STATEMENT OF
JAMES R. FISCHL, DIRECTOR
VETERANS AFFAIRS AND REHABILITATION COMMISSION
THE AMERICAN LEGION
BEFORE THE
COMMITTEE ON VETERANS' AFFAIRS
UNITED STATES SENATE
ON
FISCAL YEAR 2002 APPROPRIATIONS FOR
THE DEPARTMENT OF VETERANS AFFAIRS

MARCH 13, 2001

Mr. Chairman and Members of the Committee:

Thank you for the opportunity to appear before you today to express the views of The American Legion concerning the Fiscal Year (FY) 2002 Department of Veterans Affairs (VA) appropriations. Last September, The American Legion's National Commander Ray G. Smith offered many of these same recommendations during a joint session of the Veterans' Affairs Committees. The National Commander called for an overall increase in discretionary spending of approximately $1.75 billion in appropriations for VA in FY 2002. The purpose of the joint hearing was to paint a clear budgetary picture for the next administration and Congress. These recommendations were also provided to the major political parties, to all incumbents seeking re-election, and to those candidates who requested copies of the testimony.

The American Legion believes the formulation of the VA budget must be based on the needs of America's veterans, especially those with service-connected disabilities. This is especially important if the Department of Defense (DoD) plans to effectively resolve its recruitment and retention problems. America must honor those promises (implied or not) made previous generations of veterans. The American Legion believes taking proper care of those who have already served is the linchpin to future veterans. Veterans and their families are DoD's very best recruiters. Young men and women considering military service will seek out active-duty personnel, veterans and their family members for advice. Their voices will carry more weight in the decision process than slogans, recruitment materials or glowing promises.

Honorable military service must provide a veteran with more than individual pride, personal dignity and self-respect. Broken promises, hollow pledges and meaningless gestures do not strengthen national resolve, build morale, or promote unselfish devotion to duty. The thanks of a grateful Nation must be much more than holidays and parades. Long after the guns are silenced, the parades are over and the dead are buried, medals and citations do not help feed, house, educate or heal a veteran.

Mr. Chairman, The American Legion notes for the record that the House Veterans' Affairs Committee has called for a $2.1 billion dollar increase in discretionary VA spending, stating that the Administration's recommended billion-dollar, 4.4 percent increase outlined by Secretary Principi would "just about keep veterans health care even." The American Legion urges this Committee to act in the same bipartisan spirit as your colleagues in the House and to recommend an appropriate increase.

Over the years, Congress has implemented an array of programs designed to meet the needs of the veterans' community. Many veterans have never turned to VA for any assistance until now. Many of them never thought that VA would become an important part of their lives, but due to external factors (time, money and health), VA has become their life support system!

In addition to the specific budgetary recommendations outlined below, The American Legion believes Congress needs to focus on other budgetary solutions that involve both mandatory and discretionary funding. Medicare subvention is one such issue. Why must a Medicare-eligible veteran have to pay for treatment from VA for a nonservice-connected medical condition out of his or her own pocket, especially if he or she has purchased Part B? Congress allows VA to bill, collect, and retain third-party reimbursements, except Medicare. Why? *Medicare-eligibility is not, and never has been, a priority or criteria for treatment in VA*. When VA treats a Medicare-eligible veteran for a nonservice-connected condition, the veteran is billed. If these Medicare-eligible veterans want to seek health care in VA facilities, why can't they use their Medicare dollars to cover the cost of care for nonservice-connected medical conditions?

TRICARE is another such issue. All military retirees are eligible to seek treatment in VA medical facilities. Should they receive treatment for nonservice-connected conditions, the veteran or TRICARE will be billed. If the military retiree receives a prescription from VA, he or she can get the prescription filled at no charge in a DoD pharmacy. If the prescription is filled in the VA pharmacy, he or she may or may not have to pay a copayment (depending on the status of the veteran). This does not make sense, since the Federal government buys the medications for both agencies! This is but one instance where greater cooperation and coordination between VA and DoD could provide better quality, more timely and accessible health care coverage for all veterans and their families.

The American Legion greatly appreciates the actions of all Members of Congress regarding the increases in VA health care funding for FY 2000 and FY 2001 of approximately $3 billion. The American Legion believes such an increase was long overdue and has allowed VA to better meet the needs of veterans seeking care for their many medical problems. The American Legion believes VA should continue to receive full funding in to order to continue providing world-class health care. However, in order to do so, the Veterans Health Administration (VHA) requires just a billion dollars in new funding each year just to maintain existing services. With a mediocre budget request from a new Administration, the veterans' community must, once again, turn to Congress to make sure "no veteran is left behind."

The American Legion is very appreciative that Congress has 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 programs, the VA health care budget requires an annual 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 repair some of the problems related to long patient waiting times and limitations on access to care. Congress must not allow the recent funding gains to regress back to the day of doing more with less.

The past eight years have witnessed a significant reorganization and realignment of VHA resources and programs. Many dramatic and bold changes were initiated to improve VA's ability to meet the health care needs of the veterans' community. Now over four million veterans seek their health care in VA medical care facilities and even more veterans would come, if additional resources were available to cover the cost of care. VA continues to provide outstanding quality care that is recognized and praised by health care critics internationally. VA's medical research is still, dollar-for-dollar, the Nation's best investment. Quality, efficiency and effectiveness are the hallmarks of today's VHA.

Congress must continue to support increased 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 funding sources, both appropriated and nonappropriated.

The overall guiding principle for VA must be improved service to veterans, 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 and state cemeteries. Specific American Legion objectives yet to be met by Congress 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,**
- **Continued enhancement of the Montgomery GI Education Bill,**

- **Repeal of section 1103, title 38, U.S.C., removing the bar to concerning service-connection for tobacco-related illnesses,**
- **Increase the rate of beneficiary travel reimbursement, and**
- **All third-party reimbursements collected by VA should be used to supplement, rather than offset, the annual Federal discretionary appropriations.**

The American Legion offers the following budgetary recommendations for FY 2002:

BUDGET PROPOSALS FOR SELECTED VA PROGRAMS

	FY 2001 Appropriations	***The American Legion's Proposal***
Medical Care	$20.2 billion	***$21.6 billion***
Medical and Prosthetic Research	$350 million	***$375 million***
Construction		
• **Major**	$66 million	***$250 million***
• **Minor**	$166 million	***$175 million***
Grants for State Extended Care Facilities	$100 million	***$80 million***
National Cemetery Administration	$109 million	***$115 million***
State Cemetery Grants Program	$25 million	***$25 million***
VBA's General Operating Expenses	$1.08 billion	***$1.2 billion***

MEDICARE SUBVENTION

Public Law 105-33, the Balanced Budget Act of 1997, established VA's 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 VA medical care and services during any fiscal year; and for VA expenses for identifying, billing, auditing, and collecting of amounts owed the Federal government fore such care. 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 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.

Congress is providing VA with the authority to bill, collect, retain, and use revenues from sources other than Federal appropriations. However, the country's largest health care insurer (Medicare) is exempt from billing; yet, 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. Medicare-eligibility is ***not*** a priority or criteria for health care at no cost in the VA health care system. 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. VA and HCFA should explore either the Fee-For-Service or Medicare+Choice options or both. Medicare-eligible veterans should not forfeit their Medicare health care dollars because they prefer VA health care to health care offered in the private sector.

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 examine this issue and take the actions necessary to ensure that VHA receives all funding necessary to execute its health care mission with quality and in a timely manner.

Medicare subvention for VA ***must*** be included in any planned Medicare reform legislation passed in the 107th Congress. Access to VA health care is an ***earned benefit***. No Medicare-eligible veteran, treated for a nonservice-connected medical condition, should be ***deprived*** of his or her Federal health care insurance dollars to pay for the care received in a VA medical facility.

VETERANS HEALTH ADMINISTRATION (VHA)

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. In accordance with its strategic planning, VA annual inpatient admissions have decreased by 32 percent since 1994; ambulatory care visits have increased 35 percent. However, in some areas, like substance abuse, the number of veterans actually being able to access treatment has declined. 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 (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. 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 long 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, MT 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, MT 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, state and private health care providers to improve the quality and timeliness of care for veterans.

VHA's short-term and long-term future must be clearly defined to be responsive to the needs of 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 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 of veterans be allowed to use the system and that VA retain any third-party reimbursements for treatment. 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 involving emergency and long-term care, Hepatitis C treatment. Consequently, there is a continuing need to adequately fund VHA's uncontrollable cost increases at an acceptable level in order to maintain capacity in the Special Emphasis Programs (Mental Health, SCI, Blind Rehab, etc).

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, but these

additional sources of revenue should not be used to offset the appropriated dollars from Congress.

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. *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 growing needs of veterans who seek treatment through VHA; the current open access to all seven-priority groups will close.

THE AMERICAN LEGION RECOMMENDS $21.6 BILLION IN VHA.

TRICARE

The most significant recent change in military health care is the introduction of TRICARE (DoD's regional managed care program). TRICARE is facing many challenges to providing and maintaining a quality health care delivery system for active duty military personnel, military retirees, and dependents.

DoD continues to confront severe administrative problems with TRICARE. The American Legion is extremely concerned how DOD will fix these problems and if DoD can guarantee TRICARE's long-term success.

There are multiple reasons why TRICARE is failing to meet the expectations of its beneficiaries:

- 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, and
- Military retirees and their dependents are required to pay an annual enrollment fee.

The American Legion believes that VHA 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 better coordinate medical care and services to the extent possible, thereby eliminating duplication of effort and achieving greater cost efficiencies. With proactive planning, VHA can become the largest single provider of health care to America's veterans, military retirees and their dependents. DoD could then assume the responsibility of providing health care to active duty servicemembers, Reserve Component members and their 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.

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. In FY 2001, VA's appropriations funding for research is $350 million.

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 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. As the number of sick Gulf War veterans has continued to increase, it is apparent that VA has narrowly interpreted and implemented the Persian Gulf War Veterans' Benefits Act (Public Law 103-446), effectively denying compensation to some of the veterans the law was designed to help. It is clear that the intent of Congress was not only to compensate Gulf War veterans with conditions that can not be diagnosed, but to also compensate sick veterans diagnosed with poorly defined conditions such as chronic fatigue syndrome and fibromyalgia. As a result of VA's narrow interpretation of PL 103-446, it has become quite clear that legislation is needed to amend Title 38 USC § 1117, Compensation for Disabilities Occurring in Persian Gulf War Veterans.

The American Legion makes the following recommendations in addition to the legislative course of action discussed above:

- 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, so that the VA's Persian Gulf War Registry and DoD's Comprehensive Clinical Evaluation Program (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, this past September 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. IOM recommended additional research for long-term health effects. In light of the inconclusive findings and IOM's call for additional research, appropriate action should be taken to extend the presumptive period for VA undiagnosed illness compensation claims which is set to expire January 1, 2002.

Additional research on the long-term health effects of the various hazards veterans were potentially exposed to during the Gulf War, as called for by IOM, will require additional funding. Anticipated extension of priority health care for sick Gulf War veterans will also require additional funding. 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).

THE AMERICAN LEGION RECOMMENDS THAT MEDICAL AND PROSTHETICS RESEARCH BE INCREASED TO $375 MILLION.

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 Office of Management and Budget. Of this number, only one major VHA project is recommended. For FY 2002, 28 major projects are to be submitted for funding. The American Legion does not believe that the FY 2001 funding level of $66 million is sufficient to meet this goal.

THE AMERICAN LEGION RECOMMENDS $250 MILLION FOR MAJOR CONSTRUCTION.

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. The FY 2001 appropriation of $166 million for minor construction needs additional funding to meet future physical improvement needs. It is *penny-wise* and *pound-foolish* to reduce this investment. VHA was forced 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.

THE AMERICAN LEGION RECOMMENDS $175 MILLION FOR MINOR CONSTRUCTION.

GRANTS FOR THE CONSTRUCTION OF STATE EXTENDED CARE FACILITIES

Currently, this nation is faced with the largest aging veterans' population in its history. VA estimated 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 veterans' 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 2000, VA spent approximately $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 2000 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 2001, a total of 42 priority one state home construction grant projects with an estimated cost of $110 million remain unfunded. 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 Association of State Veterans' Home Directors to convert some of its underutilized facilities on large multi-building campuses to increase the number of available long-term care beds.

THE AMERICAN LEGION RECOMMENDS $80 MILLION FOR THE STATE VETERANS' HOME EXTENDED CARE CONSTRUCTION GRANTS PROGRAM.

NATIONAL CEMETERY ADMINISTRATION (NCA)

Currently, NCA oversees 119 national cemeteries in 39 states and Puerto Rico. The Department of the Army or the Department of the Interior administers sixteen other national cemeteries. Sadly, there are 57 national cemeteries 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 FY 2001. The number of veterans' deaths is projected to peak at 620,000 in 2008 and slowly return 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. This outmoded statute affects over 20,000 families per year. 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 $115 MILLION FOR NCA. 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 RECOMMENDS $25 MILLION IN NEW STATE VETERANS' CEMETERY GRANTS.

VETERANS BENEFITS ADMINISTRATION

Mandatory spending for the payment of compensation, pension, and burial benefits by the Veterans Benefits Administration (VBA) for FY 2002 is expected to exceed $23 billion. This reflects the impact of recent new regulatory and legislative entitlements as well as higher average benefit payments, certain new proposed legislation, and a cost-of-living adjustment.

The proposed increase in discretionary funding for FY 2002 will do little, if anything, to improve VBA's claims adjudication process. The promised improvements in service cannot be achieved without a substantial staffing in the regional offices. This is clearly evident in the fact that the current backlog of pending claims, new appeals, and remanded cases from the Board of Veterans Appeals is continuing to grow rather than decrease. In addition, there will be a substantial increase in the regional offices' workload associated with new claims for diseases such as diabetes related to Agent Orange exposure, Hepatitis C, and radiation-related claims, as well as the readjudication

of claims as a result of the Veterans' Claims Assistance Act of 2000. Additional funding is also needed to enable VBA to continue its efforts to reengineer their business processes, improve training, continue succession planning, and improve the overall quality and timeliness of the service provided to veterans and their families.

The American Legion is supportive of the broad performance and service improvement goals set forth in VBA's strategic management plan. Progress has been made in a number of areas under the current year budget. However, this is a long-term process and many significant challenges remain. Without adequate funding support at this critical period, VBA's implementation of a broad spectrum of operational, programmatic, technological, and administrative initiatives now underway or planned will be delayed and service will deteriorate. Disabled veterans must now wait months and sometimes years for their benefit claims to be decided. They are deeply frustrated and disappointed by a bureaucratic system that appears to be "not very user friendly", inefficient, and frequently unresponsive to their personal problems and needs. VBA's budget for FY 2002 must ensure that progress toward its stated service improvement goals will continue and that veterans and their survivors receive the benefits and services they are entitled to in a timely manner

BENEFIT PROGRAMS

In FY 2002, the estimated number of compensation, pension, education, and burial claims is expected to increase over the FY 2001 workload projections. While the number of pension claims will decline, due to the high mortality among World War II veterans, this will be substantially offset by the expected influx of claims for diabetes, Hepatitis C, additional radiation-related diseases, and requests for readjudication under the Veterans' Claims Assistance Act of 2000. It is apparent from the growing backlog of pending claims and appeals, which is now in excess of 500,000 cases, that present staffing levels are inadequate to meet the current workload and provide veterans and other claimants the level and quality of service they are entitled to and deserve.

One of the biggest challenges facing VBA over the next several years, in addition to the much needed modernization of its computer systems, is the prospect of the large scale turnover among its most experienced and senior personnel within the next three to five years. This issue was recognized as a major concern in the FY 1999 budget request and we were pleased that additional staff for VBA has been authorized in each of the past three-year budgets. However, currently, only 45 percent of authorized decisionmakers have three years or more of experience. The prevailing level of inexperience, the sheer number of claims and appeals to be processed, and the legal and medical complexities of all types of claims has contributed to an unacceptable error rate and a growing backlog of pending cases. VBA is continuing its efforts to recruit new personnel, improve the level, and the availability of training. It has also instituted several initiatives that will not only help identify errors in adjudication and improve the quality of decisions, but will make individuals and managers personally accountable for the quality of their work. It is essential that these initiatives continue and be fully funded.

Hepatitis C Claims

Hepatitis C has become a national public health challenge and 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 presence of a variety of risk factors inherent in military life and the increased risk of exposure by those serving on active duty.

The American Legion has been 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 VA 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. When finalized, these are expected to result in a substantial influx of claims for disability compensation and VA medical care. While these regulations will assist veterans in establishing 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 AMERICAN LEGION RECOMMENDS $1.2 BILLION IN VBA-GOE.

BOARD OF VETERANS APPEALS

The American Legion believes the Board of Veterans Appeals (BVA) will require additional staffing resources for FY 2002, so that efforts to improve productivity and reduce their response time can continue. Staffing at the BVA is currently 520 FTEE. However, due to a number of internal and external factors, the BVA's workload is expected to remain high and their response time increase to over 220 days. In FY 2002, BVA expects to increase production slightly and reduce the number of pending appeals at the Board. However, these modest gains will be largely offset by the impact of directives of the Court of Appeals for Veterans Claims that require additional time, effort and resources in deciding appeals and those cases remanded from the Court to the Board for readjudication. In addition, the Board's long-term workload continues to trend upward, despite VBA's many quality and service improvement initiatives, including the establishment of the Decision Review Officer program and greater cooperation between the regional offices and the BVA. The number of new appeals filed each year remains in excess of 60,000 and the number of substantive appeals filed is at least 32,000, most of which will eventually reach the BVA. In addition, there are thousands of cases remanded to the regional offices over the last several years and a majority of these will return to the BVA.

SUMMARY

Immediately after seeing the new Administration's budget request for FY 2002 and its recommendation of only a billion dollar increase in VA discretionary funding, National Commander Smith said, "The administration's suggested increase is simply not good enough."

The American Legion believes VA must receive at least $750 million more than the $1 billion in discretionary spending requested by President Bush and Secretary Principi. The American Legion specifically recommends the following minimal funding levels:

- **Medical Care** **$21.6 billion**
- **Medical and Prosthetic Research** **$375 million**
- **Construction**
  Major **$250 million**
  Minor **$175 million**
- **Grants for State Extended Care Facilities** **$80 million**
- **National Cemetery Administration** **$115 million**
- **State Cemetery Grants Program** **$25 million**
- **VBA's General Operating Expenses** **$1.2 billion**

If VA is to provide quality health care to America's veterans more funding is absolutely necessary. A billion dollars will not begin to address Hepatitis C treatment or long-term care mandated by the recently enacted Veterans' Millennium Health Care and Benefits Act. A billion-dollar increase will just about cover the on-going costs associated with maintaining current health care services, but there will be nothing left to address the claims adjudication crisis. VA must hire enough new claims adjudicators to expedite the delivery of benefits and replace the large number of retiring experienced adjudicators

This budget request is insufficient to fulfill the campaign promises made by President Bush, Vice President Cheney, and Secretary Principi to America's veterans and their families:

- Improve health care delivery,
- Modernize the claims process,
- Closer cooperation with TRICARE, and
- Full utilization of health care facilities throughout the system.

Mr. Chairman and Members of the Committee, adequate health care for veterans is important because veterans are important. Their sacrifice is the human cost of failed foreign policy. Whenever the VA budget suffers, it hurts America's veterans, and adversely impacts on their families. Many of you know of classic examples of your constituents that waited months, and sometimes years, for a claim to be processed. You know of others that must wait weeks, and sometimes months, for a medical appointment. Yet, when this Nation called on them to fight, their response was immediate!

Sadly, many veterans do not live long enough to see their claims resolved. Years of suffering, frustration, and financial hardship all too often follow them to their grave. The American Legion knows this is wrong and you know this is wrong. These problems cannot be properly resolved without adequate discretionary funding.

Thank you Mr. Chairman, this concludes my testimony.