STATEMENT OF
JOHN A. BRIEDEN, III
NATIONAL COMMANDER
THE AMERICAN LEGION
BEFORE A
JOINT SESSION OF THE
VETERANS' AFFAIRS COMMITTEES
UNITED STATES CONGRESS
ON THE
LEGISLATIVE PRIORITIES OF THE AMERICAN LEGION

SEPTEMBER 16, 2003

Messrs. Chairmen and Members of the Committees:

As The American Legion's newly elected National Commander, I thank you for this opportunity to present the views of its 2.7 million members on issues under the jurisdiction of your Committees. At the conclusion of The American Legion's Eighty-Fifth National Convention in Saint Louis, Missouri, over 3,000 delegates adopted 36 organizational resolutions with legislative intent. These mandates are added to the 227 previously adopted resolutions to form the legislative portfolio of The American Legion for the remainder of the 108th Congress.

The American Legion greatly appreciates the efforts of your Committees in authorizing veteran's health care, benefits and programs for the entire veteran's community. The American Legion continues to enjoy a strong working relationship with the Committee Members and the professional staff members. The bipartisan cooperation exhibited by your Committees is a welcome change to the seemingly endless political wrangling that too often impedes the legislative process.

As young American Servicemembers are once again answering the nation's call to arms in every corner of the globe, The American Legion continues its proud tradition of securing the earned entitlements of those brave men and women. This past year, proposals have been introduced that seek to balance the Department of Veterans Affairs (VA) budget on the backs of America's veterans both old and new. Additionally, in an attempt to curb spending and control the overwhelming backlog of veterans seeking health care at VA facilities, the Secretary suspended enrollment of Priority Group 8 veterans. The American Legion does not believe that rationing health care to America's veterans is the solution to the current crisis within VA.

With that in mind and on behalf of The American Legion, I offer the following budgetary recommendations for the Department of Veterans Affairs (VA) for FY 2005:

BUDGET PROPOSALS FOR SELECTED DISCRETIONARY PROGRAMS FOR DEPARTMENT OF VETERANS AFFAIRS FOR FISCAL YEAR 2005

Program	H.R. 2861	S. 1584	Legion's FY 2005 Request
Medical Care ***Including:***	$26.9 billion	$28.3 billion	$30 billion
Priority 1-6 Veterans	*$15.8 billion*		
Priority 7-8 Veterans ($1.5 billion from MCCF)	*$2.2 billion*		
Medical Administration	*$4.9 billion*		
Medical Facilities	*$4.0 billion*		
Emergency spending		($1.3 billion)*	
Medical Care Collections	($1.5 billion)	($1.6 billion)	Supplement**
Medical & Prosthetics Research	$408 million	$413 million	$445 million
Construction			
• Major	$275 million	$272 million	$325 million
• Minor	$252 million	$252 million	$255 million
State Extended Care Facilities	$102 million	$102 million	$120 million
State Veterans' Cemeteries	$32 million	$32 million	$40 million
NCA	$144 million	$144 million	$160 million
General Administration	$1.3 billion	$1.3 billion	$1.8 billion

* President must declare emergency situation before money is released.
** Third-party reimbursements should supplement rather than offset discretionary funding.

VETERANS HEALTH ADMINISTRATION

MEDICAL CARE

Over the past 20 years, the VA has quietly transformed its medical care system from a substandard collection of hospitals and homes to an integrated health care system of excellence that leads private and other government health care providers in almost every measure. The quality of care that is provided through the VA health care system is exemplary. However, the quality of care is irrelevant when access to that care is impeded.

Today, there are nearly 26 million veterans. As more choose to use VA as their primary health care provider (over 8 million veterans enrolled or waiting to enroll), the strain on the system continues to grow. The American Legion fully supported the enactment of Public Law 104-262, the Veteran's Healthcare Eligibility Reform Act that opened enrollment in the VA health care system. Many veterans who, until this time, were ineligible for VA health care were now able to enroll. Veterans recognize that VHA provides affordable, quality care that they cannot receive anywhere else.

The astronomical growth of Priority Groups 7 and 8 veterans seeking health care at their local VA medical facility has resulted in over 300,000 veterans being placed on waiting lists regardless of their assigned Priority Group. FY 2003 saw the suspension of enrollment of new Priority Group 8 veterans due to this growth in enrollees. The American Legion does not agree with the decision to deny health care to veterans simply to ease the backlog. Denying earned benefits to eligible veterans does not solve the problems resulting from an inadequate budget.

The simple fact is VHA does not have the funding needed to treat all veterans seeking care from VA. VHA operates under a constant cloud of fiscal uncertainty. The continuing FY 2004 VA appropriations battle threatens to eliminate $1.8 billion from the amount agreed to by House leadership. The House approved level of funding is $1.8 billion lower than the level agreed upon by the House Budget Committee in April of this year.

The Senate Appropriations Committee recently approved funding that would add $1.6 billion back to VA medical care funding. However, $1.3 billion of this amount is designated as contingent emergency funding, which cannot be used without the President's approval.

Over the last several years, VHA has struggled to provide quality care while staying within budget constraints. These budgetary uncertainties create problems within VA's health care system. Future spending projections, staffing levels, equipment purchases, and structural improvements are all stalled if the funding is not a certainty.

In an effort to provide a stable and adequate funding process, The American Legion supports mandatory funding for veterans' medical care, as well as Medicare reimbursement for VA and a premium based health insurance program within VHA.

The American Legion recommends $30 billion for Medical Care in FY 2005.

THIRD PARTY REIMBURSEMENT AND MEDICAL CARE COLLECTION FUNDS

Public Law 105-33, the Balanced Budget Act of 1997, established the VA Medical Care Collections Fund (MCCF) and requires that amounts collected or recovered after June 30, 1997, be deposited into this fund. The MCCF is a depository for collections from third party insurance, outpatient prescription copayments and other medical charges and user fees. The funds collected may only be used for providing VA medical care and services and for VA expenses for identification, billing, auditing and collection of amounts owed the Government.

Technically, the MCCF is not considered a Treasury offset because the funds collected do not actually go back to the MCCF treasury account, but remain within VHA and are used as operating funds. Instead, in developing a budget proposal, the total appropriation request is reduced by the estimate for MCCF for the fiscal year in question. We fail to see the difference in the net effect to the VISNs and VAMCs. Offsetting estimated MCCF funds largely defeats the purpose of realigning VHA's financial model to more closely approximate the private sector. The American Legion adamantly opposes offsetting annual VA discretionary funding by the MCCF recovery.

Implementation by VHA of the Revenue Cycle Enhancement Plan has had a dramatically positive effect on the amount of revenue collected. Resuming in early FY 2002 it has resulted in significantly higher receipts than projected; so much so that VHA recently doubled the amount expected in FY 2004 from $1.3 billion to 2.1 billion. However, any system can stand improving and agency models are available that clearly illustrate the efficiencies that can be gained through practical application.

The American Legion is pleased with the progress in collections that VHA has made in two short years. With continued improvement, MCCF should become a substantial portion of VHA's operating revenue in the near future. The American Legion supports pending legislation requiring Health Maintenance Organizations (HMOs) and Preferred Provider Organizations (PPOs) to consider VHA a network provider or preferred provider, respectively. This legislation would prevent HMOs and PPOs from using the lack of a participating network or preferred provider agreement as the basis for non-payment to VA for services for other than urgent conditions.

MEDICARE REIMBURSEMENT TO MCCF

As do all working citizens, veterans pay into the Medicare system without choice. A portion of each earned dollar is allocated to the Medicare Trust Fund. Although veterans must pay into the Medicare system they cannot use their Medicare benefits at any VA health care facility. VA cannot bill Medicare for the treatment of Medicare eligible veterans. The American Legion does not agree with this policy and supports Medicare reimbursement for VHA for the treatment of nonservice-connected medical conditions of enrolled Medicare-eligible veterans. As a Medicare provider, VHA would be authorized to bill and collect allowable third-party reimbursements from the Medicare Trust Fund for the treatment of nonservice-connected medical conditions of enrolled Medicare-eligible veterans.

There are logical reasons to justify Medicare reimbursements:

- Centers for Medicare and Medicaid Services (CMS) determine Medicare-eligibility.
- All Medicare-eligible beneficiaries would be free to choose their health care providers.
- Only military service determines eligibility for enrollment in VHA – Medicare-eligibility is not a factor.
- VHA is mandated by law to bill and collect third-party reimbursements for the treatment of nonservice-connected medical conditions of enrolled veterans, except from Federal health insurance programs like Medicare.

- VHA is an integrated health care delivery system providing a full continuum of health care services and treatments.
- The Indian Health Service (IHS) has successfully demonstrated how Medicare reimbursements can be successfully accomplished to improve the quality of care to beneficiaries.
- VHA does not receive adequate annual Federal discretionary appropriations to meet the health care needs of its growing patient population.
- Congressional oversight of CMS and VHA greatly reduces opportunities for fraud, waste, or abuse in billing or treatment of Medicare-eligible beneficiaries.
- The number of veterans enrolled in VHA is contingent upon existing appropriations, co-payments and third-party reimbursements.

IMPROVING MCCF REVENUE VIA THE INDIAN HEALTH SERVICE MODEL

The Indian Health Service (IHS) was established to meet the government's responsibility to provide health care to Native Americans. Like VA health care, it is not an "entitlement" program. Primary care is their main focus, but they also deal with Public Health issues, such as sanitation. IHS treats about 1.5 million patients a year (based on use within the past three years) of a population census of 2.2 million. There are about 50 facilities, many of them small rural clinics.

In 1976, Congress enacted title IV of the Indian Health Care Improvement Act (IHCIA) which amended titles XIII (Medicare) and titles XIX (Medicaid) of the Social Security Act (SSA). This allowed IHS to bill for medical services provided by IHS facilities to Native Americans eligible for Medicare Part A or Medicaid. Billing for Medicare Part B was authorized in 2001.

Initially, there was cultural and bureaucratic resistance to the billing and collecting of Medicare and Medicaid. In 1990, IHS collected only about $200,000. After absorbing significant cost increases that were never funded in Fiscal Years 1992-1996, an emphasis was placed on collections for sheer survival. IHS now collects about $500 million a year. Of this, about $100 million is from Medicare billing. The bulk of collections come from Medicaid, which is consistent with the circumstances of the Native American population where, historically, there are lower incomes and shorter life spans.

The Indian Health Service's experience with Medicare demonstrates that a Federal agency can successfully manage Medicare billing and collection. It further creates a blueprint that is applicable to similar action by VA, when Medicare reimbursement is authorized. IHS has had a targeted goal for the use of its Medicare and Medicaid collections since its inception and it is successfully meeting that goal

REPEAL OF SUSPENSION OF PRIORITY GROUP 8 VETERANS

In passing the Veterans' Health Care Eligibility Reform Act of 1996, P.L. 104-262, Congress required VA to furnish hospital care and medical services to, among others, any veteran with a compensable service-connected disability or who is unable to defray the expenses of necessary

medical care and services. It further authorized the VA, with respect to veterans not otherwise eligible for such care and services, to furnish needed hospital, medical, and nursing home care.

The overwhelming response from the veteran population was largely unanticipated and drastically underfunded, leading to the backlog of veterans waiting to receive care at VA. In an effort to reduce that backlog, Secretary Principi suspended enrollment of Priority Group 8 veterans. The American Legion strongly opposes this decision and calls for the repeal of the suspension of enrollment for Priority Group 8 veterans.

PRESIDENT'S TASK FORCE TO IMPROVE HEALTH CARE DELIVERY FOR OUR NATION'S VETERANS

The American Legion was privileged to participate in the President's Task Force to Improve Health Care Delivery for Our Nation's Veterans (PTF) that recently released its final report. National Adjutant Robert Spanogle served as a Commission member on that Task Force.

While the majority of the PTF report was agreed upon by the Task Force Commissioners, one portion of the report failed to muster a consensus by all Commissioners: Recommendation 5.3 addressing Priority Group 8 veterans. This is the most critical issue in the entire report because it addresses accessibility for the greatest portion of the veterans' population – Priority Group 8 veterans. The American Legion is less than pleased with this final recommendation which is viewed as more of a statement rather than an actual recommendation.

Recommendation 5.3 of the PTF Final Report reads:

> "The present uncertain access status and funding of Priority Group 8 veterans is unacceptable. Individual veterans have not known from year to year if they will be granted access to VA care. The President and Congress should work together to solve the problem."

This is simply a statement of the obvious.

The PTF minority recommendation, supported fully by The American Legion and by the vast majority of veteran and military organizations supports the enactment of the following funding mechanism:

- All enrolled Priority Group 8 veterans would be required to identify their public/private insurance.
- VA would be authorized as a Medicare provider for Priority Group 8 veterans and be permitted to bill, collect and retain all or some defined portion of third party reimbursements from CMS for the treatment of non-service connected medical conditions.
- VA should be authorized to offer a premium-based health insurance policy to any enrolled Priority Group 8 veteran with no public/private health insurance.
- All enrolled Priority Group 8 veterans would be required to make co-payments for treatment of non-service connected medical conditions and prescriptions.

- All enrolled Priority Group 8 veterans with no public/private health insurance would agree to make co-payments and pay reasonable charges for treatment of non-service connected medical conditions.

VA has had third party collection authority since 1986. This minority recommendation simply expands third party collection authority for Priority Group 8 veterans by authorizing access to new and existing revenue streams. This funding mechanism is essential not only to the survival of the VA Health Care System, but also should be enacted out of fairness to the vast majority of veterans who are currently locked out of the VA system

The American Legion believes VHA is on the right track to developing the fiscal means to comply with Congress' intent to provide healthcare to all this nation's veterans. However, Congressional action to allow VA access to all available federal and non-federal funding sources and to achieve the efficiencies described above will be required to accelerate VA's compliance with that mandate.

ENVIRONMENTAL EXPOSURES

AGENT ORANGE

It is now more than thirty two years since the last Agent Orange mission was conducted in Vietnam and the Nation has still not lived up to its responsibilities for finding out the extent of damage to Vietnam veterans caused by the herbicides and then in doing its duty to assist them and their families. This nation has a moral obligation to provide quality health care to all veterans and one of the top priorities of The American Legion has been to ensure that long overdue major epidemiological studies of Vietnam veterans who were exposed to the herbicide Agent Orange are indeed carried out.

As many of you may recall, in the early 1980's several of your committees held hearings on the need for such epidemiological studies. Public Law 96-151, as amended, directed the Administrator of Veterans' Affairs to design a protocol for and conduct an epidemiological study of any long-term adverse health effects in veterans who served in Vietnam as a result of exposure to phenoxy herbicides. The history is clear. VA was unable and unwilling to do the job. The buck was passed to the Centers for Disease Control (CDC). In 1986, the CDC abandoned its responsibilities, asserting that a study could not be conducted based on available records.

The American Legion did not give up. We knew the CDC was wrong and we went to the highest court, but to no avail. Now, three separate panels of the National Academy of Sciences have agreed with The American Legion and concluded that the CDC was wrong and that epidemiological studies based on Department of Defense records are indeed possible.

The latest Institute of Medicine – National Academy of Sciences report is based on the research carried out by a Columbia University team, headed by Dr. Jeanne Mager Stellman, which has developed a powerful method for characterizing exposure to herbicides in Vietnam. The American Legion is proud to have collaborated in this research effort. The Institute of Medicine has issued a report urgently recommending that epidemiological studies be undertaken now that

an accepted exposure methodology is available and The American Legion strongly endorses that report.

Now, it is up to the Congress to make sure VA is directed to ensure that these urgently needed studies take place and are carried out by independent scientists with Institute of Medicine participation. The studies require both funds and assurance of ready access to the military personnel records and histories if this long overdue debt to our Vietnam veterans is ever to be paid.

Additionally, The American Legion is extremely concerned about the timely disclosure and release of all information by the Department of Defense (DOD) pertaining to the use and testing of herbicides in locations other than Vietnam during the war.

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

GULF WAR ILLNESS

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

Hallmark legislation was enacted in 1994 to ensure compensation for ill Gulf War veterans suffering from unexplained illnesses. Although PL 103-446 looked good on paper, a seventy-five percent denial rate was the reality for our sick Gulf War veterans seeking VA service connection for Gulf War-related undiagnosed illness. As a result, The American Legion actively supported legislation to amend Title 38 USC § 1117 (Compensation for disabilities occurring in Persian Gulf War veterans) with the goal of correcting this problem.

On December 27, 2001, the president signed into law the Veterans Education and Benefits Expansion Act of 2001 (PL 107-103). It clarified and expanded the definition of undiagnosed illness by including medically unexplained chronic multi-symptom illness, such as chronic fatigue syndrome, fibromyalgia, and irritable bowel syndrome, that is defined by a cluster of signs or symptoms. The American Legion believes this provision recognizes the original intent

of Congress to compensate ill Gulf War veterans suffering from poorly defined or undiagnosed symptoms. We are hopeful that it will ensure that more Gulf War veterans suffering from these conditions receive the benefits to which they are entitled.

VA, at the urging of The American Legion and other veteran organizations, has made an effort to notify Gulf War veterans previously denied service connection for undiagnosed illness, fibromyalgia, chronic fatigue syndrome, or irritable bowel syndrome on a direct basis, of the change in law and the opportunity to reopen their claims. Unfortunately, the denial rate for these claims remains very high and the restrictive nature of the final rule, published in the Federal Register on June 10, 2003, implementing the Gulf War provisions of PL 107-103 will likely reinforce this pattern. The American Legion will continue to monitor new and reopened undiagnosed illness claims and scrutinize VA's implementation of the change in law in order to identify any trends that may be responsible for the continued high denial rate of such claims. We also urge both the House and Senate Veterans' Affairs Committees to conduct their own oversight of the Gulf War-related provisions of PL 107-103.

The American Legion has been impressed by the Secretary of Veterans Affairs strong support of the work of the research advisory committee on Gulf War veterans' illnesses, as highlighted by his pledge to dedicate $20 million for Gulf War research in FY 04. Given the inconclusive history of Gulf War-related research, we are pleased that the committee's recommendations are focusing on areas of research, such as neurological factors, that have not been thoroughly explored.

We are also pleased that earlier this year the Secretary of Veterans Affairs requested the Institute of Medicine (IOM) to review medical and scientific literature on the long-term health effects of sarin published since it's initial report on sarin in September 2000. In its 2000 report, Gulf War and Health, Volume 1: Depleted Uranium, Sarin, Pyridostigmine Bromide, and Vaccines, the IOM concluded that there was insufficient/inadequate evidence to determine whether an association does or does not exist between exposure to sarin, at levels too low to cause acute symptoms, and subsequent long-term adverse health effects. The IOM recommended that studies using laboratory animals be conducted to explore long-term health effects of acute short-term sarin exposure at levels that do not cause immediate acute (cholinergic) symptoms. Subsequent to the September 2000 report, studies conducted by the U.S. Army Medical Research Institute of Chemical Defense, published in the peer-reviewed journal Toxicology and Applied Pharmacology in October 2002, support the premise that such low-level sarin exposure does indeed cause long-term health effects. The studies revealed changes in the brain and suppression of the immune system in laboratory rats many days after exposure to levels of sarin that caused no immediate symptoms. The IOM's review of all available peer-reviewed literature and the subsequent report will be used by the Secretary to determine whether or not the establishment of a presumption of service connection for chronic disabilities related to such exposure is warranted.

Research regarding long-term health effects of low-level sarin exposure is especially important in light of recent revelations involving the number of military personnel potentially exposed to sarin following the demolition of an Iraqi munitions storage complex in Khamisiyah, Iraq in March 1991. In testimony before the House Subcommittee on National Security, Emerging

Threats, and International Relations, Committee on Government Reform, the Government Accounting Office (GAO) presented a "Preliminary Assessment of DOD Plume Modeling for U.S. Troops' Exposure to Chemical Agents." GAO's findings invalidated DOD's modeling of the Khamisiyah demolitions and several other locations where chemical agents were released as a result of coalition bombing during the air campaign of the 1991 Gulf War. As a result, GAO concluded that the findings of epidemiological studies based on the DOD models were also invalid. This is especially true of DOD's conclusions that there were no significant differences in the rate of illness between exposed and non-exposed personnel.

Because DOD plume modeling results are not reliable, GAO determined that DOD's conclusions regarding the number of troops exposed is highly questionable. DOD models in 1997 and 2000 estimated that approximately 100,000 military personnel were potentially exposed to low-levels of nerve agent. The 2000 model reclassified 32,627 troops, who were classified as exposed in 1997, as unexposed and reclassified 35,771 troops, who were classified as unexposed in 1997, as exposed. According to GAO, as many as 350,000 U.S. military personnel may have been exposed to nerve agents released from the Khamisiyah demolition. GAO also concluded that given the weaknesses in the data available for additional analyses, further modeling efforts would not be any more accurate or helpful.

Since GAO's investigation clearly invalidates DOD's modeling efforts as well as the usefulness of any future efforts, and the number of troops exposed to nerve agents is likely much greater than estimated by DOD, The American Legion urges that a presumption of exposure be granted for every service member in the region at the time of the demolitions.

ATOMIC VETERANS

Since the 1980s, claims by atomic veterans exposed to ionizing radiation for a radiogenic disease, which is not among those listed in 38 U.S.C. § 1112 (c)(2), have required an assessment to be made by the Defense Threat Reduction Agency (DTRA) as to nature and amount of the veteran's radiation dose(s), in accordance with 38 C.F.R. § 3.311. Under this guideline, "When dose estimates provided pursuant to paragraph (a)(2) of this section are reported as a range of doses to which a veteran may have been exposed, exposure at the highest level of the dose range will be presumed." From a practical standpoint, VA routinely denied the claims by many atomic veterans on the basis of dose estimates indicating minimal or very low-level radiation exposure.

As a result of the court decision of National Association of Radiation Survivors (NARS) v. VA and studies by GAO and others of the U.S.'s nuclear weapons test program, the accuracy and reliability of the assumptions underlying DTRA's dose estimate procedures have come under public scrutiny. It has been shown that very often many of the records from nuclear weapons tests, including individual film badges, had been lost or are incomplete. Also noted, not all participants were issued dosimeter badges or had worn them at all times. Information about an individual's activities during these tests has often been sketchy or completely lacking, which raises further uncertainties about the method by which DTRA developed the reported dose estimates.

On May 8, 2003, the National Research Council's Committee to Review the DTRA Dose Reconstruction Program released its report. It confirmed the often-unheeded complaints of thousands of atomic veterans that, historically, DTRA's dose estimates have often been based on arbitrary assumptions resulting in underestimating the amount of actual radiation exposure. Based on a sampling of past DTRA cases, it was found that existing documentation of the individual's dose reconstruction, in a large number of cases, was unsatisfactory and evidence of any quality control was absent.

The committee concluded their report with a number of recommendations that would, in their opinion, improve the dose reconstruction process of DTRA and VA's adjudication of claims by atomic veterans. These recommendations included: the establishment of an independent advisory board to provide ongoing external review and oversight of DTRA's dose reconstruction and VA claims adjudication process; reevaluate the method of dose reconstruction to establish more credible upper-bound estimates; a comprehensive manual for standard operating procedures for dose reconstruction; a state-of-the-art quality assurance and quality control; the principle of the benefit of the doubt be consistently applied in all dose reconstructions; and interaction and communication with atomic veterans be improved. It further recommended to include allowing individual atomic veterans to review the scenario assumptions used in their dose reconstruction before this information is furnished to VA; create more effective methods to communicate the meaning of the radiation risk information; and that information should be disseminated to the community of atomic veterans advising them and their survivors of changes in the method of dose reconstruction and the possibility to have prior assessments updated and a reopening of their prior VA claim.

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

The American Legion believes that the dose reconstruction program, as it relates to the requirements of 38 C.F.R. § 3.309, should not continue. We urge the enactment of legislation to eliminate this provision in the claim of a veteran with a recognized radiogenic disease who was exposed to ionizing radiation during military service. VA's continued use of questionable radiation dose estimates has caused, and will continue to cause, the claims of thousands of radiation-exposed veterans to be denied.

PROJECT 112 / PROJECT SHAD

In June 2003, DOD completed its nearly three year investigation of Project 112, an extensive series of land based tests conducted between 1962 and 1973 to determine the vulnerability of U.S. military personnel to biological and chemical warfare attacks, and Operation Shipboard Hazard and Defense (SHAD), the shipboard portion of Project 112. On August 14, 2003, DOD,

as required under Public Law 107-314, submitted its report on the completion of all activities associated with its investigation on Project 112/SHAD to Congress.

Although DOD's Deployment Health Support Directorate will continue to respond to questions and concerns regarding Project 112/SHAD and will investigate any new information brought to its attention in the future, The American Legion is concerned about the completion of the active investigation. DOD noted early in its investigation that some Project 112/SHAD files had been destroyed. Records were not available electronically; they were in boxes uncategorized and there was no standardization in the manner the reports were maintained by the respective participating military branches. DOD also noted that the term SHAD was not universally used to categorize the tests and it does not appear that DOD can guarantee that there were not other tests referred to by another name that were part of the same series.

DOD investigators reported that the Deseret Test Center had planned 134 tests for Project 112 and SHAD combined. According to DOD, although 134 tests were planned, only 50 were actually conducted and 84 were cancelled. These tests were conducted in the open seas of the Atlantic and Pacific, as well as on land in Alaska, Hawaii, Maryland, Florida, Utah, Georgia, Panama, England, and Canada. Fact sheets were prepared for all tests that were actually conducted and DOD identified 5,842 participants and forwarded the names to VA for notification. When located, VA informs the veterans by letter of the test they participated in and also encourages them to visit a VA medical facility if they have any health concerns. In 2002, VA requested IOM to conduct an epidemiological study to determine if veterans are suffering from long-term health problems related to their participation in Project 112/SHAD. This study is scheduled for completion in fall 2005.

Although DOD has completed its active investigation of Project 112/SHAD, the possible effects of long-term health problems are still largely unknown and the completion of the IOM study is at least two more years down the road. In the meantime, ill veterans claiming service connection for disabilities they believe are related to their involvement in Project 112/SHAD are being denied compensation benefits at an alarming rate. VA has been tracking Project 112/SHAD-related disability claims since July 2002. According to the Veterans Benefits Administration, (VBA), as of August 1, 2003, 275 service connection claims had been received from veterans alleging disabilities due to exposure to agents/substances while participating in Project 112/SHAD. There are 130 pending claims. Of the 145 claims decided, only six claims were allowed (one an increase from 0%).

In the time it takes VA to locate and notify Project 112/SHAD participants identified by DOD, the number of ill veterans seeking health care and compensation from VA will increase. DOD may have ended its investigation but the ramifications of Project 112/SHAD will remain indefinitely. Thus, it is extremely important that Congress continue its oversight of this issue to ensure that Operation 112/SHAD veterans are not abandoned now that DOD has concluded its active investigation.

HEPATITIS C

Hepatitis C is an emerging national health crisis. There is an increased prevalence of Hepatitis C and associated health problems within the veteran population. According to VA, the rate of veterans with Hepatitis C is at least three times higher than the rate of the general population, with Vietnam veterans, in particular, being a high-risk group. This problem is presenting a major challenge for VHA.

The American Legion was pleased with VA's initial response, in terms of their pro-active approach to Hepatitis C education, outreach, testing, and treatment efforts. However, earlier in this fiscal year, citing the lack of sufficient funds to meet the increased demand for all types of VA care, VA has begun to seriously scale back its Hepatitis C outreach and treatment programs. VA has, in fact, begun to discourage the testing of veterans who may be at risk for Hepatitis C and are even turning away some veterans who test positive, because they are not accepting new enrollments and the costs associated with current treatment regimens is so high. This policy is unacceptable.

Even though VHA is being forced to curtail many of its Hepatitis C initiatives, it is continuing internal education efforts directed at VHA health care providers and patients. It is continuing to develop data from ongoing screening of veterans' health records. To the extent possible, VHA is utilizing the latest treatment modalities, which has shown promising results. There are also a number of recently initiated research projects underway to learn more about the risk factors associated with this virus.

The American Legion acknowledges VA's leading role in developing a comprehensive approach to Hepatitis C. We believe it is imperative that VA is provided the necessary funding and resources needed to ensure that:

- All veterans using VA health care services are screened for risk factors associated with Hepatitis C infection.
- All enrolled veterans who have identified risk factors for Hepatitis C infection receive reliable testing along with pre-testing and post-testing counseling.
- All veterans are provided with accurate and up-to-date information about the virus, health risks, and available treatment programs.
- VA health care providers must have the latest disease and treatment information.
- VA's health care program continues to provide all veterans in the system the highest quality care for Hepatitis C.
- VA maintains a vigorous research program to advance knowledge about Hepatitis C and improve its clinical care programs.

The American Legion believes that, in addition to its budgetary responsibilities, Congress has a legislative role in responding to the Hepatitis C challenge.

CAPITAL ASSET REALIGNMENT FOR ENHANCED SERVICES (CARES)

The VA health care system was designed and built at a time when inpatient care was the primary focus and long inpatient stays were common. New methods of medical treatment and the shifting of the veteran population geographically meant that VA's medical system was not providing care as efficiently as possible, and medical services were not always easily accessible for many veterans. About 10 years ago, VA began to shift from the traditional hospital based system to a more outpatient based system of care. The transformation occurring in the delivery of health care far outpaced VA's ability to make infrastructure changes. Subsequently, a 1999 Government Accounting Office (GAO) report found that VA spent approximately $1 million a day on underused or vacant space. GAO recommended, and VA agreed, that these funds could be better spent on improving the delivery of services and treating more veterans in more locations.

In response to the GAO report, VA developed a process to address changes in both the population of veterans and their medical needs and decide the best way to meet those needs. The Capital Asset Realignment for Enhanced Services (CARES) plan was initiated in October 2000. The pilot program was completed in VISN 12 in June 2001 with the remaining 20 VISN assessments being accomplished in Phase II.

The CARES process was designed to take a comprehensive look at veterans' health care needs and services. However, because of problems with the model in projecting long-term care, domiciliary, and outpatient mental health care needs into the future, specifically to 2012 and 2022, these very important health care services were omitted from the CARES planning. An extensive look, such as that proposed by the CARES initiative, cannot possibly be accomplished when an assessment of need for those services is missing from the process.

LONG-TERM CARE

VA spent close to $3.3 billion on long-term care in FY 2002. Over the next 10 years, demand will most likely increase due to the aging of the veteran population. VA estimates that the number of veterans most in need of long-term care, those veterans 85 and older, will more than double to about 1.3 million in 2012. Yet, even with these numbers, veterans' long-term care needs and projected growing demand has yet to be addressed in the Draft National CARES Plan (DNP).

MENTAL HEALTH

Due to several factors concerning the initial projections, the National Cares Planning Office (NCPO) and several other experts are reviewing the mental health inpatient and outpatient projections. Because of the questionable demand decline in several markets, VISNs were instructed only to plan for increases in mental health services. The American Legion was very concerned about the mental health projections and was very vocal in expressing dissatisfaction with the model. As it stands now, alternative forecasting methods will be developed for the next cycle of VA's health care strategic planning process integrated with CARES.

DOMICILIARY

The inappropriate distribution of domiciliary beds based on demand projections gave rise to several policy and programmatic concerns and questions. Because the original projections were based upon a national average utilization rate, the model redistributed beds from existing domiciliaries to areas where there are none. For those reasons, further study is needed, and projections must be revised before the next planning cycle. However, several proposals in the VISN Market Plans concern the relocation of domiciliary beds. Moving the domiciliary beds without the proper data and projections needed to make an accurate assessment of demand is not a good idea.

Phase II of CARES is currently in step 6 of a nine step process. The Secretary of Veterans Affairs has appointed a Commission to review the proposals of the DNP that was compiled by the Under Secretary of Health and recently released to the Commission. The purpose of the Commission is to maintain the integrity of the CARES process, while focusing on accessibility and cost effectiveness of the care to be provided. The Commission is conducting 37 hearings throughout the VISNs, to receive stakeholder input and assess the proposals. They will make their own recommendations to the Secretary at the conclusion of the public hearings.

As with the Market Plans, The American Legion will continue to be mindful of the proposals contained within the Draft National CARES Plan and ensure that the voice of the veteran is heard.

The American Legion will continue to monitor the following issues regarding CARES:

CONTRACTING CARE

The Draft National CARES Plan proposes the contracting out of care extensively within many of the VISNs in order to meet the projected increase demand in services. While contracting out of care is necessary in some circumstances, the wholesale use of this option should be used with caution. In certain areas it will be difficult at best based on availability of approved medical staffing and the contract fee schedules. Additionally, resources may not be available within the community.

VACANT SPACE

According to VA's Office of Facilities Management (OFM), VA facility assets include 5,300 buildings, 150 million square feet of owned and leased space, 23,000 acres of land and a total replacement value estimated at $38.3 billion. The Draft National CARES Plan proposes to eliminate 3.6 million square feet. The American Legion believes a concerted effort should be made to consider alternative uses of the vacant space before it is eliminated, such as: services for homeless veterans, long-term care, and the expansion of existing services to alleviate the extreme backlog of patients waiting to receive care at many VA facilities.

CAMPUS REALIGNMENTS AND CONSOLIDATIONS

The Draft National Plan contains several proposals to realign campuses and consolidate services. These realignments were introduced in the eleventh hour, with no stakeholder input sought by VA. There are 13 such realignments proposed in the plan. The American Legion does not support the closing of a VA facility just for the sake of saving money while veterans are denied care.

The Draft National CARES Plan expects substantial renovations and expansions as consolidations happen. A great deal of money will have to be allocated up front to ensure the new construction and renovations are completed. The American Legion understands that CARES is an ongoing process and when dealing with vacant space and renovations, incremental changes may have to take place. The price tag for all of the construction and renovations proposed is in the billions of dollars. With the proposed consolidations and transferring of services, it is imperative that veterans not experience any delays in the delivery of their care. No facilities should be closed, disposed of, or downsized until the proposed movement of services is complete and veterans are being treated in the new locations.

ENHANCED USE LEASE AGREEMENTS

With Enhanced Use Lease Agreements (EU) VA can maximize return from property that is not being fully utilized. EUs also allow VA to reduce or eliminate facility development and maintenance costs. Through the use of EUs VA can receive cash or "in-kind" consideration (such as facilities, services, goods, or equipment).

The Draft National CARES Plan proposes many enhanced use lease agreement projects with the public and private sectors. Uses include homeless shelters or housing, cultural arts center, cemeteries, inpatient beds, mental health services and many other veterans' service enhancing ideas. However, The American Legion recognizes that the approval process involved in obtaining an enhanced use lease is lengthy and complex. Many of the proposals may take years to come to fruition. The process needs to be streamlined.

VA/DOD SHARING

There are many opportunities for sharing between VA and the Department of Defense (DOD). The Draft National CARES Plan contains 21 high priority collaborations/joint ventures out of the 70 proposed throughout VA. Both VA and DOD benefit from these agreements and every effort should be made to pursue this avenue in order to save money through cost avoidance, in particular pharmaceuticals, supplies and maintenance services.

Extra effort on the part of these agencies to cooperate is essential in order for sharing to be successful. There is reluctance in some parts of the country to "share" services or programs between agencies. It is imperative that these roadblocks are overcome and the focus remains on providing quality healthcare and reasonable access to this nation's veterans.

The American Legion is aware that the CARES process will not end once the Secretary renders his decision. The American Legion intends to remain an active partner with VA during this critical process of realigning the agency's capital assets to better serve America's veterans

MEDICAL SCHOOL AFFILIATIONS

VHA and its medical school affiliates have enjoyed a long-standing and exemplary relationship for nearly 60 years that has continued to thrive and evolve to the present day. Currently, there are 126 accredited medical schools in the United States. Of these 107 have formal affiliation agreements with VA Medical Centers (VAMCs). More than 30,000 medical residents and 22,000 medical students receive a portion of their medical training in VA facilities annually. VA estimates that 70% of its physician workforce have university appointments. At some medical schools, 95% of medical staff at affiliated VAMCs have dual appointments.

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

The partnership with this country's medical schools has allowed VHA to enhance its ability to provide quality medical care to America's veterans, to promote excellence in education and research, and to provide back-up medical care to the Department of Defense in the event of war or national emergency. The academic medical model of integrated clinical care, education and research is universally accepted as the best means of providing high quality and state-of-the-art medical care. The American Legion affirms its strong commitment and support for the mutually beneficial affiliations between the Veterans Health Administration and the medical schools of this nation. VA medical school affiliates should be appropriately represented as a stakeholder on any national Task Force, Commission, or Committee established to deliberate on veteran's health care**.**

The affiliations are much too valuable a national resource to be crippled as a consequence of the CARES process. While we agree with and generally support the CARES concept, The American Legion is concerned that CARES will have a negative impact on this long-standing and highly successful synergistic VA/medical school affiliation system. Deterioration of the affiliations combined with the nursing shortage and the expected sharp decline in the number of volunteers in VAMCs could spell disaster for the Veterans Health Care System.

MANDATORY FUNDING FOR VETERANS MEDICAL CARE

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

Unfortunately, without urgent changes in health care funding, our new veterans will soon discover their battles are not over. They will be forced to fight for the life of a health care system that was designed specifically for their unique needs, just as the veterans of the 20th century did, they will be forced to fight for the care they each are entitled to receive.

The American Legion believes that health care rationing for veterans must end. It is time to guarantee health care funding for all veterans. The American Legion has called for the current discretionary funding formula, in which VA must compete with other agencies for scarce budget dollars, to be replaced by providing mandatory funding for VA medical care. VA must be adequately funded to meet its own growth and end intolerable waiting periods.

In the FY 04 budget request, President Bush and Secretary of Veterans Affairs Principi clearly state their objective: "a continued focus on the health care needs of VA's core groups of veterans – those with service-connected disabilities, the indigent, and those with special needs." However, the term "core groups of veterans" does not appear in Title 38, United States Code. The President's budget request proposed to drive 1.2 million veterans in Priority Groups 7 and 8 out of the system through a combination of enrollment fees and increased co-payments.

For over a decade, The American Legion has advocated allowing veterans to spend their health care dollars on the health care system of their choice. The American Legion believes the Veterans Health Administration (VHA) can efficiently expand to meet the health care needs of the men and women who have honorably served this nation in its armed forces – in war and in peace.

When Congress opened access to the VA health care system, many veterans believed VA was their best health care option and newly eligible veterans began seeking care at VA. Since the Centers for Medicare and Medicaid Services (CMS), the nation's largest public health insurance program, does not offer its beneficiaries a substantive prescription program, many Medicare-eligible veterans chose to enroll in VHA specifically to receive quality health care and access to an affordable prescription program. Although the Department of Defense's TRICARE and TRICARE for Life require military retirees to make co-payments or pay premiums, they do not provide for specialized care (like long-term care) many military retirees may need; therefore, many military retirees chose to also enroll for VA care to meet their unfulfilled medical needs.

Veterans continue to suffer as a result of a system that has been routinely under funded and is now ill equipped to handle the large influx of veterans waiting to use their services. Veterans continue to endure interminable waiting times for medical appointments, as well as unacceptably long waiting times for claims adjudication.

Funding for VA health care currently falls under discretionary spending within the Federal budget. VA health care budget competes with other agencies and programs for Federal dollars each year. The funding requirements of health care for service-disabled veterans are not guaranteed under discretionary spending. VA's ability to treat veterans with service-connected injuries is dependent upon discretionary funding approval from Congress each year.

Under mandatory spending, however, VA health care would be funded by law for all enrollees who meet the eligibility requirements, guaranteeing yearly appropriations for the earned health care entitlement of veterans.

The American Legion believes it is disingenuous for the government to promise health care to veterans and then make it unattainable because of inadequate funding. Rationed health care is no way to honor America's obligation to the brave men and women who have, and continue to unselfishly put our nation's priorities in front of their own needs. Mandatory funding for VA health care will help ensure timely access to quality health care for America's veterans.

MEDICAL AND PROSTHETICS RESEARCH

The Department of Veterans Affairs (VA) Medical and Prosthetic Research Service has a history of productivity in advancing medical knowledge and improving health care not only for veterans, but all Americans. VA research has led to the creation of the cardiac pacemaker, nicotine patch, and the Computerized Axial Tomography (CAT) scan, as well as other medical breakthroughs. Over 3800 VA physicians and scientists conduct more than 9,000 research projects each year involving more than 150,000 research subjects.

The VA Medical and Prosthetic Research budget has not kept pace with inflation during the past 15 years. It is essential that Congress and the Administration support strong medical and prosthetic research programs within VA so that veterans and all citizens continue to benefit from the exceptional research capability of the Department.

The American Legion supports adequate funding for VA biomedical research activities. Congress and the Administration should encourage acceleration in the development and initiation of needed research on conditions that significantly affect veterans - such as prostate cancer, addictive disorders, trauma and wound healing, post-traumatic stress disorder, rehabilitation, and others - jointly with the Department of Defense (DoD), the National Institutes of Health (NIH), other Federal agencies, and academic institutions.

The American Legion recommends $ 445 million for Medical & Prosthetics Research in FY 2005.

<u>De-Emphasis of Basic Biomedical Research in VA R&D</u>

Basic biomedical research provides the most rational and cost-effective means of preventive health care and provides treatments and cures for many diseases. Advances in biomedical research lead to the creation of new knowledge in biotechnology, and serves as a successful model in lowering long-term health care costs.

VA has recently taken action to implement a research portfolio that has more direct application to treatment and prosthetics and less to basic biomedical research. The American Legion supports in principle this "bench to bedside" orientation to research priorities; however, we have concerns as to the way that the VA is going about it. This year, 15 approved research projects were summarily canceled with little or no advance notice to the investigators involved. On the

basis of traditional grapevine notice that the projects were approved, these investigators proceeded to lease space, hire staff and purchase equipment. This uncalled-for action has caused extreme concern as to the intentions of the VA among medical school affiliates that normally execute VA's research agenda. It was apparently intended as an attention-getting mechanism in the VA Research and Development Office's reaction as to what is perceived as increased affiliate control of VA research. VA funds the research; therefore, VA should have the major voice in policy. We reiterate our position; however, that the affiliates' views must be included as partners in any major policy decision affecting the research they conduct.

MEDICAL CONSTRUCTION AND INFRASTRUCTURE SUPPORT

MAJOR CONSTRUCTION

Over the past several years, The American Legion has testified on the inadequacy of funding for VA's major and minor construction programs. Buildings continue to be neglected and the persistent deterioration results in unsafe environments similar to unsanitary conditions discovered at the VAMC in Kansas City, Missouri. Of course, those that pay the price for this neglect are the veterans who are receiving care at these facilities.

A 1998 study recommended that VA fund two to four percent of Plant Replacement Value (PRV) per year to reinvest in new facilities to replace aging facilities. The conclusion of this analysis was that VA's reinvestment rate of .84 percent was significantly lower than the benchmark of two percent. This equates to hundreds of millions of dollars that conceivably could be used for major construction projects. Private consultants have been warning for years that dozens of VA patient buildings were at the highest level of risk for earthquake damage or collapse yet funding continues to be woefully short of what is actually needed to correct this problem.

The American Legion supports legislation that would provide $1.8 billion over the next three fiscal years to improve, replace, update, renovate or establish facilities within the existing VA infrastructure. These funds would be exempt from 38 USC § 8103 (a) (2) which requires enabling legislation for construction procurements in excess of $4 million or leases in excess of $600,000 per year. This money would be available at the discretion of VA for:

- Seismic protection
- Life safety upgrades
- Utility improvements
- Accommodations for disabled persons

Facilities eligible for improvements include:

- Blind rehabilitation centers
- Inpatient and residential programs for seriously mentally ill veterans and veterans with substance abuse disorders
- Physical medicine and rehabilitation activities

- Long term care including adult day care, nursing facilities and geriatric research and education facilities
- Amputation care facilities including prosthetics and orthotics and sensory aids
- Spinal cord and traumatic brain injury centers
- Women's veterans' health programs
- Hospice and palliative care facilities

The American Legion is concerned that veterans are needlessly being placed in harm's way. There are over 60 patient care and other related use buildings in danger of collapse or heavy damage in the event of an earthquake. The sorely needed seismic corrections, along with the necessary ambulatory care and patient safety projects, will require a significant increase in funding to address VHA's current major construction requirements. This legislation will go a long way to correcting these deficiencies.

The American Legion further supports legislation that would authorize the following major medical construction projects at the amounts specified:

- Construction of two bed towers to consolidate inpatient sites in inner-city Chicago at the West Side Division in an amount not to exceed $98.5 million.
- Construction in Clarke County, Nevada of a multispecialty outpatient clinic to replace the leased Las Vegas ambulatory care center and a satellite office for the Veterans Benefits Administration in an amount not to exceed $97.3 million.
- Seismic corrections to strengthen Medical Center Building 1 at VA Health Care System at San Diego, California not to exceed $48.6 million.
- Renovation of all inpatient care wards at the VA West Haven, Connecticut healthcare facility at a cost not to exceed $50 million.

In August 2001, The American Legion stated its strong support for the relocation of the Denver VA Medical Center to the former Fitzsimmons Army Hospital. At the time, the Fitzsimmons Redevelopment Authority proceeded with plans to convert the site of the former army base to a Bio-Science Park, with the anchor tenant to be the University of Colorado Health Science Center (UCHSC). VAMC Denver has had a long-standing synergistic relationship with UCHSC. This regional, VISN-wide medical mega-campus is the model for future tertiary health care infrastructure. Numerous other providers that have signed on include the Indian Health Service and Fischer House that serves families of veterans hospitalized at VAMC Denver. The American Legion supports the construction of the proposed "Federal Health Care Tower" at Fitzsimmons that would consolidate most of the VA and DOD inpatient care in the VISN. The economy-of-scale benefits to VA are manifest through the sharing of expensive high-tech surgical suites and diagnostic imaging facilities that would be available.

The American Legion recommends $325 Million for Major Construction in FY 2005.

MINOR CONSTRUCTION

Similar to VA's major construction program, VA's minor construction program has likewise suffered significant neglect over the past several years. The requirement to maintain the

infrastructure of VA's buildings is no small task. When combined with the added cost of the CARES program recommendations and the request for minor infrastructure upgrades in several research facilities, it is easy to see that a major increase over the previous funding level of $211 million is crucial.

The American Legion recommends $255 Million for Minor Construction in FY 2005.

STATE EXTENDED CARE FACILITY GRANTS PROGRAM

State Veterans Homes were founded for indigent and disabled Civil War veterans beginning in the late 1800s and have continued to serve subsequent generations of veterans for over one hundred years. Under the provisions of 38 USC, VA is authorized to make payments to states to assist in the construction and maintenance of State Veterans Homes. Today, there are 109 State Veterans Homes facilities in 47 states with over 23,000 beds providing nursing home, hospital, and domiciliary care. The State Veterans Home Program has proven to be a cost-effective provider of quality care to many of the nation's veterans and this program is an important adjunct to VA's own nursing, hospital, and domiciliary programs. The Grants for Construction of State Veterans Homes provides funding for 65% of the total cost of building new veterans homes. VA has not been able to keep pace with the number of grant applications; and currently there is over $120 million in unfunded new construction projects pending.

Recognizing the growing long-term health care needs of older veterans, it is essential that the State Veterans Home Program be maintained as a viable and important alternative health care provider to the VA system. The American Legion supports increasing the amount of authorized per diem payments (40 percent) for nursing home and domiciliary care provided to veterans in State Veterans Homes. The American Legion also supports the provision of prescription drugs and over-the-counter medications to State Homes Aid & Attendance patients, along with the payment of authorized per diem to State Veterans Homes. Additionally, VA should allow for full reimbursement of nursing home care to 70 percent service-connected veterans or higher, if the veteran resides in a State Veterans Home. The National Association of State Veterans Homes and VA should develop mutual planning efforts, enhanced medical sharing agreements, and enhanced-use construction contracts with qualified providers.

The American Legion believes that VA's practice of counting State Veterans' Homes beds as their own should cease immediately. Certainly, the federal government contributes to the construction of these facilities, but their upkeep is strictly a State fiscal responsibility. Although not typical, VA should be proactive in attempts to improve the substandard facilities that do exist; a case in point is the Rocky Hill State Veterans Home and hospital in Connecticut. This 130 plus year old facility was recently toured by my predecessor, Commander Ronald F. Conley, and his findings illustrated the desperate need for improvement. *The Hartford Courant* in several editorials, referred to the home as a "pit", and a "hellhole" with "health and safety code violations that would make your stomach churn." A more recent visit to Rocky Hill by The American Legion Field Service Staff confirmed these observations. The American Legion adamantly opposes this practice.

The American Legion recommends $120 Million for the State Extended Care Facility Grants Program in FY 2005.

VETERANS BENEFITS ADMINISTRATION

Over the years, Congress has established a system of laws that provide veterans and their survivors a spectrum of the services and benefits earned by virtue of the veteran's service in the Armed Forces of the United States. Since 1938, VA has had the responsibility of implementing these laws in a pro-claimant, informal, ex parte, and nonadversarial manner. The American Legion continues to closely monitor the programs and policies of the Veterans Benefits Administration (VBA) and assess whether or not these are truly meeting the needs of veterans and their families. We appreciate this opportunity to share with the Committees a number of concerns about the current state of claims adjudication and the level and quality of service being provided by VBA and the Board of Veterans Appeals.

The American Legion emphasizes that it is committed to ensuring that the Department of Veterans Affairs (VA) carries out its historic and statutory responsibility to provide medical care and benefits to those who have served and sacrificed in the defense of this nation. Veterans have the right to expect that VA will adjudicate their claims fairly and impartially within a reasonable period of time. We believe there are still too many instances where veterans and other claimants are being arbitrarily denied the benefits to which they are entitled.

Over the course of FY 2002 and FY 2003, VBA has been able to make notable progress towards realizing Secretary Principi's often stated goal of the reducing the number of pending cases down to 250,000 and cutting the average processing time down to 100 days by the end of this month. This has been a major challenge for VBA. In March 2002, at its peak, the regional offices had a backlog of over 423,000 cases which required rating action. Of these, 40 percent were over six months old. There were another 147,000 cases in which some other type of action was pending. In addition, there were approximately 107,000 pending appeals, which included over 22,000 cases that had been remanded by the Board of Veterans Appeals. In human terms, thousands of these sick and disabled veterans or their survivors were waiting a year or more for a regional office to make a decision on their claim. If the claim was denied and they pursued an appeal, their wait could extend another two to three years or more. Such delays caused increased stress as well as serious financial hardship. The American Legion has commended the Secretary for his commitment to improving the regional office claims adjudication process. Recognizing the fact that many of these backlogged claims were from elderly veterans, one of the Secretary's first service improvement initiatives was the establishment of the Tiger Team at the Cleveland VA Regional Office. This unit has been primarily responsible for expedited action on the claims of older veterans, particularly those aged 70 and older, whose cases have been pending for a year or more.

The Tiger Team initiative has been a success and they too should be commended for their efforts and dedication. However, it is regrettable that a sick and disabled veteran has to wait months, if not a year or more for action on their claim for benefits. Because of processing delays and necessity of an appeal to the Board of Veterans Appeals (the Board or BVA) or the Federal

courts, many veterans have died before receiving a final decision on their case. In the view of The American Legion, the regional offices should be more concerned with people than process.

It is clear that there has been a dramatic reduction in the claims backlog in the past year and a half. This decline means that regional offices are taking less time to adjudicate claims than in the past. Last year at this time, there were some 358,000 claims awaiting final action. Of these, almost 36 percent were over 6 months old. At the end of August, VBA reported there were about 265,000 pending claims and, of these, about 20 percent are over 6 months old. The average processing time has been reduced from 224 days in June 2002 to about 160 days currently. However, given the complexities of the claims adjudication process and requirements of the law, numbers do not tell the whole story and "faster" is not always "better."

In its annual budget request over the past several years, VBA has reported a steady decrease in claims adjudication error rate. At the end of 1997, the error rate had been 36 percent. In 1998, it was 30 percent. It increased slightly in 1999 to 32 percent. In 2000, there was a dramatic increase to 41 percent. The reported error rate declined to 22 percent in 2001. It was 20 percent in 2002 and, in 2003, it had declined to only 12 percent. The error rate goal for FY 2004 is 10 percent. Over this same period, The American Legion's regional office quality review visits do not confirm a substantial and dramatic improvement in the overall error rate.

There is little doubt that the vast majority of regional office adjudicators are dedicated, hardworking men and women. They continue to operate under tremendous stress to meet the Department's and veterans' expectations. However, we believe the effectiveness of VBA's quality improvement efforts has been severely compromised by the drive to achieve the Secretary's mandated production quotas. In our view, veterans and other claimants are being short-changed by VBA policies and procedures that tend to promote less than adequate claims development, premature denials, and under-evaluations.

The lack of proper and appropriate action on thousands of claims continues to result in a high level of claimant dissatisfaction and a steady influx of new appeals to the regional offices. There are now over 134,000 pending appeals with some 111,500 requiring adjudicative action. Even though there is a concerted effort to resolve appeals at the regional office through the Decision Review Officer program, most of these cases will eventually go to the Board of Veterans Appeals for a final decision on the merits of the claim.

The straight line staffing level requested for FY 2004 is based on the assumption that, with the accomplishment of the Secretary's backlog reduction goals, VBA would be able to refocus its efforts to more effectively address the quality-related problems and other long-standing issues. Given past performance, The American Legion continues to believe that this is an unrealistic policy and will not afford VBA the flexibility to cope with current workload demands, let alone some unanticipated contingency, such as supporting the Department of Defense new Combat-related Special Compensation Program and the additional resources that will be required to comply with the *Huston* decision. The American Legion recognizes that VBA has made a concerted effort to hire additional staff in the last several years. This policy of continuing growth is both prudent and necessary, given the increasingly complex nature of the claims and appeals process, the heavy volume of new claims, and the ongoing need to build up the core

adjudication staff in anticipation of the retirement of the more experienced regional office decision makers.

BOARD OF VETERANS APPEALS

The reduction in the number and the average processing time of pending claims represents only one aspect of VA's overall case backlog, since not all claims can or should be approved. When a veteran or other claimant receives an unfavorable decision either denying the claim in whole or in part, they have the right to appeal. The number of appeals filed each year is a direct reflection of the level of claimant satisfaction with the quality of the regional office adjudication. The action taken by the Board of Veterans Appeals (BVA) is a further reflection and commentary on the quality of regional office decision making. Of those appeals decided in the first 10 months of FY 2003, the Board affirmed the decisions of the regional office only 38 percent of the time and rejected their decision in about 59 percent of the cases. Such poor performance by the regional office adjudicators is of grave concern to The American Legion, since it represents a tremendous waste of time and taxpayers money, and a hardship for thousands of veterans and their families. Clearly, VBA's efforts to date have not effectively addressed the persistent systemic problems that adversely affect regional office claims processing and adjudication.

COURT OF APPEALS FOR VETERANS CLAIMS AND THE COURT OF APPEALS FOR THE FEDERAL CIRCUIT

The regulations and procedures of both the VBA and the BVA will be fundamentally changed by several recent court decisions. The courts have held that VA, as a matter of policy, had promulgated regulations that were misleading, basically unfair, and a violation of claimants' right to full due process.

At the beginning of last year, there was a combined effort by the Board of Veterans Appeals and VBA to try and improve the timeliness and quality of action on remanded appeals. By alleviating some of the regional offices' appellate workload, this would ostensibly enable the regional offices to devote more resources to resolving previous remands and further reduce the backlog of pending claims. This initiative was prompted by the fact that remands often sat in a regional office for months or even years with little or no action taken. In many instances, the development that was done would be inadequate or incomplete and the Board had to remand the case two or three times, which meant greater delay and hardship for the appellant. Therefore, rather than sending a case back to the regional office, a unit was established within the Board to undertake the development specified in the remand decision. If the decision included a benefit grant, the unit could initiate the award, so there would be no delay in payment. The American Legion supported the intent of this service improvement effort.

In a decision earlier this summer, the United States Court of Appeals for the Federal Circuit held that the BVA's Development Unit was unlawful. As a result, there are about 8,000 remands plus new remands that in the process of being transferred from the BVA Development Unit to VBA's Appeals Management Center (AMC), which is located at the Washington VA Regional Office, for further development and readjudication. While generally supportive of the effort to try and improve the handling of remands, there are problems in handling cases where benefits have been

awarded by the Board. The lack of action by the AMC to expedite payment action has prompted several veterans to contact The American Legion for assistance. We are hopeful that appropriate steps have now been taken by VBA to ensure this type of problem does not recur. The AMC is projected to be fully staffed and operational by December 2003. In the interim, remands are being referred to the Huntington, West Virginia Regional Office and the Tiger Team in Cleveland for action. However, the prior BVA Development Unit initiative and the current AMC leave unaddressed the larger and more difficult issues relating to poor regional office decision making, incomplete development, inadequate VCAA notices, and premature denials. Furthermore, there does not appear to be any incentive for the regional offices to improve their case development, nor is there any disincentive to keep them from certifying cases, because the AMC have to do what they should have done. VBA must ensure that the AMC does not become a dumping ground for the regional offices.

Mr. Chairman, I would like to take a minute to discuss what The American Legion believes are some of the underlying causes and contributing factors to VBA's lack of quality decision making. In a system with tens of thousands of claims to be processed, there is a constant tension between management's need to have cases decided as quickly as possible and the statutory need protect to the claimant's right by ensuring that any decision made is proper and consistent with the law and regulations. For the past thirty months, VBA management has been emphasizing speed and production volume. Under such pressure, there has been a tendency among some VBA managers and adjudicators to ignore the law and VA's own regulations and put bureaucratic convenience ahead of quality decision making and the welfare and wellbeing of the individual veteran and his or her family.

In the opinion of The American Legion, one of the key impediments to progress on improving the quality of regional office decision making and, thereby, claimant satisfaction, has been VBA's lack of compliance with both the letter and spirit of the "Veterans' Claims Assistance Act of 2000" (PL 106-475) (VCAA). The American Legion was actively involved in the development of this landmark legislation. It was designed to overcome the deficiencies and lack of clarity in the way VBA communicated with claimants and the way in which it developed claims. It made clear the exact nature and extent of VA's obligations and responsibilities to notify and to assist claimants. The idea was that, if claims were better developed, they could be promptly and more accurately adjudicated, thereby improving service to claimants. In the long run, these improvements should also reduce the overall appeals workload for the regional offices and the Board of Veterans Appeals. It was to be a "win/win" situation for all parties. However, as we have seen thus far, VBA has generally given lip service to the requirements of VCAA.

While claimants are provided what is termed a "VCAA" letter, little time or effort goes into trying help to the individual veteran understand his or her claim and what evidence is going to be needed and who is responsible for developing it. Such letters usually lack essential information regarding the individual's claim and the evidence needed to grant the benefit sought in the particular case. These are unnecessarily long, confusing, nonspecific letters, which are filled with bureaucratic jargon. In some of cases reviewed during The American Legion's regional office quality review visits, the information in many VCAA letters was found to be incorrect or not even appropriate to the claim. Rather than facilitating the adjudication process, as they were intended, these notice letters set the stage for an appeal to the BVA and the Federal courts.

The American Legion's concerns regarding the deficiencies in the VCAA letters have been brought to Secretary Principi's attention as well as discussed in testimony before the Veterans' Affairs Committees on a number of occasions. Despite these efforts, VBA policy on the use of this type of letter remained unchanged. However, as a result of the July 2003 decision by the United States Court of Appeals for Veterans Claims (CVAC), in *Huston v. Principi,* VBA will now be forced to comply with the duty to notify and duty to assist provisions of title 38, United States Code, sections 5103(a) and 5103A. VA will now be obligated to clearly tell the claimant what evidence to submit in order to obtain the benefits claimed. The American Legion is disappointed that it took a court order to make VBA do what it should have been doing since the enactment of the VCAA. We will be watching very closely how VBA and Board of Veterans Appeals implement the *Huston* decision. Continued strong oversight by the Veterans' Affairs Committees will also be important in ensuring the VBA is, in fact, meeting its historic and statutory responsibilities to the veterans of this nation.

Earlier this year the U.S. Court of Appeals for the Federal Circuit invalidated the Board of Veterans Appeals regulation that permitted the Board to adjudicated appeals after giving appellants only thirty-days to respond to a request for information and/or evidence, since the statute clearly gives claimants one-year to provide requested evidence and/or information. The American Legion continues to be troubled by VBA's continuing effort to reduce the backlog of pending claims and appeals at the expense of veterans and other claimants by continuing to adhere to a similar thirty-day response time limit. This rule raises a question as to VBA motives for establishing a policy that was patently unfair and contrary to the interests of veterans. Regional office letters tell claimants that if they did not respond within thirty-day, action will proceed on their claim. Such an arbitrary limitation serves no purpose other than regional office convenience.

This rule is used to accelerate completion of a claim and improve statistical performance, regardless of whether it denies the claimant full and fair process. From a practical standpoint, it would be difficult, if not impossible, for most claimants to obtain needed medical expert opinion, employers' statements, and other types of evidence within this arbitrary time window. Since it appears that VBA will not otherwise change its regulations, the validity of the thirty-day rule is currently being litigated at the U.S. Court of Appeals for the Federal Circuit. We are hopeful the court will again find in veterans' favor and eliminate this misleading and unnecessary hurdle in the claims process.

VA's budget request for FY 2004 included as a budget saving provision a proposal to statutorily bar the payment of compensation for an alcohol or drug abuse disability even if its determined to be secondary to a service connected condition. Such legislation, if enacted would overturn the U.S. Court of Appeals for Veterans Claims decision in *Allen v. Principi,* which held that compensation was payable for such secondary disabilities. The American Legion is opposed to any effort to eliminate or restrict a veteran's right to compensation for any disability or disabilities that are determined to be secondary to or a manifestation of a service connected disability. VA's historic and statutory responsibility is to administer the law as Congress intended, not make moral judgements concerning what is or is not misconduct. VA's efforts to seek the overturn of *Allen* is very troubling. In our view, this is a further attempt by VA to take

away service disabled veterans' right to compensation for strictly budget purposes, as was the case with the bar to benefits for veterans who suffer from disabilities related to their use of tobacco in military service. Such bars seek to punish certain disabled veterans for their service-related problems.

GI BILL EDUCATIONAL BENEFITS

The American Legion commends the 108th Congress for its actions to improve the current Montgomery GI Bill (MGIB). A stronger MGIB is necessary to provide the nation with the caliber of individuals needed in today's Armed Forces. The American Legion appreciates the efforts that this Congress has made to address the overall recruitment needs of the Armed Forces and to focus on the current and future educational requirements of the All-Volunteer Force.

Over 96 percent of recruits currently sign up for the MGIB and pay $1,200 out of their first year's pay to guarantee eligibility. However, only one-half of these military personnel use any of the current Montgomery GI Bill benefits. This we believe is directly related to the fact that current GI Bill benefits have not kept pace with the increasing cost of education. Costs for attending the average four-year public institution, as a commuter student during the 1999-2000 academic year was nearly $9,000. PL 106-419 recently raised the basic monthly rate of reimbursement under MGIB to $650 per month for a successful four-year enlistment and $528 for an individual whose initial active duty obligation was less than three years. The current educational assistance allowance for persons training full-time under the MGIB – Selected Reserve is $263 per month.

The Servicemen's Readjustment Act of 1944, the original GI Bill, provided millions of members of the Armed Forces an opportunity to seek higher education. Many of these individuals may not have been afforded this opportunity without the generous provisions of that act. Consequently, these servicemen and servicewomen made a substantial contribution not only to their own careers, but also to the economic well being of the country. Of the 15.6 million veterans eligible, 7.8 million took advantage of the educational and training provisions of the original GI Bill. Between 1944 and 1956, when the original GI Bill ended, the total educational cost of the World War II bill was $14.5 billion. The Department of Labor estimates that the government actually made a profit because veterans who had graduated from college generally earned higher salaries and therefore paid more taxes. Today, a similar concept applies. The educational benefits provided to members of the Armed Forces must be sufficiently generous to have an impact. The individuals who use MGIB educational benefits are not only improving their career potential, but also, making a greater contribution to their community, state, and nation.

The American Legion recommends the following improvements to the current MGIB:

- The dollar amount of the entitlement should be indexed to the average cost of a college education including tuition, fees, textbooks, and other supplies for a commuter student at an accredited university, college, or trade school for which they qualify
- The educational cost index should be reviewed and adjusted annually,
- A monthly tax-free subsistence allowance indexed for inflation must be part of the educational assistance package,

- Enrollment in the MGIB shall be automatic upon enlistment, however; benefits will not be awarded unless eligibility criteria have been met,
- The current military payroll deduction ($1,200) requirement for enrollment in MGIB must be terminated,
- If a veteran enrolled in the MGIB acquired educational loans prior to enlisting in the Armed Forces, MGIB benefits may be used to repay those loans,
- If a veteran enrolled in MGIB becomes eligible for training and rehabilitation under Chapter 31, of Title 38, United States Code, the veteran shall not receive less educational benefits than otherwise eligible to receive under MGIB,
- A veteran may request an accelerated payment of all monthly educational benefits upon meeting the criteria for eligibility for MGIB financial payments, with the payment provided directly to the educational institution.
- Separating service members and veterans seeking a license, credential, or to start their own business must be able to use MGIB educational benefits to pay for the cost of taking any written or practical test or other measuring device,
- Eligible veterans shall have 10 years after discharge to utilize MGIB educational benefits,
- Eligible members of the Select Reserves, who qualify for MGIB educational benefits shall receive not more than half of the tuition assistance and subsistence allowance payable under the MGIB and have up to 5 years from their date of separation to use MGIB educational benefits.

HOME LOAN GUARANTY PROGRAM

The American Legion believes that the current limit of VA Home Loan Guarantee of $252,500 should be raised to $300,000 and that higher limits be established for areas of the country where justified by prevailing real estate market conditions. In San Francisco, California in 2002 the median price of a home was $482,300, an actual decrease of .3% from 2001. In Boston, Massachusetts the median price of a home was $358,000; in the New York City Metro area, 285,600; and here in Washington D.C. the median home cost $229,100 in 2002, up 19.8% from $183,700 in 2001. Clearly, in these cities, the difference between many veterans being able to secure financing for a decent home for his or her family and being shut out of the market is due to the inadequate levels of the VA Home Loan Guarantee.

Additionally, The American Legion supports the recognition of VA Home Loan Guaranty benefits in cases where both members of a married couple are eligible for the benefit. If both members are eligible to receive the benefit, both members should be allowed to use the benefit.

NATIONAL CEMETERY ADMINISTRATION (NCA)

VA's National Cemetery Administration (NCA) is comprised of 120 cemeteries in 39 states and Puerto Rico as well as 33 soldiers' lots and monuments. NCA was established by Congress and approved by President Abraham Lincoln in 1862 to provide for the proper burial and registration of graves of Civil War dead. Since 1973, annual interments in NCA have increased from 36,400 to over 84,800. Annual burials are expected to increase to more than 115,000 in the year 2010 as the veteran population ages. Currently 59 national cemeteries are closed for casket burials. Most of these can accept cremation burials, however, and all of them can inter the spouse or eligible

children of a family member already buried. Another 22 national cemeteries are expected to close by the year 2005, but efforts are underway to forestall some of these closures by acquiring adjacent properties.

Maintaining cemeteries as National Shrines is one of NCA's top priorities. This commitment involves raising, realigning and cleaning headstones and markers to renovate gravesites. The work that has been done so far has been outstanding; however, adequate funding is key to maintaining this very important commitment. At the rate that Congress is funding this work, it will take twenty-eight years to complete. The American Legion supports the newly appointed Under Secretary for Memorial Affairs in his goal of completing the NCA's National Shrine Commitment in 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 National Cemetery Administration to fulfill this Commitment.

Congress must 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 by locating cemeteries within 75 miles of 90% of eligible veterans.

P.L. 107-117 required NCA to build six new National Cemeteries. Fort Sill opened in 2001 under the fast-track program, while the remaining five, Atlanta, Detroit, South Florida, Pittsburgh and Sacramento are in various stages of completion. Additional acreage is currently under development in 10 national cemeteries, columbaria are being installed in 4 and additional land for gravesite development has been acquired at national cemeteries in 5 states. 9 national cemeteries are expected to close to new interments between 2005 and 2010.

The average time to complete construction of a national cemetery is 7 years. The report of a study conducted pursuant to the Millennium Bill concluded that additional 31 national cemeteries will be required to meet the burial option demand through 2020. Legislation is currently pending in this session that will authorize the establishment of 10 new national cemeteries in areas of the country facing a shortage of burial space. Together with the 6 national cemeteries under development, this will go a long way toward fulfilling this need. NCA will be able to keep pace with current demand for burial space if this legislation is enacted and fully funded this year.

The American Legion urges Congress to provide sufficient major construction appropriations to permit NCA to accomplish its mandate of ensuring that burial in a national cemetery is a realistic option for 90% of our nations veterans.

The American Legion recommends $160 Million for the National Cemetery Administration in FY 2005.

STATE CEMETERY GRANTS PROGRAM

The National Cemetery Administration (NCA) administers a program of grants to states to assist them in establishing or improving state-operated veterans cemeteries through VA's State

Cemetery Grants Program (SCGP). Established in 1978, the matched-funds program helps to provide additional burial space for veterans in locations where there are no nearby national cemeteries. Through FY 2002, more than $169 million in grants has been awarded to states and the Territories of Guam and the Northern Marianas, including 5 new state cemeteries and the improvement and/or expansion of 9 existing ones.

Under the Veterans Programs Enhancement Act of 1998**,** PL 105-261, VA may now provide up to 100 percent of the development cost for an approved project. For establishment of new cemeteries, VA can provide for operating equipment. States are solely responsible for the acquisition of the necessary land.

The American Legion recommends $ 40 Million for the State Cemetery Grants Program in FY 2005.

BURIAL BENEFITS

The American Legion supports restoration of a veterans burial allowance for wartime veterans, along with restoration of the pre-1990 Omnibus Budget Reconciliation Act criteria to provide eligibility for a government furnished headstone or marker allowance and restoration and increase of the burial plot allowance from $300 to $600.

We further support pending legislation which would increase the burial allowance from $330 to $1135 for compensably service connected and indigent veterans and to $3712 from $2000 for veterans who die of a service connected condition. This legislation would restore the intent of Congress to pay 22% and 76%, respectively, of the cost of an average funeral and would tie the allowances to the Consumer Price Index, thereby eliminating the need for periodic legislative increases.

The American Legion opposes any attempt to collect "User Fees" for burials in any national or state veteran's cemetery. The American Legion supports action to provide that when an eligible veteran dies in a state veterans hospital or nursing home, VA shall pay for the cost of transporting the remains to the place of burial as determined by VA.

HOMELESS VETERANS

The American Legion has been committed to assisting homeless veterans and their families for a number of years. There are many programs within The American Legion that support this mission. American Legion posts in many states support VA's efforts through volunteerism and donations. The American Legion recognizes the significant contributions that community based programs can make in responding to the needs of homeless veterans.

VA has estimated that there are at least 345,000 homeless veterans in America. Most homeless veterans today are single men; however, the number of single women with children has drastically increased within the last few years. Homeless female veterans tend to be younger, more likely to be married, and less likely to be employed. They are also more likely to suffer from serious psychiatric illness.

Approximately 40 percent of homeless veterans suffer from mental illness, and 80 percent have alcohol or other drug abuse problems. It cannot go unnoticed that the increase in homeless veterans coincides with the under-funding of VA health care, which resulted in the downsizing of inpatient mental health capabilities in VA hospitals across the country. Since 1996, VA has closed 64 percent of its psychiatric beds and 90 percent of its substance abuse beds. It is no surprise that many of these displaced patients end up in jail, or on the streets. The American Legion believes there should be a focus on the prevention of homelessness, not just measures to respond to it. Preventing it is the most important step to ending it.

VA offers a wide array of special programs and initiatives specifically designed to help homeless veterans live as self-sufficiently and independently as possible. VA is the only Federal agency that provides substantial hands-on assistance directly to homeless persons. Although limited to veterans and their dependents, VA's major homeless-specific programs constitute the largest integrated network of homeless treatment and assistance services in the country.

VA's specialized homeless veterans treatment programs have grown and developed since they were first authorized in 1987. The programs strive to offer a continuum of services that include:

- aggressive outreach to those veterans living on streets and in shelters who otherwise would not seek assistance;
- clinical assessment and referral to needed medical treatment for physical and psychiatric disorders, including substance abuse;
- long-term sheltered transitional assistance, case management, and rehabilitation;
- employment assistance and linkage with available income supports; and
- supported permanent housing.

HOMELESS VETERANS REINTEGRATION PROGRAM (HVRP)

The American Legion applauds the efforts of the 108th Congress in improving the lives of homeless veterans. The FY 2004 budget request shows increased funding for the Homeless Veterans Reintegration Program (HVRP). The HVRP program is an employment initiative with strong ties to local communities. Providers operate veteran-specific programs that reach veterans with histories of intertwined post traumatic stress disorder (PTSD) and substance abuse. HVRP grantees have placed hundreds of veterans in good jobs, with twice the record of job retention expected. HVRP has the potential for eliminating chronic homelessness among our nation's veterans. It covers myriad initiatives that address prevention, housing, counseling, treatment and employment for veterans transitioning out of homelessness.

Homelessness in America is a travesty, and veterans' homelessness is disgraceful. Left unattended and forgotten, these men and women who once proudly wore the uniforms of this nation's armed forces and defended her shores are now wandering her streets in desperate need of medical and psychiatric attention and financial support. While there have been great strides in ending homelessness among America's veterans, there is much more that needs to be done. We must not forget them.

DEPARTMENT OF LABOR VETERANS' EMPLOYMENT AND TRAINING PROGRAMS (VETS)

The mission of VETS is to promote the economic security of America's veterans. This stated mission is executed by assisting veterans in finding meaningful employment. The American Legion views the VETS program as one of the best-kept secrets in the Federal government. It is comprised of many dedicated individuals who struggle to maintain a quality program without substantial funding and staffing increases.

Annually, DoD discharges approximately 250,000 service members. These recently separated service personnel are actively seeking immediate employment or preparing to continue their formal or vocational education. The VETS program:

- Continues to improve by expanding its outreach efforts with creative initiatives designed to improve employment and training services for veterans.
- Provides employers with a labor pool of quality applicants with marketable and transferable job skills.
- Provides information on identifying military occupations that require licenses, certificates or other credentials at the local, state, or national levels.
- Eliminates barriers to recently separated service personnel and assists in the transition from military service to the civilian labor market.

The American Legion believes staffing levels for Disabled Veterans' Outreach Program (DVOP) specialists and Local Veterans' Employment Representatives (LVERs) should match the Federal mandates or those statutes should be rewritten. Adequate funding will allow the programs to increase staffing to adequately provide comprehensive case management job assistance to disabled and other eligible veterans.

38 USC § 4103A requires that all DVOP specialists shall be qualified veterans and that preference be given to qualified disabled veterans in appointment to DVOP specialist positions. 38 USC § states: "[I]n the appointment of local veterans' employment representatives on or after July 1, 1988, preference shall be given to qualified eligible veterans or eligible persons. Preference shall be accorded first to qualified service-connected disabled veterans; then, if no such disabled veteran is available, to qualified eligible veterans; and, if no such eligible veteran is available, then to qualified eligible persons." The American Legion believes that the military experience is essential to understanding the unique needs of the veteran and that all LVERs, as well as all DVOPs, should be veterans

The American Legion recommends a funding level of $336 million for the Veterans' Employment and Training Service in Fiscal Year 2005.

Additionally, The American Legion recommends adequate funding for the National Veterans Training Institute (NVTI) budget. The NVTI provides standardized training for all veterans employment advocates in an array of employment and training functions.

The American Legion urges the reinstatement of the Service Members Occupational Conversion and Training Act (SMOCTA). SMOCTA was developed as a transitional tool designed to

provide job training and employment to eligible veterans discharged after August 1, 1990. Veterans eligible for assistance under SMOCTA were those with a primary or secondary military occupational specialty that DoD has determined is not readily transferable to the civilian workforce; or those veterans with a service connected disability rating of 30 percent or greater.

Eligible veterans receive valuable job training and employment services through civilian employers that built upon the knowledge and job skills the veterans acquired while serving in the military. This program not only improved employment opportunities for transitioning service members, but also enabled the federal dollars invested in education and training for active duty service members to be reinvested in the national job market by facilitating the transfer of skills from military service to the civilian workforce.

The American Legion strongly opposes any attempt to move VETS to VA. The Department of Labor (DoL) is the nation's leading agency for job placement, vocational training, job development, and vocational counseling. Due to the significant barriers to employment experienced by many veterans, VETS was established to provide eligible veterans with the services being provided to job ready Americans. Working with the local employment service offices, VETS gave eligible veterans the personalized assistance needed to enhance the transition into the civilian workforce. VA has very limited experience in the critical areas of job placement, vocational training, job development, and vocational counseling through its Vocational Rehabilitation Program.

FILIPINO VETERANS' BENEFITS

The American Legion believes that the time has come to extend full recognition and benefits to all veterans, American or Filipino, who were part of the defense of the Philippine Islands during World War II. The Department of Veterans Affairs, in the year 2000, estimated that there were 60,000 surviving Filipino veterans who are classified as Philippine Commonwealth Army, Recognized Guerrilla and New Philippine Scouts veterans, of whom 45,000 reside permanently in the Philippines and 15,000 reside permanently in the U.S. Of the 45,000 residing in the Philippines, 41,000 do not receive any compensation or pension benefit from the U.S. Department of Veterans Affairs, and most are sickly, over 70 years old and live below the poverty level. Those veterans living in the Philippines currently receive only fifty cents on the dollar as compensation for their service connected conditions. Members of those groups who live in the United States and members of the Regular (Old) Philippine Scouts living in the Philippines receive their full entitlement.

The current policy has created a virtual caste system of first and second class U.S. veterans in the Philippines. These veterans fought, were wounded, became ill, became prisoners of war, were subject to torture, deprivation and starvation and many died in the service of the Armed Forces of the Unites States at the same rates as regular U.S. soldiers, sailors and Marines who were isolated on those islands during the Japanese occupation.

The exclusion of these veterans from full benefits represents a fundamental unfairness in the law that has stood for too many years. As the numbers of these deserving veterans quickly dwindle, Congress has little time to redress this injustice.

SUMMARY

Messrs. Chairmen and Members of these Committees, The American Legion appreciates the fine work and dedication you have demonstrated throughout the year to facilitate improvements in the many programs that affect the health and welfare of the nation's veterans and their families. At a time in our nation's history when thousands of U.S. Servicemembers are fighting to protect the freedom of this great country, it is within your power to ensure that their sacrifices are indeed honored with the thanks of a grateful nation.

The American Legion has outlined many central issues in our testimony today. We believe all of these issues are important and we are fully committed to working with each of you to ensure that America's veterans receive the entitlements they have earned. Whether it is improved accessibility to health care, timely adjudication of disability claims, involvement in the CARES process, improved educational benefits or employment services, each and every aspect of these programs touches veterans from every generation. Together we can ensure that these programs remain productive, viable options for the men and women who have chosen to answer the nation's call to arms.

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