,
- Ensure that qualitative improvements are made in the VA Compensation and Pension Service,
- Provide necessary funding support for the General Operating Expenses of the Veterans Benefits Administration,
- Develop a realistic and viable short-term and long-range strategic plan to include all VA programs and services,
- Establish initiatives to persuade civilian employers to recognize formal military training.

Messrs. Chairmen and Members of these Committees, in this statement, I have laid out the priorities of The American Legion regarding the many programs and services made available to the veterans of this nation and to their dependents and survivors. As this nation begins a new century, let us never forget those brave men and women who have honorably served this nation and those who are still serving. Let us agree that this nation will always make the right decisions regarding earned benefits for our veterans, their dependents and survivors.

Thank you for granting me the opportunity to appear before you today.