

**STATEMENT OF
PETER S. GAYTAN, DIRECTOR
NATIONAL VETERANS AFFAIRS AND REHABILITATION COMMISSION
THE AMERICAN LEGION
BEFORE THE
COMMITTEE ON VETERANS' AFFAIRS
UNITED STATES SENATE
ON
FISCAL YEAR 2009 VA'S BUDGET REQUEST**

FEBRUARY 13, 2008

Mr. Chairman and Members of the Committee:

The American Legion would like to begin this hearing by expressing our gratitude to you and your colleagues for your work on the FY 2008 budget for the Department of Veterans Affairs (VA). From the very beginning of the 110th Congress, there was a great deal of fiscal work to be accomplished. In essence, you and your colleagues had to put together two VA appropriations budgets during the First Session.

The American Legion supported the Budget Resolution for the first time in many, many years. The American Legion supported the original version of the Military Construction, Veterans' Affairs, and Related Appropriations for FY 2008, passed overwhelmingly with bipartisan support in both chambers; however, we were also very pleased when President Bush requested the additional \$3.7 billion provided in Public Law 110-161. Needless to say, last year was an unusual appropriations cycle.

The veterans' community continues to request an annual VA appropriation that is timely, predictable, and sufficient to meet the growing demands on VA. Every VA program is specifically designed to address the various needs of America's veterans and their families. Some programs date back to past proprieties of an earlier era of veterans such as the greatest piece of social legislation ever enacted, the Servicemen's Readjustment Act of 1944 (the GI Bill of Rights). Newer areas of concern include improved diagnosis and treatment of traumatic brain injury. Some programs are individual entitlements that are funded through mandatory appropriations, while the balance are subject to the annual discretionary appropriations battle in Congress. But all represent the thanks of a grateful nation.

The American Legion does not support the 2009 policy proposals contained in the FY 2009 Budget submission that seek to impose an annual enrollment fee and practically double the current co-payment for pharmaceuticals. The American Legion has opposed these proposals in the past and we once again call on the members of this Committee to join us in defeating any proposal that seeks to balance the VA Budget on the backs of America's veterans.

Mr. Chairman, The American Legion welcomes the opportunity to present recommendations on the FY 2009 VA appropriations and other appropriations that fall under the jurisdiction of this Committee. The American Legion appreciates the efforts of the Secretary of Veterans Affairs and his capable leadership staff to produce a budget request that reflects the fiscal needs of VA to provide timely access to the earned benefits provided to those who served in the Armed Forces of the United States. In a nation of over 300 million citizens and a host of visitors, only 24 million veterans have accepted the challenge of military service. Some veterans were placed in harm's way, but all accepted the oath of enlistment. All were prepared to give "the last full measure of devotion."

Last September, The American Legion National Commander Marty Conatser testified before you and your colleagues to outline budget recommendations for FY 2009 and address some legislative concerns as well. To briefly recap, here is a table that reflects the final VA appropriations for FY 2008, The American Legion's budget request for FY 2009, and the President's budget request for FY 2009:

Discretionary Funding Programs	Final FY 2008 PL 110-161	Legion's FY 09 Request	President's Request FY 09
Total Medical Care	\$36.7 billion	\$38.4 billion	\$38.7 billion
Medical Services	\$29.1 billion		\$34 billion
Medical Administration	\$3.2 billion		
Medical Facilities	\$4.1 billion		\$4.6 billion
Medical/Prosthetics Research	\$480 million	\$476 million	\$442 million
Major Construction	\$1.1 billion	\$560 million	\$582 million
Minor Construction	\$579 million	\$485 million	\$329 million
CARES		\$1 billion	
State Extended Care Facilities Grants Program	\$165 million	\$275 million	\$85 million
State Veterans' Cemetery Construction Grants Program	\$39 million	\$45 million	\$32 million
National Cemetery Administration	\$195 million	\$228 million	\$181 million
General Operating Expenses	\$1.6 billion	\$2.8 billion	\$1.7 billion
Information Technology	\$2 billion	\$2.3 billion	\$2.4 billion

VETERANS AFFAIRS AND REHABILITATION

The American Legion breaks down its Veterans Affairs and Rehabilitation testimony into three sections that mirror the major organizational segments of the Department of Veterans Affairs (VA). In these separate sections The American Legion will discuss our legislative budget priorities regarding the Veterans Health Administration (VHA), the Veterans Benefits Administration (VBA) and the National Cemetery Administration (NCA).

VETERANS HEALTH ADMINISTRATION

The distinction of the VA as the nation's leader in providing safe, high-quality health care in the health care industry (both public and private), has been recognized by several reputable sources:

- The medical journal *Neurology* commented, "The VA has achieved remarkable improvements in patient care and health outcomes, and is a cost-effective and efficient organization" (2007).
- Harvard University's Kennedy School of Government presented VA with the highly coveted "*Innovations in American Government*" for its advanced electronic health records and performance measurement system (2006).
- The *Journal of the American Medical Association (JAMA)* noted VA's health care system has "...quickly emerged as a bright star in the constellation of safety practice, with system-wide implementation of safe practices, training programs and the establishment of four patient-safety research centers" (2005).
- The recent book by Phillip Longman entitled *Best Care Anywhere: Why VA Health Care is Better Than Yours* (2007).

VETERANS' HEALTH CARE BENEFIT ENROLLMENT DISCRIMINATION

All veterans eligible to receive benefits from VA should have access to the VA health care system. The American Legion opposes any enrollment policy that disallows any eligible veteran, who was prepared to give his or her life for this country, access to what is often described as the best health care in the nation. Honorable military service, whether for a single enlistment period or for a 30-year career, is not merely another period of employment in an individual's personal history. It is a defining portion of one's life.

Maintaining the quality of care that VA is currently known for should be a national priority. But that quality of care is being denied to an ever-increasing number of America's veterans. FY 2009 budget request continues the suspension of enrollment of new Priority Group 8 veterans due to the increased demands for services. According to VA, the number of Priority Group 8 veterans denied enrollment in the VA health care system at the end of FY 2007 was 386,767. The American Legion believes this number is significantly higher because it does not include those veterans who have not attempted to use the VA because they are aware of the suspension. Given the recruiting and retention problems the armed forces face, it is clear that denying earned benefits to eligible veterans does not solve the problems created by an inadequate Federal budget.

As the Global War on Terrorism wages on, fiscal resources for VA will continue to be stretched and this nation's veterans will continue to beg elected officials for monies to sustain a viable VA. A viable VA is one that cares for all veterans, not just the most severely wounded. More importantly, VA is often the first experience veterans have with the Federal government after leaving military service. This nation's veterans have never let this country down; it is time for Congress to do its best not to let them down.

All veterans, who are eligible to receive benefits from VA, should have timely access to the VA health care system. Honorable military service is evidence of an individual's commitment to this nation. In return for honorable military service, the *thanks of a grateful nation* should not simply be a conditional benefit that can easily be restricted or denied by political or bureaucratic whim, but should be regarded as an earned right in recognition for faithful service to this country.

Quality, timely and accessible VA health care is the on-going cost of war. It is unconscionable to send the young men and women in the armed forces to every corner of the globe and then limit the funding to take care of their injuries suffered in service to this country. VA was created to take care of the unique needs of a very specific population, those veterans that wore the uniforms of the armed forces. Once those uniforms are off, these veterans should be able to depend upon the VA health care system for their health care needs – regardless of the type or severity of their injuries. Many veterans will need health care for the rest of their lives. The American Legion expects the VA health care system to ensure and provide the very best health care for this nation's heroes. The American Legion strongly supports the reinstatement of enrollment for Priority Group 8 veterans.

MANDATORY FUNDING OF VA MEDICAL CARE

The American Legion believes the time for mandatory funding for veterans' health care is now. Congress should act to ensure that we, as a nation, will always provide the funding necessary to ensure veterans, who seek timely access to quality health care through the VA health care delivery system, are provided the health care they earned.

A new generation of young Americans is now deployed around the world, answering the nation's call to arms. Like so many brave men and women who honorably served before them, these new veterans are fighting for freedom, liberty and security of us all. Also like those who served before them, today's veterans deserve the respect of a grateful nation when they return home.

Previous generations of wartime veterans were welcomed at VA medical facilities until the 1980s. Unfortunately, without urgent changes in health care funding, these new veterans will soon discover their battles are not yet over. This nation's newest heroes will be fighting for the life of the VA health care system. Just as the veterans of the 20th century did, they will be forced to fight for the care they are eligible to receive.

The American Legion believes that the Veterans Health Administration's (VHA) recurring fiscal difficulties will only be solved when its funding becomes a mandatory appropriation item. As a mandatory appropriation, law would guarantee VA health care funding for all eligible enrollees – and it will be a patient-based, rather than a budget-driven, annual appropriation.

The American Legion continues to support legislation that establishes a system of capitation-based funding for VHA. This new funding system would provide all of VHA's funding, except that of the State Extended Care Facilities Construction Grant Program which would be separately authorized and funded as a discretionary appropriation.

Although VHA continues to struggle to maintain its global preeminence with a 21st Century integrated health care delivery system, it is handicapped by funding methods that were developed in the 19th Century for a now antiquated, inpatient delivery system. No modern health care organization can be expected to survive with such an inconsistent and inadequate budget process. The American Legion's position on VA health care funding is that health care rationing for veterans must end. It is time to guarantee health care funding for all veterans seeking VA health care.

THIRD-PARTY REIMBURSEMENTS

The Balanced Budget Act of 1997, PL 105-33, established the VA Medical Care Collections Fund (MCCF). The law requires that money collected or recovered from third-party payers after June 30, 1997, be deposited into this fund. The MCCF is a depository for collections from third-party insurance, outpatient prescription co-payments and other medical charges and user fees. The funds collected may be used to provide VA medical care and services and for VA expenses for identification, billing, auditing and collection of amounts owed the Federal government.

The American Legion supported legislation to allow VA to bill, collect and reinvest third-party reimbursements and co-payments. However, The American Legion has adamantly opposed the scoring of MCCF as an offset to annual discretionary appropriations because almost all of these funds derive from the treatment of non-service-connected medical conditions. Historically, these collection goals far exceed VA's ability to collect accounts receivable.

Once again, the President's budget request for FY 2009 raises the bar on MCCF from \$2.3 billion to \$2.5 billion. VA's ability to capture these funds is critical to its ability to provide quality and timely health care to veterans. Miscalculations of VA required funding levels results in real budgetary shortfalls. Seeking an annual emergency supplemental appropriation is not the most cost-effective means of funding the nation's model health care delivery system.

Government Accountability Office (GAO) reports have described the continuing problems in VHA's ability to capture insurance data in a timely and accurate manner and have raised concerns about VHA's ability to maximize its third-party collections. GAO visited three VA medical centers and found the following concerns: VA lacked the ability to verify insurance; VA could not accept partial payment as full payment; VA had inconsistent compliance with collections follow up; VA failed to ensure documentation by VA physicians was sufficient; VA had insufficient automation; and, VA had a shortage of qualified billing coders. All of these concerns are key deficiencies contributing to the collections shortfalls. VA should implement all available remedies to maximize its collections of accounts receivable.

The American Legion opposes offsetting annual VA discretionary funding by the arbitrarily set MCCF goal, especially since VA is prohibited from collecting any third-party reimbursements from the nation's largest Federally-mandated health insurer, Medicare.

MEDICARE REIMBURSEMENTS

Veterans contribute to the Medicare Trust Fund, as do most American workers, without choice, throughout their working lives. Veterans also paid these contributions when they served on active-duty. However, when a veteran is treated at a VA medical facility, VA is prohibited from collecting Medicare reimbursements for the treatment of allowable, nonservice-connected medical conditions. Since over half of VA's enrolled patient population is Medicare-eligible, this prohibition constitutes a multi-billion dollar annual subsidy to the Medicare Trust Fund. No other Federal health care provider is prohibited from receiving Medicare reimbursements. The American Legion supports allowing Medicare reimbursement to VHA to pay for the treatment of allowable, nonservice-connected medical conditions of enrolled Medicare-eligible veterans.

MEDICAL CONSTRUCTION AND INFRASTRUCTURE SUPPORT

MAJOR CONSTRUCTION

The CARES process identified more than 100 major construction projects in 37 states, the District of Columbia, and Puerto Rico. Construction projects are categorized as 'major' if the estimated cost is over \$10 million. Now that VA has a plan to deliver health care through 2022, it is up to Congress to provide adequate funds.

The CARES plan calls for, among other things, the construction of new hospitals in Orlando, FL, and Las Vegas, NV, and replacement facilities in Louisville, KY, and Denver, CO, for a cost estimated to be well over \$1 billion for these four facilities. VA has not had this type of progressive construction agenda in decades. Major construction money can be significant and proper utilization of funds must be well planned. Recently, Congress approved funding for a new Veterans Affairs Medical Center in Denver. It is our hope that funding will be provided for Louisville and Las Vegas as well.

In addition to the cost of the proposed new facilities are the many construction issues that have been virtually "put on hold" for the past several years due to past inadequate funding and the moratorium placed on construction spending by the CARES process. One of the most glaring shortfalls is the neglect of the buildings sorely in need of seismic correction. This is an issue of safety. The delivery of health care in seismically unsafe buildings cannot be tolerated and funds must be allocated to not only construct the new facilities, but also to pay for much needed upgrades at existing facilities. Gambling with the lives of veterans, their families and VA employees is absolutely unacceptable.

The American Legion believes that VA has effectively shepherded the CARES process to its current state by developing the blueprint for the future delivery of VA health care – it is now time for Congress to adequately fund the implementation of this crucial undertaking.

The American Legion recommends \$560 million for Major Construction in FY 2009. Although the President's budget request for FY 2009 calls for Major Construction to be \$582 million, The

American Legion also recommends an additional \$1 billion specifically designated for approved CARES major construction.

MINOR CONSTRUCTION

VA's minor construction program has also suffered significant neglect over the past several years. Maintaining the infrastructure of VA's buildings is no small task. Because the buildings are old, renovations, relocations and expansions are quite common. When combined with the added cost of the CARES program recommendations, it is easy to perceive that a major increase over the previous funding level is crucial and overdue.

The American Legion recommends \$485 million for Minor Construction in FY 2009.

VETERANS BENEFITS ADMINISTRATION

The President's annual budget request is a detailed outline of the mandatory and discretionary funding needed by the Veterans Benefits Administration (VBA). Given VBA's many challenges and responsibilities, which include the annual expenditures for compensation, pension, and related benefit payments, it is imperative that Congress ensure that VBA's programs have the personnel and other resources necessary to operate efficiently and can provide quality and timely service. The budget debate process and oversight hearings provide opportunities to evaluate how well VBA is, in fact, performing its missions and whether the needs and expectations of its stakeholders are being met.

For several years, VBA has endeavored to implement its long-term strategic plans to hire and train a new cadre of adjudicators, to continue the computer modernization program, and to institute a variety of procedural and programmatic changes intended to improve the claims adjudication process. However, external factors, such as the enactment of legislation providing new benefits and medical care services and precedent setting legal decisions by the federal courts, continue to play a major role in changing VBA's plans, policies, and operations. VBA's efforts to address these varied and complex issues have profound budgetary and operational implications.

One of the most significant challenges plaguing VBA is the sheer size of the backlog of pending disability claims and appeals. These claims are usually multi-issue cases arguing complex medical and legal issues that must be resolved. The American Legion believes the backlog is a symptom of unresolved systemic problems that adversely affect the adjudication and appeals process. These unresolved problems further contribute to the ever-growing backlog. These problems include: frequent decision-making errors at all levels of the decision making process; failure by VA personnel to comply with the *Veterans' Claims Assistance Act of 2000 (VCAA)*; lack of personal accountability by VA employees and managers; ineffective quality control and quality assurance programs; inadequate personnel training; and, an unreliable work measurement system. VBA is faced with a serious dilemma. While endeavoring to address these thorny issues, it is also aggressively trying to process claims faster. From the results, it does not appear VBA has found a way to successfully balance these competing priorities.

As of January 5, 2008, there were more than 406,000 rating cases pending in the VBA system. Of these, 105,693 (26 percent) have been pending for more than 180 days. There are more than

163,000 appeals pending at VA regional offices, with more than 147,000 requiring some type of further adjudicative action. Additionally, there are currently more than 30,000 appeals pending at the Board of Veterans' Appeals and more than 19,000 remands pending at the Appeals Management Center.

As previously noted, The American Legion remains deeply concerned by the problems arising from the VBA's general lack of compliance with its 'duty to notify' and its 'duty to assist' requirements directed by the VCAA. This legislation is one of the most significant, pro-veteran improvements in the VA claims adjudication system in the past decade. However, VBA continues to give only lip service to this law. While claimants receive what VBA terms a VCAA letter, this letter, in fact, is generally not very informative about what particular evidence is needed by VBA to grant the benefit sought by the veteran. In addition, these VCAA letters are usually long and confusing, not very specific to the evidence needed from claimants, and written in bureaucratic language instead of 'plain English'. Rather than helping claimants with the development of the claim, these letters frequently generate more questions, more telephone calls, and more correspondence to veterans' service officers or the VA regional office. Clearly, the VCAA letter currently in use by VBA today only serves to delay rather than facilitate the claims process.

The VBA's work measurement system may directly or indirectly affect the VBA's failure to reduce the claims backlog. The VBA's work measurement system is the means by which both individual employee and station performance is tracked and evaluated. This system is also relied upon in determining staffing needs at the station, region, and service levels in support of VBA's annual budget request. A serious problem can arise if the data developed by the work measurement system is neither accurate nor reliable in reporting the actual amount of work accomplished. This produces a distorted view of the way the VBA adjudication process is operating and what the true staffing needs are, both locally and system-wide.

The American Legion believes VBA's current work measurement system is seriously flawed. It does not provide VBA and Congress the needed information on how long it actually takes to properly process a claim and how many staff are required to perform this process in a timely manner. The American Legion advises that this work data is also subject to frequent manipulation and abuse, thus, its accuracy and reliability is open to serious question as are the conclusions and decisions drawn from this work data. In the view of The American Legion, the development and implementation of a new work measurement system should be one of VBA's highest priorities. The American Legion fully understands and appreciates the major challenges facing VBA in the upcoming year, but as a major stakeholder in VBA's benefit programs we are committed to ensuring that VBA provides the best quality and timely service to our nation's veterans and their families.

NATIONAL CEMETERY ADMINISTRATION

Approximately 24 million veterans are living today. Nearly 690,000 veteran deaths are estimated to occur in 2009. VA estimates that approximately 111,000 will request interment in national cemeteries. Considering the growing cost of burial services and the excellent quality of service the National Cemetery Administration (NCA) provides, The American Legion foresees that this percentage will be much greater. Congress must therefore provide sufficient *Major*

Construction appropriations to permit NCA to accomplish its stated goal of ensuring that burial in a national or state cemetery is a realistic option for our nation's veterans by locating cemeteries within 75 miles of 90 percent of eligible veterans. The American Legion recommends \$228 million be appropriated for the National Cemetery Administration for FY 2009.

NATIONAL CEMETERY EXPANSION

According to VA, it takes approximately 20 to 30 Full Time Equivalents (FTEs), to operate a national cemetery (depending on the size and workload at a particular facility) and it takes approximately 8 to 10 FTEs to operate a newly-opened cemetery (cemeteries are opened to interments long before completion of the full site). Thus, it seems reasonable that at least 50 new FTEs will be needed to operate the six new cemeteries NCA is planning to bring online in FY 2008. It is likely, therefore, that these new cemeteries will need the full 20 to 30 FTEs in FY 2009. The average VA employee salary with benefits is \$63,709. The American Legion recommends that funding for an additional 120-150 employees be included in the FY 2009 budget.

NATIONAL SHRINE COMMITMENT

Maintaining cemeteries as National Shrines is one of NCA's top priorities. This commitment involves raising, realigning and cleaning veterans' headstones and markers to renovate their gravesites. The work that has been done by VA so far has been outstanding; however, adequate funding is the key to maintaining this very important commitment. The American Legion supports NCA's goal of completing the National Shrine Commitment within five years. This commitment includes the establishment of standards of appearance for national cemeteries that are equal to the standards of the finest cemeteries in the world. Operations, maintenance and renovation funding must be increased to reflect the true requirements of the NCA to fulfill this commitment.

VA has assessed burial sections and sites, roadways, buildings, and historic structures and has identified 928 potential improvement projects at an estimated cost of \$280 million. October 2007 marked the end of the 5-year plan, but still much work needs to be done. With the addition of six new cemeteries and the addition of six more cemeteries that are fast-tracked to come online this year, resources will be strained. The American Legion recommends that \$52 million be appropriated to the National Shrine Commitment in order to fulfill this commitment to the nation's veterans.

STATE CEMETERY CONSTRUCTION GRANTS PROGRAM

This program is not intended to replace National Cemeteries, but to complement them. Grants for state-owned and operated cemeteries can be used to establish, expand and improve on existing cemeteries. There are 60 operational state cemeteries and two more under construction. Since NCA concentrates its construction resources on large metropolitan areas, it is unlikely that new national cemeteries will be constructed in all of the States. Therefore, individual states are encouraged to pursue applications for the State Cemetery Grants Program. Fiscal commitments from the States are essential to keep the operations of state cemeteries on track. NCA estimates it costs about \$300,000 per year to operate a state cemetery.

Determining an "average cost" to build a new state cemetery or to expand an existing one is very difficult. Many factors influence cost, such as location, size and the availability of public utilities. The American Legion believes States will increasingly use the State Cemetery Grants Program to fulfill the needs of their veteran populations that are still not well served by the "75-mile service area/170,000 veteran population" threshold that currently serves as the VA benchmark for establishing a new national cemetery. New state cemeteries and expansions and improvements of existing state cemeteries are therefore likely to increase. With increasing costs, especially given the high cost of land in urban areas, and with increasing demand, The American Legion recommends the amount of funding for the State Cemetery Grants Program be substantially increased. The American Legion recommends \$45 million for the State Cemetery Grants Program in FY 2009.

ECONOMICS

THE GI BILL AND VETERANS' EDUCATION BENEFITS

The American Legion has a proud history of developing the *Servicemen's Readjustment Act of 1944* (Public Law 78-346), also known as the *GI Bill of Rights*, which served to assist 18 million veterans of WWII in gaining employment after military service and assisting in the creation of the American middle class.

Accordingly, The American Legion supports passage of major enhancements to the *All-Volunteer Force Education Assistance Program*, better known as the *Montgomery GI Bill (MGIB)*. The current make-up of the operational military force requires that adjustments be made to support all armed forces servicemembers. The American Legion supports legislation that will allow members of the Reserve Components to earn credits for education while mobilized, just as active-duty troops do, and be able to use those credits after they leave military service. Two of the top priorities of any veterans' education legislation are equity and portability of benefits. However, it is also clear that the current dollar value of benefits must be increased to meet the greater costs of today's higher education.

In the 20 years since the MGIB went into effect on June 30, 1985, the nation's security needs have changed radically from a fixed Cold War to a dynamic Global War on Terrorism. In 1991, the Active-Duty Force (ADF) of the military stood at 2.1 million; today it stands at 1.4 million. Between 1915 and 1990 the Reserve Force (RF) was involuntarily mobilized only nine times. Today the nation's Reserve Forces are no longer a strategic force but are an operational force mobilized continuously and working side-by-side with active duty units all over the world.

The Department of Defense (DOD) reported as of August 2007 that in support of Operation Iraqi Freedom (OIF) and Operation Enduring Freedom (OEF) there have been:

- 2.4 million deployment events;
- 1.6 million servicemembers have been deployed;
- 540,000 servicemembers have had more than one deployment;
- 443,000 National Guard and Reservists have been mobilized and deployed to Iraq or Afghanistan since 2001, for an average of 18 months per mobilization;
- Out of 540,000 servicemembers with more than one deployment, 103,909 are members of the Reserve Components; and

- ‘Stop-loss’ (a policy that prevents troops from leaving the service when their enlistment end date has arrived) has been imposed on more than 50,000 troops.

The American Legion recommends that the dollar amount of the entitlement should be indexed to the average cost of college education including tuition, fees, textbooks and other supplies for commuter students at an accredited university, college or trade school for which they qualify and that the educational cost index should be reviewed and adjusted annually.

The American Legion supports a monthly, tax-free subsistence allowance indexed for inflation as part of the educational assistance package.

The American Legion recommends reauthorizing and funding State Approving Agencies to assure current staffing and activities and to assure that there is no harm to veterans receiving education payments.

STATE APPROVING AGENCIES

The American Legion is deeply concerned with the timely manner that veterans, especially returning wartime veterans, receive their education benefits. Annually, approximately 300,000 servicemembers (90,000 of them belonging to the National Guard and Reserve) return to the civilian sector and use their earned education benefits from the VA.

Any delay in receipt of education benefits or approval of courses taken at institutions of higher learning can adversely affect a veteran’s life. A recent GAO Report entitled “VA Student Financial Aid; Management Actions Needed to Reduce Overlap in Approving Education and Training Programs and to Assess State Approving Agencies” (GAO-07-384) focuses on the need to “ensure that Federal dollars are spent efficiently and effectively.”

GAO recommends that VA should require State Approving Agencies (SAAs) to track and report data on resources spent on approval activities, such as site visits, catalog review, and outreach in a cost-efficient manner. The American Legion agrees. Additionally, GAO recommended that VA establish outcome-oriented performance measures to assess the effectiveness of SAA efforts. The American Legion fully agrees. In response, VA Deputy Secretary Mansfield plans to establish a working group with SAA to create a reporting system for approval activities and develop outcome-oriented measures with a goal of implementation in the FY 2009 budget cycle. Finally, GAO recommended that VA should collaborate with other agencies to identify any duplicate efforts and use the agency’s administrative and regulatory authority to streamline the approval process. The American Legion agrees. VA Deputy Secretary Mansfield responded that VA would initiate contact with appropriate officials at the Departments of Education and Labor to help identify any duplicate efforts.

SEC. 301 of PL 107-330 created increases in the aggregate annual amount available for state approving agencies for administrative expenses from FY 2003- FY 2007 to the current funding level of \$19 million. The American Legion fully supports reauthorization of SAA funding.

The American Legion strongly recommends keeping SAA funding at \$19 million in FY 2009 to assure current staffing and activities.

VA HOME LOAN GUARANTY PROGRAM

Since the home loan program was enacted as part of the original *Servicemen's Readjustment Act of 1944* (the GI Bill), VA has guaranteed more than 18 million home loans totaling nearly \$914 billion for veterans to purchase or construct a home, or to refinance another home loan on more favorable terms. In the five-year period from 2001 through 2006, VA has assisted more than 1.4 million veterans in obtaining home loan financing totaling almost \$197 billion. About half of these loans, just over 730,000, were to assist veterans to obtain a lower interest rate on an existing VA guaranteed home loan through VA's *Interest Rate Reduction Refinancing Loan Program*.

The VA funding fee is required by law and is designed to sustain the VA Home Loan Program by eliminating the need for appropriations from Congress. Congress is not required to appropriate funding for this program; however, because veterans must now 'buy' into the program, it no longer serves the intent of helping veterans afford a home. The funding fee makes the VA Home Loan program less beneficial when compared to a standard, private loan, in some aspects. The current rate for mortgages is approximately 5.7 percent. The funding fee would be *in addition* to the rate given by the lender. A \$300,000 loan would generate a fee in addition to any rate the veteran would achieve. The funding fee mandates the participant to buy into the program; however, that goes directly against the intention of the law: to provide veterans a resource for obtaining a home. Approximately 80 percent of all VA Home Loan participants must pay the funding fee and the current funding fee paid to VA to defray the cost of the home loan has had a negative effect on many veterans who choose not to participate in this highly beneficial program.

The American Legion supports the elimination of the VA Home Loan funding fee and urges Congress to appropriate funding to sustain the VA Home Loan Guaranty Program.

The American Legion reaffirms its strong support for VA's Loan Guaranty Program. The American Legion also supports any administrative and/or legislative efforts that will improve and strengthen the VA Home Loan Guaranty Program's ability to serve America's veterans.

HOMELESS PROVIDERS GRANT AND PER DIEM PROGRAM

In 1992, VA was given authority to establish the Homeless Providers Grant and Per Diem Program under the *Homeless Veterans Comprehensive Service Programs Act of 1992* (PL 102-590). Grants from the Grant and Per Diem Program are offered annually (as funding permits) by the VA to fund community agencies providing service to homeless veterans. VA can provide grants and per diem payments to help public and nonprofit organizations establish and operate supportive housing and/or service centers for homeless veterans.

Funds are available for assistance in the form of grants to provide transitional housing (up to 24 months) with supportive services, supportive services in a service center facility for homeless veterans not in conjunction with supportive housing, or to purchase vans.

The American Legion strongly supports funding the Grant and Per Diem Program for a five-year period instead of annually and supports increasing the funding level to \$200 million annually.

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

VETS is and should remain a national program with Federal oversight and accountability. The American Legion is eager to see this program grow and especially would like to see greater expansion of entrepreneurial-based, self-employment opportunity training.

The mission of VETS is to promote the economic security of America's veterans. This mission is executed by assisting veterans in finding meaningful employment. The American Legion believes that by strengthening American veterans, we in turn strengthen America. Annually, DOD discharges approximately 250,000 servicemembers. Recently-separated service personnel will seek immediate employment or, increasingly, have chosen some form of self-employment.

In order for the VETS program to assist these veterans to achieve their goals, it needs to:

- Improve by expanding its outreach efforts with creative initiatives designed to improve employment and training services for veterans;
- Provide employers with a labor pool of quality applicants with marketable and transferable job skills;
- Provide information on identifying military occupations that require licenses, certificates or other credentials at the local, state, or national levels;
- Eliminate barriers to recently separated service personnel and assist in the transition from military service to the civilian labor market;
- Strive to be a proactive agent between the business and veterans' communities in order to provide greater employment opportunities for veterans; and
- Increase training opportunities, support and options for veterans who seek self-employment and entrepreneurial careers.

The American Legion believes staffing levels for DVOP specialists and LVERs should match the needs of the veterans' community in each state and not be based solely on the fiscal needs of the state government.

Contrary to the demands placed upon VETS, funding increases for VETS since 9/11 does not reflect the large increase in servicemembers requiring these services due to the Global War on Terrorism. In support of this fact, the inflation rate from January 2002 to January 2008 is 15.93 percent and yet for State Grants alone, funding has only increased a meek 2.5 percent (\$158 million to \$162 million) in the same time span.

The President's budget request for FY 2009 will allow for an increase of 1 percent for State Grants, the mechanism for funding DVOPs and LVERs. However, this does not meet the inflation rate and approximately 100 positions have the potential to be eliminated again next year.

More services and programs are needed and yet since 2002 the VETS program has only received a modest 4 percent increase. Transition assistance, education, and employment are each a pillar of financial stability. They will prevent homelessness allow the veteran to compete in the private

sector, and let our nation's veterans contribute their military skills and education to the civilian sector. By placing veterans in suitable employment earlier, the country benefits from increased income tax revenue and reduced unemployment compensation payments, thus greatly offsetting the cost of Transitional Assistance Program (TAP) training. The American Legion recommends full funding for DOL-VETS.

HOMELESSNESS (DOL-VETS)

The American Legion notes that there are approximately 200,000 homeless veterans on the street each night. This number, compounded with 300,000 service members entering the private sector each year since 2001 with at least a third of them potentially suffering from mental illness, requires intensive efforts. Numerous programs to prevent and assist homeless veterans are available.

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

The competition for these grants is intense as they have one of the highest cutoff score thresholds to be in the competitive range for any grant program. Amazingly, 243 grants did fall into the competitive range but there was only enough funding to award 145 submissions. The HVRP program could only award \$39 million for FY 2007 but had to deny 98 fully qualified nominations. These 98 additional qualified programs would require an additional \$30 million. The American Legion recommends \$70 million for this highly successful grant program.

TRAINING

The National Veterans' Employment and Training Services Institute (NVTI) was established to ensure a high level of proficiency and training for staff that provide veterans employment services. NVTI provides training to Federal and state government employment service providers in competency based training courses. Current law requires all Disabled Veterans' Outreach Program (DVOP) and Local Veterans' Employment Representatives (LVER) personnel to be trained within 3 years of hiring. The American Legion recommends that these personnel should be trained within 1 year. The American Legion further recommends \$6 million in funding to NVTI.

VETERANS WORKFORCE INVESTMENT PROGRAM (VWIP)

VWIP grants support efforts to ensure veterans' lifelong learning and skills development in programs designed to serve the most-at-risk veterans, especially those with service-connected disabilities, those with significant barriers to employment, and recently separated veterans. The goal is to provide an effective mix of interventions, including training, retraining, and support services, that lead to long term, higher wage and career potential jobs. The American Legion recommends \$20 million in funding for VWIP.

EMPLOYMENT RIGHTS AND VETERANS' PREFERENCE

The *Uniformed Services Employment and Reemployment Rights Act* (USERRA) protects civilian job rights and benefits of veterans and members of the armed forces, including National Guard and Reserve members. USERRA also prohibits employer discrimination due to military obligations and provides reemployment rights to returning servicemembers. VETS administers this law, conducts investigations for USERRA and Veterans' Preference cases, conducts outreach and education, and investigates complaints by servicemembers.

Since September 11, 2001, nearly 600,000 National Guard and Reserve members have been activated for military duty. During this same period, DOL-VETS has provided USERRA assistance to over 410,000 employers and servicemembers.

Veterans' Preference is authorized by the *Veterans' Preference Act of 1944*. The *Veterans' Employment Opportunity Act of 1998* (VEOA) extended certain rights and remedies to recently separated veterans. VETS was given the responsibility to investigate complaints filed by veterans who believe their Veterans' Preference rights have been violated and to conduct an extensive compliance assistance program.

Numerous Federal agencies and government contractors and subcontractors are unlawfully circumventing Veterans' Preference. The use of multiple certificates in the hiring process is unjustly denying veterans opportunity for employment. Whereas figures show a decline in claims by veterans of OIF/OEF compared to Gulf War I, the reality is that employment opportunities are not being broadcast. Federal agencies as well as contractors and subcontractors are required by law to notify OPM of job opportunities but more often than not these vacancies are never made available to the public. VETS program investigates these claims and corrects unlawful practices.

The American Legion also supports the strongest Veterans' Preference laws possible at all levels of government. The American Legion is deeply concerned with the protection of the veteran and the prevention of illegal and egregious hiring practices. Currently, veterans are filing corrective action claims after the non-compliance employment event occurs and therefore may become financially disadvantaged. Concurrent measures and continuous oversight must be emplaced to protect veterans from unfair hiring practices, not just reactionary investigations. The American Legion recommends funding of \$61 million for program management that encompasses USERRA and VEOA.

VETERAN-/SERVICE-CONNECTED DISABLED VETERAN-OWNED BUSINESSES

The American Legion views small businesses as the backbone of the American economy. It is the driving force behind America's past economic growth and will continue to be the major factor for growth as we move further into the 21st Century. Currently, more than nine out of every ten businesses are small firms, which produce almost one-half of the Gross National Product. Veterans' benefits have always included assistance in creating and operating veteran-owned small businesses.

The impact of deployment on self-employed National Guard and Reservists is severe with a reported 40 percent of all veteran-owned businesses suffering financial losses and in some cases bankruptcies. Many other small businesses have discovered they are unable to operate and suffer some form of financial loss when key employees are activated. The Congressional Budget Office in its report, *“The Effects of Reserve Call-Ups on Civilian Employers,”* stated that it “expects that as many as 30,000 small businesses and 55,000 self-employed individuals may be more severely affected if their Reservist employee or owner is activated.” Additionally, the Office of Veterans’ Business Development within the Small Business Administration (SBA) remains crippled and ineffective due to a token funding of \$750,000 per year. This amount, which is less than the office supply budget for the SBA, is expected to support an entire nation of veteran entrepreneurs. The American Legion feels that this pittance is an insult to American veteran business owners, undermines the spirit and intent of the *Veterans Entrepreneurship (TVC) and Small Business Development Act of 1999* (PL 106-50) and continues to be a source of embarrassment for this country.

The American Legion strongly supports increased funding for the Small Business Administration’s Office of Veterans’ Business Development to provide enhanced outreach and community-based assistance to veterans and self employed members of the Reserves and National Guard.

Additionally, the American Legion supports allowing the Office of Veterans’ Business Development to enter into contracts, grants, and cooperative agreements to further its outreach goals. The Office of Veterans’ Business Development must be authorized to develop a nationwide community-based service delivery system specifically for veterans and members of Reserve components of the United States military.

The American Legion further recommends that funding for the SBA Office of Veterans’ Business Development be increased to \$2.3 million in FY 2009.

CONCLUSION

The American Legion is extremely concerned about the budgetary process when Congress does not pass appropriations bills before the start of the new fiscal year. The failure to pass a proper budget has a significant impact on the veterans’ community and the health care delivery provided to veterans. As a result of the failure of Congress to pass VA appropriations in a timely manner, all long- and short-range planning is adversely affected. VA medical facility administrators are asked to use a “crystal ball” to make prudent management decisions – not knowing when and how much funding they will have available to finish the fiscal year. Such fiscal irresponsibility spawns gross mismanagement decisions, rationing of care, and unacceptable delays and backlogs across the program areas – medical care, facility maintenance, administration, construction, and state grants programs. It is our hope that Congress will move to quickly pass this budget so that we can properly take care of our troops and our veterans.

The American Legion appreciates the opportunity to present its views and estimates on programs that will affect veterans, servicemembers and their families. We ask that this Committee take into consideration the recommendations of The American Legion as your colleagues formulate the

FY 2009 Budget Resolution. We also ask the Committee not to forget the sacrifices and contributions made by America's veterans and their families as the budget priorities are determined for FY 2009.