111TH CONGRESS – 1ST SESSION
LEGISLATIVE POINT PAPERS

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March 2009

POINT PAPER
ON
FLAG AMENDMENT

"The Congress shall have power to prohibit the physical desecration of the flag of the United States." ***A proposed amendment to the United States Constitution; which The American Legion fully supports.***

Background

The U.S. Supreme Court's 1989 decision in *Texas v. Johnson* held that the physical desecration of Old Glory was "protected speech." In this case, the Court struck down existing flag desecration laws in 48 states and the District of Columbia. The American Legion believes the Court misinterpreted the Constitution by calling flag desecration "speech" and that this imprudent decision overturned a century of American law and tradition. Acts of physical desecration are conduct, not speech. Accordingly, these acts should not be recognized and protected as "speech" by the First Amendment. The American people intend to return flag protection authority to Congress where it belongs and not allow the Supreme Court to have the final say.

The American Legion believes the final say should be with the People, as expressed through the Congress and the 50 state legislatures. This amendment returns the power to protect Old Glory to the People; a power wrenched from them by those five unelected Supreme Court justices in the *Texas v. Johnson* case. This is the true essence of the proposed amendment and why it must prevail. All 50 state legislatures have passed memorializing resolutions asking Congress to pass this amendment and send it to the states for ratification.

President Abraham Lincoln once remarked, "… If the policy of the government on vital questions affecting the whole people is to be irrevocably fixed by decisions of the Supreme Court the people will have ceased to be their own rulers…." Sadly, the Supreme Court took away from the American people the right "to be their own rulers" in *Texas v. Johnson*, the right to protect Old Glory.

House Update

As of the current date, there have been two proposed constitutional amendments introduced concerning flag desecration in the 111th Congress, but neither is supported by The American Legion or the Citizens' Flag Alliance. The House

Judiciary Committee Chairman is Representative John Conyers, Jr. (MI) and the chairman of the Constitution Subcommittee is Rep. Jerrold Nadler (NY). Both are known opponents of the proposed constitutional amendment.

Current Count in the House

Support	Oppose	Undecided	Vacancy
227	116	88	3

Undecided Representatives

St	CD	First	Last	Party
AL	1	Jo	Bonner	R
AL	2	Bobby	Bright	D
AL	5	Parker	Griffith	D
AZ	1	Ann	Kirkpatrick	D
AZ	5	Harry	Mitchell	D
AZ	8	Gabrielle	Giffords	D
CA	4	Tom	McClintock	R
CA	11	Jerry	McNerney	D
CA	12	Jackie	Speier	D
CA	37	Laura	Richardson	D
CO	2	Jared	Polis	D
CO	4	Betsy	Markey	D
CO	6	Michael	Coffman	R
CT	2	Joe	Courtney	D
CT	4	Jim	Himes	D
CT	5	Chris	Murphy	D
FL	8	Alan	Grayson	D
FL	11	Kathy	Castor	D
FL	15	Bill	Posey	R
FL	24	Suzanne	Kosmas	D
GA	4	Hank	Johnson	D
HI	2	Mazie	Hirono	D
IA	1	Bruce	Braley	D
IA	2	David	Loebsack	D
ID	1	Walter	Minnick	D
IL	11	Debbie	Halvorson	D
IL	14	Bill	Foster	D
IL	17	Phil	Hare	D
IL	18	Aaron	Schock	R

IN	7	Andre	Carson	D
KY	3	John	Yarmuth	D
LA	2	Anh	Cao	R
LA	4	John	Fleming	R
LA	6	Bill	Cassidy	R
MA	5	Niki	Tsongas	D
MD	1	Frank	Kratovill	D
MD	3	John	Sarbanes	D
MD	4	Donna	Edwards	D
MI	7	Mark	Schauer	D
MI	9	Gary	Peters	D
MN	1	Tim	Walz	D
MN	3	Erik	Paulsen	R
MN	5	Keith	Ellison	D
MO	9	Blaine	Luetkemeyer	R
MS	1	Travis	Childers	D
MS	3	Gregg	Harper	R
NC	11	Heath	Shuler	D
NH	1	Carol	Shea-Porter	D
NH	2	Paul	Hodes	D
NJ	3	John	Adler	D
NJ	7	Leonard	Lance	R
NJ	13	Albio	Sires	D
NM	1	Martin	Heinrich	D
NM	2	Harry	Teague	D
NM	3	Ben	Lujan	D
NV	3	Dina	Titus	D
NY	11	Yvette	Clarke	D
NY	13	Mike	McMahon	D
NY	19	John	Hall	D
NY	21	Paul	Tonko	D
NY	24	Mike	Arcuri	D
NY	25	Dan	Maffei	D
NY	26	Chris	Lee	R
NY	29	Eric	Massa	D
OH	1	Steve	Driehaus	D
OH	4	Jim	Jordan	R
OH	5	Bob	Latta	R
OH	7	Steve	Austria	R
OH	11	Marcia	Fudge	D

OH	13	Betty	Sutton	D
OH	15	Mary Jo	Kilroy	D
OH	16	John	Boccieri	D
OH	18	Zack	Space	D
OR	5	Kurt	Schrader	D
PA	3	Kathy	Dahlkemper	D
PA	4	Jason	Altmire	D
PA	5	Glenn	Thompson	R
PA	7	Joe	Sestak	D
PA	8	Patrick	Murphy	D
TN	1	Phil	Roe	R
TN	9	Steve	Cohen	D
TX	11	Mike	Conaway	R
TX	22	Pete	Olson	R
UT	3	Jason	Chaffetz	R
VA	5	Tom	Perriello	D
VA	11	Gerry	Connolly	D
VT	AL	Peter	Welch	D
WY	AL	Cynthia	Lummis	R

Senate Update

The Senate Judiciary Committee Chairman is Senator Patrick Leahy (VT) and the new Constitution, Civil Rights, and Property Rights Subcommittee Chairman is Sen. Russell Feingold (WI). They too are well-known opponents of the flag amendment.

Thirteen new Senators were elected in November 2008. One of them previously voted on the Flag Amendment as a member of the House of Representatives; therefore, we need to encourage the remaining 12 new Senators to support the amendment.

Current Count in the Senate

Support	Oppose	Undecided	Vacancy
52	**35**	**12**	**1**

Undecided Senators

St	First	Last	Party
AK	Mark	Begich	D
CO	Michael	Bennet	D
DE	Ted	Kaufman	D
ID	Jim	Risch	R
IL	Roland	Burris	D
MN	Amy	Klobuchar	D
NC	Kay	Hagan	D
NE	Mike	Johanns	R
NH	Jeanne	Shaheen	D
NY	Kirsten	Gillibrand	D
OR	Jeff	Merkley	D
VA	Mark	Warner	D

POINT PAPER
ON
FY 2010 DEPARTMENT OF DEFENSE BUDGET

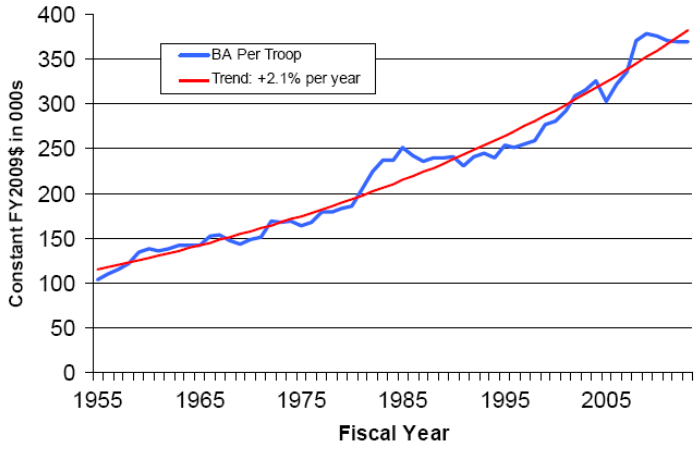
The President's FY 2010 is expected to be released shortly, and is widely anticipated to be larger than the 2009 budget, but less than what the DoD had hoped for. As no actual numbers have been released as yet, this point paper will deal with the larger scope of funding, and some of the issues which The American Legion will be advocating.

In testimony given last month before the House Committee on the Budget, Stephen Daggett of the Congressional Research Service stated that:

> "Considering just the base defense budget, without including war-related funding, there has been a very large increase in defense spending over the past ten years. In all, the DOD base budget has grown by 43% above inflation since it reached its lowest post-Cold War level in FY1998. That buildup is about the same as the increase at the end of the Carter and beginning of the Reagan Administrations – which was about 40% above inflation from FY1980-FY1985."

Driving these increased costs has been the amount it takes to train, equip and pay each service member. Since 1955, the cost per member of the Armed Services has nearly quadrupled.

Figure 1: Department of Defense Budget Authority per Active Duty Troop, FY1955-FY2013 (For FY1990-FY1992 and FY2003-FY2009, Base Budget Only, Not Including War-Related Funding)



Source: CRS based on Department of Defense budget data.

As this individual cost rises, and the slice dedicated to this portion of the overall Defense budget increases with it, the only options available without drastically expanding the budget are to either cut personnel or to cut procurement of new weapons systems.

The American Legion by resolution supports allocating a minimum of 4 percent of the Gross Domestic Product to Defense spending during a time of peace, with this number going up to a base of 5 percent during periods of war. Because the Global War on Terror is currently being fought off-budget through annual supplemental appropriations, the numbers advocated for the FY 2010 defense budget use the 4 percent figure. Active and Reserve military end strengths should be increased to an absolute minimum of 2.1 million for the foreseeable future.

Current Defense Funding for FY 2009		The American Legion's FY 2010 Recommendations
Total Defense Spending	*$487.7 billion*	**$583 billion** (Based on 4 percent of projected GDP. Source - CBO, The Budget and Economic Outlook: Fiscal Years 2009 to 2019)
Military Personnel	*$114.4 billion*	**$117.8 billion** (Average cost per service member + 50,000 service members)
Operation and Maintenance	*$152.9 billion*	**$175 billion**
Procurement	*$101 billion*	**$121 billion**
Research, Development, Test and Evaluation	*$80.5 billion*	**$ 100 billion**
Defense Health Programs	*$25.8 billion*	**$63.2 billion**
Other DOD Programs(not including Defense Health Programs) and Revolving and Management Funds	*$6 billion*	**$6 billion**

At least 12 full-strength Army Divisions, 11 deployable Navy aircraft carrier battle groups, three or more Marine Corps Expeditionary Forces, and 13 or more active Air Force fighter wing equivalents should be retained, as the minimum needed baseline force. Additionally, the National Guard and Reserves must be realistically manned, structured, equipped, trained, fully deployable and

maintained at high readiness levels, and not over-utilized in order to accomplish their increasing and indispensable missions and roles in the national defense.

Some of the key issues which The American Legion will be tracking in the FY 2010 DoD budget include:

- **Disabled Veterans Tax:** The American Legion expresses its gratitude to the Congress for the authorization of both Combat-Related Special Compensation (CRSC) and partial concurrent receipt for over 200,000 disabled military retirees but urges the Congress to authorize and fund full concurrent receipt for all disabled military retirees to include those rated at 40 percent and below. Additionally, The American Legion urges Congress to eliminate the phase-in of provisions in PL 108-136 so as to accelerate restored retired pay in fewer than 10 years and to authorize the concurrent receipt of military severance pay for less than 30 percent disabled service members and VA disability compensation.

- **TRICARE and TRICARE FOR LIFE:** The American Legion has a longstanding position that it should prevail upon any Administration and the Department of Defense to reconsider any proposals to implement any increases in the military retirees' TRICARE enrollment fees, deductibles, or premiums. The American Legion continues to urge Congress to fully fund military health care programs for beneficiaries, as well as a permanent TRICARE program for Guardsmen and Reservists.

- **Wounded Warrior Care:** The Building 18 episode at Walter Reed Army Medical Center put a well-deserved spotlight on the whole transition process for outgoing military personnel. The resulting findings were somewhat surprising in that it was not the quality of medical care that was in question, but rather it was everything else. Some of those issues included: electronic transference of medical records; scheduling of appointments; housing; family support issues; the Physical Evaluation Board (PEB) and Medical Evaluation Board (MEB) process; applying for VA benefits and receiving them without a gap in pay upon discharge from the military; and endless forms, paperwork and tests. The American Legion supports many of the reforms which resulted from this study, most of which are still in the form of pilot programs. Warrior Transition Units (WTUs) need to be fully funded and fully staffed. PEB/MEB process needs to be overhauled. Great strides have been made since 2007, but the progress made (particularly in the area of the WTUs) not only needs to be maintained but expanded.

- **Force Health Protection**: The American Legion continues to actively monitor the DoD's implementation of Force Health Protection policies and urges continual congressional oversight to ensure that all Force Health Protection laws and policies, including thorough pre- and post-deployment

physical and mental examinations, are being properly implemented in a consistent manner by all military branches. In addition, The American Legion urges DoD to continually improve its treatment of service personnel who have been diagnosed with post-traumatic stress disorder and/or traumatic brain injury.

POINT PAPER
ON
FISCAL YEAR 2010 VA BUDGET

On September 11, 2008, National Commander Dave Rehbein addressed a Joint Session of the Veterans' Affairs Committees to present the views of The American Legion regarding matters that will come before the 111th Congress concerning key veterans' issues. The Commander's testimony can be found at http://veterans.house.gov/Media/File/110/9-11-08/CommanderTestimony.pdf.

Normally, the budget process for Fiscal Year (FY) 2010 would be well underway. Commander Rehbein's testimony opened the Department of Veterans Affairs (VA) appropriations process for FY 2010. The American Legion has for many years presented its view to Congress to spotlight the needs of this country's veterans and their dependents.

The American Legion's legislative portfolio includes mandates that:

- Support a health care funding system that is *sufficient, timely and predictable*;
- Support legislation allowing VA to collect Medicare payments;
- Increase access to VA health care for veterans in rural areas;
- End the VA ban on enrollment of Priority 8 veterans;
- Ensure a seamless transition for veterans from the Department of Defense (DoD) to the VA, including reserve component service members;
- Ensure the long-term care needs of America's aging veterans are addressed;
- Support medical and prosthetics research development;
- Support construction of state-of-the-art medical facilities and the repair of those structures that require renovations and upgrades;
- Develop information technology for electronic medical records and ensure the technology allows DoD and VA medical systems to communicate these records to each other securely;
- Support the reduction of the outrageous disability compensation claims and appeals backlog;
- Ensure the disability benefits review process does not diminish veterans' rights;
- Support veterans' employment rights and veterans' hiring preference programs by government and government contractors and subcontractors;

- Support veteran-owned and service disabled veteran-owned small businesses in government procurement programs;
- Support legislation to provide job training programs for veterans with military occupational specialty skills that are not readily transferable to the private sector;
- Support grants to provide shelter and support for homeless veterans; and
- Ensure the New GI Bill benefits are properly administered.

The table below outlines VA funding recommendations by The American Legion for FY 2010. FY 2009 appropriations are provided for comparison:

Program	PL 110-329 FY 2009 VA Appropriations	Legion Request FY 2010
Medical Services	$30.9 billion	***$42.8 billion*** ***(includes medical and prosthetic research)***
Medical Support and Compliance	$4.4 billion	
Medical Facilities	$5 billion	
Medical Care Total	***$40.3 billion***	
Medical Care Collections Fund	($2.5 billion)	*
Medical and Prosthetic Research	$510 million	$532 million
Major Construction	$923 million	$1.8 billion
Minor Construction	$742 million	$1.5 billion
State Veterans Homes Grants	$175 million	$275 million
State Veterans Cemetery Grants	$42 million	$49 million
National Cemetery Administration	$230 million	$249 million
Information Technology	$2.5 billion	$2.7 billion
General Operating Expenses	$1.8 billion	$2.8 billion

* The American Legion continues to support using Medical Care Collections Funds as *supplements*, not *offsets*, to discretionary VA funding.

POINT PAPER
ON
ADVANCE APPROPRIATIONS FOR VA MEDICAL CARE

The American Legion believes VA medical care is a continuing cost of freedom.

Over the years The American Legion has worked diligently to increase *discretionary* medical care funding for the Department of Veterans Affairs (VA) to care for America's veterans and their families. The VA receives these discretionary funds from an appropriations law passed by Congress and signed by the President every year. The VA's fiscal year (FY) begins on October 1.

The problem for America's veterans is that these funds are not always available to the VA on October 1 because of political conflicts. This delay in the timely provision of health care funds means the VA medical health care system administrators cannot hire medical personnel, procure new medical equipment, supplies and services, and construct and maintain VA medical facilities until those funds are authorized and appropriated.

The core problem in adequately funding veterans' health care is the inherent political nature of the appropriations process. In essence, the VA budget is not created based upon the health care needs of veterans and their dependents, rather it is a budget based upon the political agendas of Congress and the President, both of which see the VA budget as a political document, not as a health care document.

The American Legion decided this approach to annual funding failed America's veterans who earned this benefit by virtue of their selfless devotion to country through their military service. Because the current health care funding model used to approve annual discretionary appropriations is clearly flawed, The American Legion joined with eight other veteran service organizations (VSOs) to advocate a change.

In 2001, The American Legion joined The Partnership for Veterans Health Care Budget Reform (Partnership) with Disabled American Veterans, Veterans of Foreign Wars, Paralyzed Veterans of America, AMVETS, Vietnam Veterans of America, Military Order of the Purple Heart, Jewish War Veterans and Blinded Veterans Association. The original intent of the Partnership was to support a mandatory funding mechanism to the VA appropriations process. This approach

arose from a recommendation taken from the final report of the President's Task Force to Improve Health Care Delivery for Our Nation's Veterans.

The Partnership wanted to end the yearly political fight for discretionary appropriations for the VA's Veteran Health Administration (VHA) account which funds VA health care. Mandatory funding for the VHA account meant that veterans health care funding would be on par with Medicare or Medicaid funding, both of which do not have to go through the annual appropriations process. However, even with all nine VSOs strongly lobbying for this change for the past eight years, Congress opposed all efforts to change their failed funding system.

The two main reasons Congress gives for maintaining the current flawed system are that mandatory funding would interfere with Congress' own self-imposed budgetary rules (known as PAYGO) and that Congress may lose oversight capability of the VA health care system. Although the Partnership disagrees with both reasons and still supports mandatory funding, it has decided to develop a second approach to Congress for providing VA health care funding; one that meets the Partnership goals of providing *sufficient, timely and predictable* funding for VA health care, but also meets the concerns of Congress.

The Partnership proposes that Congress appropriate funds for the VHA accounts one year ahead of the current fiscal year; this process is also known as '*advance appropriations'*.

Advance appropriations is a technique used for the last several decades by Congress to secure funding authority one year *in advance* for certain government programs. In this instance, VA would essentially have its health care accounts funded one year ahead of most other government programs, but Congress still maintains its discretionary authority to approve and oversee the use of these funds. By having its discretionary appropriations decided one year ahead of time VHA health care accounts would be removed from current fiscal year competition and VA would have its health care funds available on October 1 of every new fiscal year (there would have to be a one-time two year appropriation process to get this cycle started). In addition, if advance appropriations for VA health care are adopted by Congress, VHA administrators will know one year in advance what their fiscal year appropriations will be and can thus plan accordingly for delivering quality medical care services to all enrolled veterans who need it.

Two companion bills for VA advance appropriations were introduced on February 12. Entitled the *"Veterans Health Care Budget Reform and Transparency Act of 2009,"* the Senate bill, **S. 423**, was introduced by Senate Veterans' Affairs

Committee Chairman Daniel Akaka (HI) with 18 cosponsors. The House bill, **H.R**. **1016**, was introduced by House Veterans' Affairs Committee Chairman Bob Filner (CA) with 16 cosponsors. Both bills have been assigned to their respective Committees on Veterans' Affairs for action. A roster current sponsors and cosponsors is below.

The American Legion strongly supports this proposed legislation for advance appropriations of the VHA medical care accounts. The goal is to stabilize VA medical care funding by providing sufficiency, timeliness, and predictability in VA's annual appropriations process.

Roster of current sponsors and cosponsors*

S. 423
Sponsor - Daniel Akaka (HI)
Cosponsors:
Mark Begich (AK)
Jeff Bingaman (NM)
Barbara Boxer (CA)
Richard Burr (NC)
Russ Feingold (WI)
Tim Johnson (SD)
Mary Landrieu (LA)
Frank Lautenberg (NJ)
Bob Menendez (NJ)
Lisa Murkowski (AK)
John Rockefeller (WV)
Bernie Sanders (VT)
Chuck Schumer (NY)
Olympia Snowe (ME)
Debbie Stabenow (MI)
Jon Tester (MT)
John Thune (SD)
David Vitter (LA)

H.R. 1016
Sponsor - Bob Filner
Cosponsors:
John H. Adler (NJ)
Vern Buchanan (FL)
John Hall (NY)

Phil Hare (IL)
Stephanie Herseth Sandlin (SD)
Paul Hodes (NH)
Walter Jones (NC)
Ann Kirkpatrick (AZ)
David Loebsack (IA)
Jerry McNerney (CA)
Mike Michaud (ME)
Harry Mitchell (AZ)
Joe Sestak (PA)
Ellen O. Tauscher (CA)
Harry Teague (NM)
Tim Walz (MN)

** as of February 24, 2009*

POINT PAPER
ON
VA CLAIMS AND ADJUDICATIONS

A majority of the claims processed by the Veterans Benefits Administration's (VBA) 57 regional offices involve multiple issues that are legally and medically complex and time consuming to adjudicate.

As of January 31, 2009, there were 632,532 claims pending in VBA, 385,142 of which are rating cases. There has been a steady increase in VA's pending claim backlog since the end of Fiscal Year (FY) 2004 when there were 321,458 rating cases pending. At the end of FY 2008, there were more than 382,000 rating cases pending in VBA, down only approximately 9,000 from FY 2007. Of these, more than 82,000 (21.6 percent) were pending for more than 180 days. Including non-rating claims pending, the total compensation and pension claims backlog was more than 616,000, with 20.3 percent of these claims pending more that 180 days.

In addition to the 616,000 claims backlog, there were also more than 181,000 appeals pending at various stages in the VA appeals process, with almost 160,000 requiring some type of further adjudicative action. At the end of FY 2008, the average number of days to complete a claim from date of receipt was 179 days (down 3.5 days from FY 2007). Consequently, there are currently over 797,000 claims and appeals in the VBA backlog.

The American Legion has testified before Congress many times on its view of the causes of this outrageous backlog and how to remedy it. The causes include, but are not limited to: 1) inadequate staffing levels in the VA regional offices and in the Board of Veterans Appeals, 2) inadequate continuing education of the claims and adjudication staff, and 3) management pressure upon claims and adjudication staff to make quick decisions which result in an overall decrease in the quality of work.

It is an extreme disservice to veterans to expect VA to process an ever increasing claims workload, while maintaining quality and timeliness of decisions, with current staff levels. Moreover, the current wartime and economic situations provide an excellent opportunity for VA to actively seek out and recruit returning veterans from Operations Enduring Freedom and Iraqi Freedom (OEF/OIF), especially those with service-connected disabilities, and veterans of prior wars, for employment opportunities within VBA. Despite recent hiring initiatives,

regional offices clearly need more personnel given the current and projected claims and appeals workload.

Since 1996, The American Legion, in conjunction with the National Veterans Legal Services Program, has conducted quality review site visits at more than 40 VA regional offices to assess their overall operations. A Quality Review Team visits a regional office for a week and conducts informal interviews with VA and veterans service organization staff. The Quality Review Team then reviews a random sample of approximately 30-40 recently adjudicated American Legion-represented claims. The Team finds errors in approximately 20-30 percent of cases reviewed.

The most common errors include:

- Inadequate claim development leading to premature adjudication;
- Failure to consider reasonably inferred claims based on evidence of record;
- Rating based on inadequate VA examination; and/or,
- Under evaluation of disability (especially of mental conditions).

These errors are a direct result of VA's emphasis of quantity of work over quality of work. This error rate validates The American Legion's concerns that emphasis on production continues to be a driving force in most VA regional offices and often takes priority over such things as training of staff and quality assurance. Clearly, VA's management push to decide a claim without taking the time for proper development results in premature adjudications, improper denials of benefits, and inconsistent decisions.

The American Legion has proposed several recommendations to remedy this appalling claims and adjudication situation. These recommendations include:

- Change the VBA work-credit system;
- Certify employees to ensure an individual is competent, proficient, and qualified to perform the duties of that position; this includes mandatory testing with remedial training or other corrective action for those who do not successfully pass the test;
- Annual assessment of Quality Assurance Program;
- Assignment of temporary disability ratings to qualifying veterans;
- Review and enhancement of Information Technology to improve VA's disability claims process; and
- Allow survivors to continue claims upon the veteran's death rather than allowing VA to terminate the claim and require the survivor to file a new claim for accrued benefits which is the current practice.

POINT PAPER
ON
MENTAL HEALTH CARE

A recent GAO report acknowledged VA's challenge of facing a number of clinical challenges in its efforts to screen Operations Enduring Freedom and Iraqi Freedom (OEF/OIF) veterans for mild traumatic brain injury (TBI) and evaluate those who screen positive on the TBI screening tool. This would include the absence of no objective diagnostic tests, such as laboratory tests or neuro-imaging tests like MRI and computed tomography (CT) scans that can definitively and reliably identify mild TBI. Other challenges include the similarity of many symptoms of mild TBI to symptoms associated with other conditions, which makes a definitive diagnosis of mild TBI more difficult to reach; OEF/OIF veterans with mild TBI might not realize that they have an injury and should seek health care.

According to the **New England Journal of Medicine**, the U.S. Army surveyed approximately 2525 soldiers three to four months after their return from a year-long deployment in Iraq. Of the 2525 soldiers, 124 reported injuries with loss of consciousness, 260 reported injuries with altered mental status, and 435 reported other injuries during deployment. In addition, those who reported loss of consciousness, 43.9 percent met criteria for post-traumatic stress disorder (PTSD), in comparison to 27.3 percent who reported an altered mental status.

Soldiers with mild traumatic brain injury were more likely to report poor health, missed workdays, medical visits, and a high number of somatic and post concussive symptoms than were soldiers with other injuries. On the other hand, after adjustment for PTSD and depression, mild traumatic brain injury was no longer significantly associated with these physical health outcomes or symptoms, except for headache.

The report's conclusion stated mild traumatic brain injury occurring among soldiers deployed in Iraq is strongly associated with PTSD and physical health problems three to four months after the soldiers' return home while PTSD and depression are important mediators of the relationship between mild TBI and physical health problems.

In a July 2006, VA's Office of Inspector General (OIG) issued a report entitled "Health Status of and Services for Operation Enduring Freedom and Operation Iraqi Freedom Veterans after Traumatic Brain Injury Rehabilitation." The VA's

OIG examined VHA's ability to meet the needs of OEF/OIF veterans who suffered from TBI. It reports that 52 patients from around the country - including Montana, Colorado, North Dakota, and Washington - were interviewed at least one year after completing inpatient rehabilitation from a Lead Center (Minneapolis, MN; Palo Alto, CA; Richmond, VA; and Tampa, FL) that included those who lived in rural states.

Many of the obstacles for TBI veterans and their family members were similar. Some 48 percent of the patients indicated that there were few resources in the community for brain injury-related problems. Approximately 38 percent indicated that transportation was a major obstacle. Another 17 percent indicated that they did not have money to pay for medical, rehabilitation, and injury-related services.

Some of the challenges noted by family members who care for these veterans in rural settings include the necessity for complicated special arrangements and the absence of VA rehabilitative care in their communities. Case managers working at Lead Centers and several secondary centers noted limited ability to follow patients after discharge to rural areas and lack of adequate transportation.

These limitations place undue hardship on the veterans' families as well. Those contributing to the report, as well as veterans who have contacted The American Legion, have shared many examples of the manner in which family have been devastated by caring for TBI injured veterans. They have sacrificed financially, have lost jobs that provided the sole income for the family, and have endured extended separations from children.

Legislation has been introduced in the 111th Congress to address this problem. In the House, Representative John Salazar (CO) introduced **H.R. 667**, the "Heroes at Home Act of 2009." This measure seeks to improve the diagnosis and treatment of traumatic brain injury in members and former members of the Armed Forces. Both VA and DOD would establish programs of training and certification of family caregivers of veterans and members of the Armed Forces with traumatic brain injury as personal care attendants of those veterans and service members. It would also reimburse the families for the training and certification received from VA or DOD. This measure currently has 22 cosponsors.

A similar bill, **S. 252**, the "Veterans Health Care Authorization Act of 2009," was introduced in the Senate by Senator Daniel Akaka (HI); this bill has 5 cosponsors.

POINT PAPER
ON
THE WAR ON TERRORISM

Since the terrorist attacks of September 11, 2001, American Armed Forces have been involved in direct military actions against terrorist groups in Afghanistan and Iraq – Operations Enduring Freedom (OEF) and Iraqi Freedom OIF) – as well as deployments to other countries around the world. They are risking their lives in harsh, foreign environments to deliver freedom and stability to oppressed peoples, and to prevent future attacks against America.

Today's soldiers serving their country overseas do so against a backdrop of a small, overly vocal antiwar movement that has generated widespread international publicity. Intense media coverage of antiwar demonstrations conveys confidence to the enemy, giving them aid and comfort and hope that continued pressure will defeat a US military affected by home-front divisions.

Troops at war need to know America stands behind them and behind the cause for which they are risking their lives – freedom. The privations of war and threats of enemy attack are strenuous enough without home-front protestors symbolically impugning the war and the warrior.

To "*support the warrior*" is to support the cause for which he or she fights. In the war against terrorism, traditional battle lines and definitions are blurred, but the connection is clear between the ***fighter*** and the ***fight***. As more National Guard and Reserve citizen-soldiers are deployed and see their deployments extended, the warrior is also more often than before a coworker, a neighbor, a father or a mother within the local community.

Last fall troops involved in the "surge" in Iraq redeployed home, their mission successfully completed. Ethno-sectarian violence, Iraqi and US military casualties, civilian deaths, and IED explosions are all dramatically down even as the number of weapons caches found and cleared is drastically up. The majority of the caches seized were the result of Iraqi civilians informing the local troops of where they were located, a great development which goes hand-in-hand with the nationalization of the so-called "Anbar Awakening."

Since that time, Iraq has seen a number of developments, nearly all of them positive. In late 2008, the Iraqi Parliament passed the U.S. – Iraq status of Forces Agreement (SOFA). This SOFA establishes a tentative timetable where

U.S. combat forces will withdraw from Iraqi cities by June 30, 2009, and that all U.S. forces will be completely out of Iraq by December 31, 2011. The pact is subject to possible negotiations which could delay withdrawal and a referendum scheduled for mid-2009 in Iraq which may require all U.S. forces to completely leave by the middle of 2010.

On the first day of this year, the United States handed control of the Green Zone and Saddam Hussein's presidential palace to the Iraqi government in a ceremonial move described by the country's prime minister as a restoration of Iraq's sovereignty. Iraqi Prime Minister Nouri al-Maliki said he would propose January 1 be declared national "Sovereignty Day". "This palace is the symbol of Iraqi sovereignty and by restoring it, a real message is directed to all Iraqi people that Iraqi sovereignty has returned to its natural status," al-Maliki said. The Green Zone is separated from Baghdad by a reinforced concrete wall dotted with watch towers and machine gun nests.

And on the last day in January of this year, Provincial Elections occurred which both Iraqi and International officials called a success. U.S. Ambassador Ryan Crocker characterized the turnout as "large" and Iraq's top election official called it "the most important election to take place since the fall" of Saddam Hussein.

In all, violence in Iraq has been steadily decreasing as Iraqi army and police forces are stood up. While President Obama stated during the election his desire to have all troops out of Iraq in 16 months, numerous reports have been circulated in the media stating that a new timetable of 19-24 months is being espoused by the Joint Chiefs, and allegedly acquiesced to by the new Administration.

Unfortunately, the other principle engagement of the War on Terrorism, Afghanistan, has seen a significant increase in violence. Last year's 155 U.S. deaths in Afghanistan was the highest in the 7-year war. According to a recent UN report, civilian deaths in Afghanistan in 2008 were 2,118, owing in large part to the growing suicide bombing attacks both in Kabul and in other areas of the country.

In part replicating our successful strategy in Iraq, President Obama is deploying an additional 17,000 troops to "stabilize a deteriorating situation." These new deployments, scheduled to begin in May of this year will be nearly 50 percent higher than previous numbers of service-members in theater. Discussing both Afghanistan and the problems from neighboring Pakistan, President Obama justified the increased numbers saying that "urgent and swift action is required

because the Taliban is resurgent in Afghanistan, and al-Qaeda…threatens America from its safe-haven along the Pakistani border."

This surge will be on top of the extra troops recently deployed to provinces around Kabul that have seen a drastic rise in violence in recent years. In 2004-2005, a company sized element of Army soldiers covered the provinces of Wardak and Ghazni- just this month, an entire Brigade Combat Team of the 10th Mountain Division was deployed to Wardak province alone. According to the Commander of the 3rd BCT, Colonel David Haight in **The Washington Post**:

> *Haight said he believes the increase of militant activity in the two provinces is not ideologically based but stems from poor Afghans being enticed into fighting by their need for money. Quoting the governor of Logar, the colonel called it an "economic war." Afghan officials "don't believe it's hardcore al-Qaida operatives that you're never going to convert anyway," Haight said. "They believe that it's the guys who say, 'Hey you want $100 to shoot an RPG at a Humvee when it goes by,' and the guy says, 'Yeah I'll do that, because I've got to feed my family.'"*

Popular support for continuing missions in both Iraq and Afghanistan remains low. An **ABC/Washington Post** poll in January found that by a 61 to 39 percent margin, Americans felt the war in Iraq was "not worth it." That same poll found that while 34 percent of Americans support President Obama's plan to increase military presence in Afghanistan, fully 61 percent felt the number of troops present should either remain the same (32 percent) or even decreased (29 percent.)

During the 90th National Convention in August 2008, The American Legion once again passed Resolution #169 entitled, "Support For The War On Terrorism." The resolution says in part:

Warriors, above all other people, pray for peace, for they must suffer and bear the deepest wounds and scars of war.

Because of the very nature of war, the warrior cannot be separated from the war itself.

The United States of America was suddenly, and without provocation, attacked by terrorists on September 11, 2001, resulting in the deaths of thousands of innocent civilians and members of the military of the United States.

This tragic event does not stand alone, but is a continuation of a long series of unprovoked terrorist attacks aimed at destroying American lives, and the very basic core vales of freedom, democracy and respect for human life.

In response to this despicable act of cowardice, a united Congress in a bipartisan manner authorized the use of armed force against the global armies of terrorism no matter where they reside.

Recognizing that the global war on terrorism is as deadly as any war in which the United Stated has been previously engaged, the President and Congress did authorize military actions in both Afghanistan and Iraq.

The global war on terrorism is a just war, aimed at protecting the very foundations of freedom and freedom-loving people everywhere.

The American Legion agrees with the Commander-in-Chief that acts of terrorism mentioned heretofore were aimed at "the heart and soul of the civilized world, and the world has come together to fight a new and different war, the first, and we hope the only one, of the 21st Century—a war against all those who seek to export terror, and a war against those governments that support or shelter them".

The American Legion fully supports the President of the United States, The United States Congress and the men and women and leadership of our armed forces as they are engaged in the global war on terrorism.

The American Legion urges all Americans and Freedom-loving people everywhere to stand united in their support of the global war on terrorism, and united in their support of the global war on terrorism, and united in their support of the troops who are engaged in protecting our values and way of life.

That the National Commander be and is hereby authorized to use whatever means at his disposal to disseminate accurate information about this war on terrorism, and to engage whatever means necessary to ensure the united support of the American people.

POINT PAPER
0N
ILLEGAL IMMIGRATION

The security, economy and social fabric of the United States of America is seriously threatened by individuals who are illegally in this country. They are undocumented, live in the shadows of society and by failing to assimilate into our culture divide America into ethnic conclaves. The words “undocumented” and “illegal” are synonymous and describe those immigrants who: 1) enter illegally across the nation’s borders; and 2) those who enter legally and illegally overstay their visas.

The number of illegal immigrants currently in the United States is uncertain. Estimates range from 11 million (Pew Hispanic Research Center, 2005), to 10 to 12 million (Federation for American Immigration Reform, 2005), up to 20 million (Bear Stearns Report, January 2005). It is also not known just who these people are, exactly where they came from or what their intentions might be.

There are many proposals to reform the nation’s immigration laws, ranging from strict enforcement provisions to an across-the-board amnesty. The two sides, however, are miles apart and it is unlikely that any solution will be fully acceptable to all concerned.

The American Legion supports an immigration policy that eliminates social, economic and population problems resulting from illegal immigration. But above all, the The American Legion views illegal immigration as a national security issue in its truest sense. The American Legion urges Congress to act responsibly in addressing the issue by accepting its responsibility as outlined in the U.S. Constitution. That is, “to provide for the common defense,” and, most importantly, to provide for the safety of the citizens of this country. Illegal immigration is a violation of the law.

Illegal immigration is not a victimless crime. The poor, minorities, children and individuals with little education are particularly vulnerable. It causes an enormous drain on public services, depresses wages of American workers, and contributes to population growth that, in turn, contributes to school overcrowding and housing shortages. Directly and indirectly, U.S. taxpayers are paying for illegal immigration.

The costs of illegal immigration in terms of government expenditures for education, criminal justice, and medical care in California alone are significant, “costing the state’s taxpayers more than $10.5 billion per year,” according to the Federation for American Immigration Reform. Whereas states must pay the high cost of providing such services, illegal immigration has become one of the largest “unfunded” Federal mandates.

Although many of the largest costs are at the state and local level, there are also significant costs at the Federal level. According to a report by the Center for Immigration Studies the average illegal alien household in 2003 paid approximately $4,200 in Federal taxes while, on average, created $7,000 in costs at the federal level. Even

though Federal laws require public assistance agencies to verify that a recipient of services is in this country legally, some agencies fail to verify that eligibility.

The American Legion has a 5 point proposal for U.S. Immigration Reform.

1. Secure the Borders and other Points of Entry

There can be no effective immigration reform without first securing the borders and the coastline boundaries to this country. When the United States shows it has control of its borders, then and only then should Congress consider guest worker or temporary worker initiatives.

Securing the borders and coastlines will require additional frontline Border Patrol agents, the newest surveillance technology, fences or barriers in some locations, support from U.S. military units and a commitment of cooperation from federal, state and local governments. A plan, including legislation for implementation, will not work if there is no funding or enforcement. That was a painful lesson learned from the Immigration Reform and Control Act of 1986 (IRCA) amnesty when legalization occurred without securing the borders. The result was a stampede of illegals across the borders to take advantage of the government's benevolence.

2. Eliminate the Jobs Magnet and Social Services Benefits for Illegals

The second step in immigration reform is the elimination or reduction of employment opportunities in this country for illegal immigrants. If the number of available jobs were reduced, there would be less incentive for illegals to remain in this country. There are native workers available to work in jobs currently being held by the illegal workforce, if they were given a decent wage.

The American Legion supports mandatory eligibility verification of all employees. It calls upon the Federal government to require the Department of Homeland Security and the Social Security Administration to develop a system providing electronic verification of work eligibility and an annual re-verification of aliens.

3. No Amnesty

The American Legion is opposed to any policy that would give illegal immigrants legal permission to remain in the United States, whether such a policy is referred to as "legalization," "regularization," "a guest worker program," "earned status adjustment," or "earned access."

The United States for over 200 years only granted amnesty in individual cases and did not give a blanket amnesty to large numbers of aliens until 1986. That was the year Congress passed the Immigration Reform and Control Act (IRCA) that legalized all illegal aliens who met certain criteria, resulting in 2.8 million illegal aliens being admitted as legal immigrants. It was supposed to be a "one time only" amnesty but six more followed.

The American Legion is not opposed to the legal temporary workers programs when administered with established numerical limits so as to prevent labor market distortions. Application for such programs must originate from the worker's home country and only after a criminal background check has been conducted.

4. Reduce the Number of Illegals in the United States

Currently, 10 million to 20 million individuals are in this country illegally. No one knows for sure the exact number, but it is safe to say that the majority of these individuals are both welcomed and scorned by the country's legal population. These illegals live on the fringe of our society on one hand adding strength to some segments of the economy, while on the other hand drawing from public assistance pool at the expense of American workers.

No one can dispute the need to reduce and control the illegal population in the United States. Some wish to deal with the problem by simply granting amnesty and providing an avenue toward citizenship. The American Legion believes we should seek to address the problem by reducing the number of illegals in this country through the enforcement of existing and new immigration laws.

The American Legion recognizes that mass deportation of all illegals is not a realistic option. Deportation of select groups is an option and one that should be used. The continuing threat of deportation and possible incarceration would serve as a deterrent to many who may be considering entering the United States illegally. The American Legion endorses a plan which calls for a strategy of attrition through enforcement of new and existing laws in combination with increased border security efforts.

5. Effectively Screen and Track all Foreign Visitors

Much of the illegal population in the United States entered the country by legal means and then overstayed their visas or other entrance documents. Such was the case of several of the September 11, 2001, terrorists who came into the country via legal means and then dropped out of the government's sight until they flew airplanes into the World Trade Center, the Pentagon and into a Pennsylvania farm field, killing almost 3,000 people.

Historically, it has, for the most part, been those who have exploited weaknesses in this country's legal immigration system that have committed acts of terrorism in the United States. They include several individuals involved in the first World Trade Center attack, conspirators in plots to bomb the New York subway system, and the plot to destroy New York City landmarks.

The American Legion supports comprehensive screening and background checks on all foreign visitors and a means to track their whereabouts and monitor their intentions while physically in the United States. Releasing them in our society, as has often been the case in the past, is not in the best interest of national security.

A more lengthy discussion of The American Legion's Policy on Illegal Immigration can be found at our website at:

http://www.legion.org/documents/legion/pdf/illegalimmigration.pdf

111TH CONGRESS – 1ST SESSION
LEGISLATIVE POINT PAPERS

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August 2009

POINT PAPER
ON
FLAG AMENDMENT

"The Congress shall have power to prohibit the physical desecration of the flag of the United States." A proposed amendment to the United States Constitution; which The American Legion fully supports.

Background

The U.S. Supreme Court's 1989 decision in *Texas v. Johnson* held that the physical desecration of Old Glory was "protected speech". In this case, the Court struck down existing flag desecration laws in 48 states and the District of Columbia. The American Legion believes the Court misinterpreted the Constitution by calling flag desecration "speech" and that this imprudent decision overturned a century of American law and tradition. Acts of physical desecration are conduct, not speech. Accordingly, these acts should not be recognized and protected as "speech" by the First Amendment. The American people intend to return flag protection authority to Congress where it belongs and not allow the Supreme Court to have the final say. President Abraham Lincoln once remarked, "… If the policy of the government on vital questions affecting the whole people is to be irrevocably fixed by decisions of the Supreme Court the people will have ceased to be their own rulers…." Therefore, we cannot let this stand.

The American Legion believes the final say should be with the People, as expressed through the Congress and the 50 state legislatures. All 50 state legislatures have passed memorializing resolutions asking Congress to pass this proposed amendment and send it to the states for ratification. The proposed amendment returns the power to protect Old Glory to the People. This is the true essence of the amendment and why it must prevail.

House Actions

In the first session of the 111th Congress, Representatives Jo Ann Emerson (MO) and Jim Marshall (GA) introduced **House Joint Resolution (H.J. Res.) 47**, a proposed constitutional amendment supported by The American Legion and the Citizens Flag Alliance (CFA). The resolution was referred to the Committee on the Judiciary at introduction on April 30. It was, then, referred to the House Subcommittee on the Constitution, Civil Rights, and Civil Liberties on June 12.

The road to enactment will not be easy. The Judiciary Committee chairman is Rep. John Conyers, Jr. (MI) and the chairman of the Constitution, Civil Rights and Civil Liberties Subcommittee is Rep. Jerrold Nadler (NY). Both are known opponents of the proposed constitutional amendment. Currently, neither the Judiciary Committee nor its Constitution Subcommittee plan to hold hearings on a flag protection amendment.

Thus, we will have some major battles ahead, but we are ready to take on those challenges. And we need your help. The following list contains the 63 current House members who are cosponsors of the bill. If your representative is not listed and is either a supporter or undecided, please contact them and ask that they sign on as cosponsors.

COSPONSORS (63)

Biggert, Judy [IL-13] - 6/2/2009
Blackburn, Marsha [TN-7] - 6/2/2009
Blunt, Roy [MO-7] - 6/11/2009
Boehner, John A. [OH-8] - 6/11/2009
Boustany, Charles W., Jr. [LA-7] - 5/19/2009
Brown, Henry E., Jr. [SC-1] - 4/30/2009
Buyer, Steve [IN-4] - 6/11/2009
Capito, Shelley Moore [WV-2] - 7/9/2009
Carney, Christopher P. [PA-10] - 6/26/2009
Childers, Travis [MS-1] - 6/16/2009
Conaway, K. Michael [TX-11] - 6/4/2009
Edwards, Chet [TX-17] - 6/2/2009
Fallin, Mary [OK-5] - 5/5/2009
Fleming, John [LA-4] - 5/14/2009
Forbes, J. Randy [VA-4] - 6/9/2009
Foxx, Virginia [NC-5] - 7/14/2009
Garrett, Scott [NJ-5] - 6/9/2009
Gingrey, Phil [GA-11] - 4/30/2009
Gordon, Bart [TN-6] - 4/30/2009
Halvorson, Deborah L. [IL-11] - 7/7/2009
Kagen, Steve [WI-8] - 6/2/2009
King, Peter T. [NY-3] - 5/21/2009
Latham, Tom [IA-4] - 5/19/2009
Latta, Robert E. [OH-5] - 6/4/2009
Lipinski, Daniel [IL-3] - 6/16/2009
LoBiondo, Frank A. [NJ-2] - 5/20/2009
Luetkemeyer, Blaine [MO-9] - 6/24/2009
Lummis, Cynthia M. [WY] - 6/11/2009
Manzullo, Donald A. [IL-16] - 6/2/2009
Marshall, Jim [GA-8] - 4/30/2009
McCarthy, Carolyn [NY-4] - 6/26/2009
McCaul, Michael T. [TX-10] - 6/2/2009
McIntyre, Mike [NC-7] - 5/20/2009
Michaud, Michael H. [ME-2] - 5/19/2009
Miller, Candice S. [MI-10] - 5/19/2009

Miller, Gary G. [CA-42] - 6/16/2009
Miller, Jeff [FL-1] - 7/8/2009
Moran, Jerry [KS-1] - 5/14/2009
Murphy, Tim [PA-18] - 6/11/2009
Murtha, John P. [PA-12] - 7/8/2009
Neugebauer, Randy [TX-19] - 6/4/2009
Paulsen, Erik [MN-3] - 5/5/2009
Platts, Todd Russell [PA-19] - 6/2/2009
Posey, Bill [FL-15] - 4/30/2009
Rehberg, Denny [MT] - 7/14/2009
Roe, David P. [TN-1] - 6/16/2009
Shuster, Bill [PA-9] - 6/2/2009
Simpson, Michael K. [ID-2] - 5/19/2009
Skelton, Ike [MO-4] - 4/30/2009
Smith, Adam [WA-9] - 7/14/2009
Smith, Christopher H. [NJ-4] - 6/4/2009
Teague, Harry [NM-2] - 5/21/2009
Terry, Lee [NE-2] - 7/8/2009
Tiahrt, Todd [KS-4] - 5/19/2009
Wilson, Joe [SC-2] - 4/30/2009
Wittman, Robert J. [VA-1] - 7/7/2009
Wolf, Frank R. [VA-10] - 6/2/2009
Young, C.W. Bill [FL-10] - 5/19/2009

Senate Update

On May 6, Senator David Vitter (LA), along with 17 colleagues, introduced a companion bill, **Senate Joint Resolution (S.J. Res.) 15.** The resolution was referred to the Committee on the Judiciary at introduction. The Judiciary Committee is chaired by Senator Patrick Leahy (VT), and the chairman of the Constitution Subcommittee is Sen. Russell Feingold (WI). They, too, are well-known opponents of the flag amendment. This will be an uphill fight.

The following list contains the 25 current Senate members who are cosponsors of the bill. If your senator is not listed and is either a supporter or undecided, please contact them and ask that they sign on as cosponsors.

COSPONSORS (25)

Bayh, Evan [IN] - 6/2/2009
Brownback, Sam [KS] - 5/6/2009
Bunning, Jim [KY] - 5/6/2009
Burr, Richard [NC] - 5/6/2009
Chambliss, Saxby [GA] - 5/6/2009
Coburn, Tom [OK] - 5/7/2009
Cochran, Thad [MS] - 5/6/2009
Collins, Susan M. [ME] - 6/15/2009
Crapo, Mike [ID] - 5/6/2009
DeMint, Jim [SC] - 5/6/2009
Enzi, Michael B. [WY] - 5/6/2009
Grassley, Chuck [IA] - 5/6/2009
Inhofe, James M. [OK] - 5/6/2009
Isakson, Johnny [GA] - 5/6/2009
Johanns, Mike [NE] - 5/6/2009
Lugar, Richard G. [IN] - 5/14/2009

Murkowski, Lisa [AK] - 5/6/2009
Roberts, Pat [KS] - 5/6/2009
Shelby, Richard C. [AL] - 5/14/2009
Stabenow, Debbie [MI] - 5/12/2009
Wicker, Roger F. [MS] - 5/6/2009
Risch, James E. [ID] - 5/6/2009
Rockefeller, John D., IV [WV] - 7/9/2009
Snowe, Olympia J. [ME] - 6/8/2009
Thune, John [SD] - 5/6/2009

Next Steps

Once a simple majority of cosponsors representing bipartisan support in both chambers is identified, we will approach the respective Committees seeking hearings. Thus, it is imperative that we continue to persevere in our efforts and strive to garner the support of additional cosponsors, so that we can move forward. Keep up the good fight!

POINT PAPER
ON
FY 2010 NATIONAL DEFENSE AUTHORIZATION ACT

On June 25 the House by a vote of 389-22 passed HR 2647, the FY 2010 National Defense Authorization Act. The Senate passed its version of the measure, S 1390, on July 23 by a vote of 87-7. These measures set spending levels for defense programs, and usually includes a number of policy statements. These bills will now go before the Conference Committee to iron out the major differences. The Senate has named conferees and it is expected that the House will name theirs when they return from recess.

The House version authorizes $550.4 billion in budget authority for the Department of Defense (DoD) and the national security programs of the Department of Energy (DoE). The bill also authorizes $130 billion to support overseas contingency operations during fiscal year 2010.

According to House Armed Services Chairman Ike Skelton of Missouri:

After more than seven years of war, we must sustain our efforts to restore military readiness in order to meet current military challenges and prepare for the future. The bill provides $11 billion for Army reset, $2 billion for Marine Corps reset, and $6.9 billion to address equipment shortfalls in the National Guard and Reserve. Addressing urgent issues such as dilapidated military barracks and to keep defense facilities in good working order, the bill adds $450 million for Army barracks improvements and $762 million to fully meet sustainment requirements for base facilities and infrastructure. To boost readiness and reduce the strain on our forces, the bill increases the size of the military by 15,000 Army troops, 8,000 Marines, 14,650 Air Force personnel, and 2,477 Navy sailors, which reflects the President's budget request.

The bill also provides a 3.4 percent pay raise for all service members, continuing efforts to reduce the pay raise gap between the uniformed services and the private sector. The bill extends the authority for the DoD to offer bonuses and incentive pay, expands TRICARE health coverage to reserve component members and their families for 180 days prior to mobilization, and also provides $1.95 billion for family housing programs to support and expand the quality housing military families deserve.

Likewise the Senate version includes the pay raise, and extension of authority to give bonus and incentive pays, as well as extending eligibility to TRICARE. Some other provisions of the bills include:

- Authorization for various missile defense programs, albeit at reduced funding levels;
- Authorization to fund the Base Realignment and Closure (BRAC) 2005 account;
- Authorization to address equipment shortfalls in the National Guard and Reserves;

- Authorizes FY 2010 active-duty end strengths for the Army of 547,400; the Marine Corps, 202,100; the Air Force, 331,700; and the Navy, 328,800.
- Authorizes the Secretary of Defense to increase the Army's active-duty end strength by 30,000 above 2010 levels during fiscal years 2011 and 2012 if sufficient funding is requested in the budgets for those fiscal years.
- Requires the establishment of a task force to assess the effectiveness of the policies and programs developed to assist and support the care, management, and transition of recovering wounded, ill, and injured service members.
- Requires the Secretary of Defense to develop and implement a plan by September 30, 2013 to increase the number of military and civilian behavioral health personnel of DoD and to consider the feasibility of additional officer and enlisted specialties as behavioral health counselors.
- Increases the authorization for the Homeowners Assistance Program by $350 million. This program was recently enhanced by the American Recovery and Reinvestment Act (Public Law 111-5) and now provides relief to homeowners who are military services members, wounded warriors, surviving spouses, and defense civilian employees who are forced to relocate because of Base Realignment and Closure Commission, or permanent change of station orders.
- Authorizes the Department of Veterans Affairs and the Navy to operate jointly the Captain James A. Lovell Federal Health Care Center in North Chicago and Great Lakes, Illinois.

The Senate version also includes funding on the Force Protection front by:

- Providing $6.7 billion for the Mine Resistant Ambush Protected (MRAP) Vehicle Fund, including an increase of $1.2 billion above the President's budget request for MRAP All-Terrain Vehicles (M-ATV) which will be deployed to Afghanistan.
- Provides $179 million for Force XXI Battle Command Brigade and Below (FBCB2). This unfunded requirement was identified by the Army Chief of Staff.
- Provides full funding at the budget request level for most programs, including: Carrier Replacement Program: *Virginia*-class submarine; DDG-1000; DDG-51; Littoral Combat Ship (LCS); V-22; and the P-8 maritime patrol aircraft.
- Provides $1.75 billion for buying seven F-22A aircraft, rather than terminating the production program as requested by the Department.
- Provides an additional $560 million to buy 18 F/A-18E/F aircraft, rather than nine aircraft as requested, and authorizes the full request for 22 EA-18G aircraft.
- Provides $438.9 million to continue development of the F136 Joint Strike Fighter alternate engine.

POINT PAPER
ON
FY 2010 DEFENSE APPROPRIATIONS

On July 30 the House by a vote of 400-30 approved HR 3326, the FY 2010 appropriations bill for the Department of Defense (DOD). The bill totals $636.6 billion, an increase of $4.4 billion over current year funding and $3.8 billion below the President's request. Funding for specific program areas include:

- $128.3 billion for all costs to continue military operations in Iraq and Afghanistan. President Obama has made it a priority to move all costs for these operations to the regular appropriations process, and not through supplemental funding bills;
- $29.9 billion for DOD health programs;
- $7.2 billion for missile defense programs;
- $10.1 billion for the F-35 program, including $5.6 billion for procurement of 28 planes in FY 2010;
- $3.8 billion for purchase of one Virginia-class attack submarine in FY 2010, and advance procurement for another sub in FY 2011;
- $3.6 billion for further development and procurement of Mine Resistant Ambush Protected (MRAP) vehicles for Iraq and Afghanistan;
- $2.2 billion for further development and procurement of one additional DDG-51 (Arleigh Burke) destroyer;
- $1.7 billion for procurement of 18 additional F/A-18E/F Super Hornet aircraft;
- $1.6 billion for further development and procurement of the DDG-1000 (Zumwalt) destroyer; and,
- $1.5 billion for the destruction of chemical agents and munitions;
- $1.2 billion for drug interdiction and counter-drug activities;
- $614 million for upgrades and procurement of additional Stryker vehicles; and,
- $500 million for purchases to address National Guard and Reserve units' equipment shortfalls.

The measure contains no funding for closing the Guantanamo Bay detention facility for terrorists captured during the Global War on Terrorism. Appropriators stated that once a plan was in place to close the facility, funding would then be requested.

POINT PAPER
ON

FY 2009 DEPARTMENT OF DEFENSE SUPPLEMENTAL

On June 24 President Obama signed PL 111-32, the FY 2009 supplemental spending bill. The House on June 16 voted 226-202 to pass the conference report to the measure, and the Senate followed suit two days later, approving the measure by a 91-5 tally. Funding in the bill totals $106 billion, an increase of $23 billion over the President's original request. It includes $79.9 billion to fund DOD and intelligence programs related to the wars in Iraq and Afghanistan. Although the wars have typically been funded through such "emergency" supplemental requests since 2001, the President has pledged to move the war costs into the regular DoD budget in the future.

Specific areas in the supplemental request related to national security include:

- $25.8 billion to repair or replace equipment worn down in the wars, including $4.5 billion for acquisition of improved mine-resistant vehicles, $2.7 billion for 8 C-17s and 7 C-130s, $600 million for 4 F-22 aircraft, and $500 million for National Guard and Reserve equipment;
- $3.6 billion for expanding and training the Afghan security forces;
- $2.7 billion for military construction programs to support combat operations in Afghanistan, the armed forces and their families, including hospitals, child development centers, and new hospitals in Maryland and Virginia to replace Walter Reed Army Medical Center in Washington, DC;
- $1.8 billion for Military Health Care, to include funds for programs to support military families, for orthopedic research, for traumatic brain injury and psychological health research, and for rehabilitation equipment for wounded warriors;
- $1.1 billion to combat improvised explosive devices;
- $1 billion to support coalition partners fighting in Iraq and Afghanistan;
- $534 million to provide over 185,000 service members who have had their enlistments involuntarily extended since September 11, 2001 with $500/month for every month they were held under stop-loss orders; and,
- $400 million to Pakistani forces' counterinsurgency operations.

POINT PAPER
ON
FY 2010 VA BUDGET

The American Legion has presented its views to Congress for many years to spotlight the needs of this country's veterans and their dependents. On September 11, 2008, National Commander Dave Rehbein addressed a Joint Session of the Veterans' Affairs Committees to present The American Legion's views regarding matters that will come before the 111th Congress concerning key veterans' issues. The Commander's testimony can be found at http://veterans.house.gov/Media/File/110/9-11-08/CommanderTestimony.pdf. Normally, the budget process for Fiscal Year (FY) 2010 would be well underway at this time. However, due to a new administration taking office on January 20, 2009, the FY 2010 budget process did not begin until after the November 2008 election. Thus, National Commander Rehbein's testimony opened the Department of Veterans Affairs (VA) appropriations process for FY 2010.

The American Legion presented its views on the FY 2010 VA budget request to Congress on March 10. Testimony was given separately before the Senate and House Committees on Veterans' Affairs. After those hearings, the committees submitted their views to the Senate and House Budget Committees respectively.

The Budget Committees met and each passed their version of the FY 2010 budget resolution (the budget resolution is a non-binding 'blueprint' Congress will use to provide funding for FY 2010). With regard to advance appropriations, the House Budget resolution did not contain a provision for advance appropriations; however, the Senate Budget resolution, S. Con. Res. 13, did adopt an amendment for advance appropriations offered by Senator James M. Inhofe (OK). Because the Senate and House resolutions differed, the budget resolution needed to be resolved in a Senate-House Conference Committee. In the Conference Committee, the House agreed with the Senate and left the provision for advance appropriations in its Conference Report; however, the Conference Report said the FY 2011 VA medical care appropriations would be the same as the FY 2010 VA medical care appropriations.

The Conference Committee was very favorable to The American Legion's request. The Conference agreement for the FY 2010 budget provided $53.4 billion for FY 2010 for veterans' health care and other appropriated programs for veterans (not including medical care collections). The budget agreement provided $5.6 billion (11.7 percent) more funding for FY 2010 than the FY 2009 level (excluding emergency funding).

The budget agreement also allows Congress to provide appropriations for VA medical care one year in advance. So, Congress could appropriate in the FY 2010 appropriations bill funding for VA's three medical care accounts not only for FY 2010, but also funding to become available at the start of FY 2011.

The Budget Conference Committee agreement also affirmed VA's current policy of billing private insurance companies only for VA's treatment of health conditions that are not related to a veterans' military service. VA is not and should not be authorized to bill such companies for treating veterans' service-connected conditions.

On May 7, the President transmitted his VA budget request to Congress. It provided $112.8 billion (total including collections); $55.9 billion in discretionary funding and $56.9 billion in mandatory funding. The chart below provides additional discretionary funding information.

On July 10, the House of Representatives, by a vote of 415-3, passed H.R. 3082, a bill to fund the Department of Veterans Affairs and military construction programs for FY 2010. The bill is now before the Senate for action. Three days earlier, the Senate Appropriations Committee approved its version of the bill, S. 1407, by a vote of 30-0 and sent it to the full Senate for action as well.

In addition to FY 2010 appropriations, both H.R. 3082 and S. 1407 include advance appropriations for FY 2011 for the medical care accounts, totaling nearly $48.2 billion. These FY 2011 accounts include: $37.1 billion for medical services; $5.3 billion for medical support and compliance; and, $5.7 billion for medical facilities.

The chart below presents the major discretionary funding categories of VA's budget, showing funding for the current year, the President's FY 2010 budget request, the funding requested in H.R. 3082 that was passed by the House, the funding requested by the Senate Appropriations Committee in S. 1407, and The American Legion's FY 2010 budget proposal as presented by National Commander Rehbein last September.

VA Discretionary Programs	P. L. 110-329 FY 2009 VA Funding	President's FY 2010 VA Budget Request	H.R. 3082 FY 2010 VA Appropriations	S. 1407 FY 2010 VA Appropriations	American Legion's FY 2010 Request
Medical Services	$30.9 bil.	$34.7 bil.	$34.7 bil.	$34.7 bil.	***$42.8 billion (includes medical & prosthetic research)***
Medical Support and Compliance	$4.4 bil.	$5.1 bil.	$4.9 bil.	$5.1 bil.	
Medical Facilities	$6.0 bil.#	$4.7 bil.	$4.9 bil.	$4.8 bil.	
Total Medical Care	***$41.3 bil.***	***$44.5 bil.***	***$44.5 bil.***	***$44.6 bil.***	
Medical Care Collections Funds	[$2.5 bil.]	[$2.9 bil.]	[$2.9 bil.]	[$2.9 bil.]	*
Medical/Prosthetic Research	$510 mil.	$580 mil.	$580 mil.	$580 mil.	$532 mil.
Information Technology	$2.5 bil.	$3.3 bil.	$3.3 bil.	$3.3 bil.	$2.7 bil.
General Operating Expenses	$2.0 bil.	$2.2 bil.	$2.1 bil.	$2.1 bil.	$2.8 bil.

National Cemetery Administration	$280 mil.	$242 mil.	$250 mil.	$250 mil.	$249 mil.
Major Construction	$923 mil.	$1.2 bil.	$1.2 bil.	$1.2 bil.	$1.8 bil.
Minor Construction	$742 mil.	$600 mil.	$700 mil.	$685 mil.	$1.5 bil.
State Homes Construction Grants	$325 mil.	$85 mil.	$85 mil.	$115 mil.	$275 mil.
State Cemeteries Construction Grants	$42 mil.	$42 mil.	$42 mil.	$42 mil.	$49 mil.

Includes supplemental funding from P.L. 111-5.
* The American Legion supports using Medical Care Collections Funds as *supplements*, not *offsets*, to discretionary VA funding.

The American Legion will continue to monitor the progress of the FY 2010 VA budget process. The new fiscal year begins on October 1, 2009.

The American Legion's legislative portfolio includes mandates that:

- Support a health care funding system that is *sufficient, timely, and predictable*;
- Support legislation allowing VA to collect Medicare payments;
- Increase access to VA health care for veterans in rural areas;
- End the VA ban on the enrollment of Priority 8 veterans;
- Ensure a seamless transition for veterans from the Department of Defense (DoD) to the VA, including reserve component servicemembers;
- Ensure the long-term care needs of America's aging veterans are addressed;
- Support medical and prosthetics research development;
- Support construction of state-of-the-art medical facilities and the repair of those structures that require renovations and upgrades;
- Develop information technology for electronic medical records and ensure the technology allows DoD and VA medical systems to communicate these records to each other securely;
- Support the reduction of the outrageous disability compensation claims and appeals backlog;
- Ensure the disability benefits review process does not diminish veterans' rights;
- Support veterans' employment rights and veterans' hiring preference programs by government and government contractors and subcontractors;
- Support veteran-owned and service disabled veteran-owned small businesses in government procurement programs;
- Support legislation to provide job training programs for veterans with military occupational specialty skills that are not readily transferable to the private sector;
- Support grants to provide shelter and support for homeless veterans; and,
- Ensure the New GI Bill benefits are properly administered.

POINT PAPER
on
FY 2010 VETS APPROPRIATIONS

The Assistant Secretary for Veterans' Employment and Training (ASVET) serves as the principal advisor to the Secretary of Labor on policies and procedures affecting veterans' employment matters. The Veterans' Employment and Training Service (VETS) furnishes employment and training services to service members and veterans through a variety of programs, including providing grants to States, public entities, and non-profit organizations, to assist veterans seeking employment. VETS investigates complaints filed under veterans' preference and re-employment laws. VETS administers the Disabled Veterans' Outreach Program (DVOP) and Local Veterans' Employment Representatives (LVER) state grant programs; Transition Assistance Program; veterans' preference and Uniformed Services Employment and Reemployment Rights Act (USERRA); Homeless Veterans' Reintegration Program (HVRP); Veterans Workforce Investment Program (VWIP); and the National Veterans' Training Institute (NVTI). VETS mission is to promote the economic security of America's veterans by assisting them in finding meaningful employment. VETS is one of the Federal government's best-kept secrets and The American Legion believes the Department of Labor (DOL) should endeavor to better promote it around the country.

The President requested a FY 2010 budget of $255.1 million to support the staffing and grant-making ability of VETS. The House provided an additional $2 million in its appropriations bill, H.R. 3293, which passed by a vote of 265-153 on July 24, and was sent to the Senate. The Senate Appropriations Committee, however, amended H.R. 3293 back to the President's original budget request and passed the bill to the full Senate. This bill is now on the Senate calendar.

Program	**President's Proposal FY 2010**	**H.R. 3293 FY 2010**	**H.R. 3293 Senate Appropriations Committee bill**
State Administration Grants	$172.4 million	$175.9 million	$172.4 million
Program Administration	$35.3 million	$31.9 million	$35.3 million
Natl. Veterans Training Institute	$2.4 million	$2.4 million	$2.4 million
Homeless Veterans Program	$35.3 million	$37.3 million	$35.3 million
Veterans' Workforce Investment Programs	$9.6 million	$9.6 million	$9.6 million
Total	***$255.1 million***	***$257.1 million***	***$255.1 million***

The American Legion continues to lobby Congress to reauthorize and adequately appropriate funds for the Service Members Occupational Conversion and Training Act (SMOCTA) program. 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 determined is not readily transferable to the civilian workforce or for those veterans with a service-connected disability rating of 30 per cent or higher. SMOCTA is a unique job-training program because there is a job for the veteran upon completion of training. Many LVERs and DVOPs Specialists publicly praised the effectiveness of SMOCTA because it successfully returned veterans to the civilian workforce.

On February 9, 2009, Representatives Peter Welch (VT) and John Boozman (AR) introduced H.R. 929, which will essentially reauthorize the SMOCTA program, but renames it the Military Occupation Specialty Transition (MOST) Program. The bill includes $60 million for the next ten years to fund this program. Although SMOCTA has been changed to the Military Occupational Specialty Transition (MOST) program, the language and intent of the program still applies in this new legislation. The American Legion was instrumental in support of the development of this legislation and supports its passage. If enacted, MOST would be the only Federal job training program available strictly for veterans and the only Federal job training program specifically designed and available for use by state veterans' employment personnel to assist veterans with barriers to employment.

POINT PAPER
ON

ADVANCE APPROPRIATIONS FOR VA HEALTH CARE

The American Legion believes the cost of Department of Veterans Affairs (VA) medical care is a continuing cost of freedom.

Over the years, The American Legion has worked diligently to increase *discretionary* medical care funding for VA to care for America's veterans and their families. The VA receives these discretionary funds from an annual appropriations law passed by Congress and signed by the President every year. The VA's Fiscal Year (FY) is supposed to begin on October 1.

The problem for America's veterans is that these funds are not always available to VA on October 1 because of political conflicts. This delay in the timely provision of medical care funds means the VA medical care system administrators cannot hire medical personnel; procure new medical equipment, supplies and services; and construct and maintain VA medical facilities until those funds are authorized and appropriated.

The core problem in adequately funding veterans' medical care is the inherent political nature of the appropriations process. In essence, the VA budget is not created based upon the medical care needs of veterans and their dependents, rather it is a budget based upon the political agendas of Congress and the President, both of which see the VA budget as a political document, not as a medical care document.

The American Legion decided this approach to annual funding failed America's veterans who earned this benefit by virtue of their selfless devotion to country through their military service. Because the current medical care funding model used to approve annual discretionary appropriations is clearly flawed, The American Legion joined with eight other veteran service organizations (VSOs) to advocate for change. In 2001, The American Legion joined The Partnership for Veterans Health Care Budget Reform (Partnership) with Disabled American Veterans, Veterans of Foreign Wars, Paralyzed Veterans of America, AMVETS, Vietnam Veterans of America, Military Order of the Purple Heart, Jewish War Veterans, and Blinded Veterans Association. The original intent of the Partnership was to support a *mandatory* funding mechanism to the VA appropriations process. This approach arose from a recommendation taken from

the final report of the President's Task Force to Improve Health Care Delivery for Our Nation's Veterans.

The Partnership wanted to end the yearly political fight for discretionary appropriations for VA's Veteran Health Administration (VHA) which administers three VA medical care accounts. Those accounts are: Medical Services; Medical Support and Compliance; and Medical Facilities. Mandatory funding for these accounts meant that veterans medical care funding would be on par with Medicare or Medicaid funding, both of which do not have to go through the annual appropriations process. However, even with all nine VSOs strongly lobbying for this change for the past eight years, Congress opposed all efforts to change their failed funding system.

The two main reasons Congress gives for maintaining the current flawed system are that mandatory funding would interfere with Congress' own self-imposed budgetary rules (known as PAYGO) and that Congress may lose oversight capability of the VA medical care system. Although the Partnership strongly disagrees with both reasons and still supports mandatory funding, it developed a second approach to Congress for providing VA health care funding; one that meets the Partnership goals of providing *sufficient, timely and predictable* funding for VA medical care, but also meets the concerns of Congress.

The Partnership proposed Congress appropriate funds for the VHA accounts one year ahead of the current fiscal year; this process is also known as '*advance appropriations'*.

Advance appropriations is a technique used by Congress for the last several decades to secure discretionary budget authority one year *in advance* for certain government programs. In this instance, The American Legion advocates VA have its three VHA medical care accounts funded one year ahead of most other government programs and Congress still maintains its discretionary authority to approve and oversee the use of these funds. By having its discretionary appropriations authority decided one year ahead of time the three VHA medical care accounts would be removed from current fiscal year competition and VA would have its medical care funds available on October 1 of every new fiscal year (there would have to be a one-time two year appropriation process to start this cycle). In addition, if advance appropriations for VA medical care are adopted by Congress, VHA administrators will know one year in advance what their fiscal year appropriations will be and can thus plan accordingly for delivering quality medical care services to all enrolled veterans who need it.

Two bills for VA advance appropriations were introduced on February 12, 2009; each entitled the *"Veterans Health Care Budget Reform and Transparency Act of 2009*." The Senate bill**, S. 423**, was introduced by Senate Veterans' Affairs Committee Chairman Daniel Akaka (HI) and has 53 cosponsors. The House bill, **H.R. 1016**, was introduced by House Veterans' Affairs Committee Chairman Bob Filner (CA) and had 125 cosponsors.

H.R. 1016 passed the House of Representatives on June 23 and was sent to the Senate for action. S. 423 passed the Senate Veterans' Affairs Committee on July 8 and was sent to the full Senate for action. On August 6, the Senate debated H.R. 1016. The Senate amended H.R. 1016 by deleting the language of the House bill and inserting the language of S. 423 into H.R. 1016. The Senate then passed this amended H.R. 1016 by Unanimous Consent and returned the amended H.R. 1016 to the House. House Veterans' Affairs Committee Chairman Filner offered a substitute amendment to the amended bill per an agreement with the Senate and this legislation currently is on the House calendar waiting for action.

The American Legion strongly supports enacting legislation for advance appropriations of the VHA medical care accounts. The goal is to stabilize VA medical care funding by providing sufficiency, timeliness, and predictability in VA's annual appropriations process.

In addition to those legislative bills, provisions for advance appropriations for FY 2011 have been incorporated in both the House and Senate versions of the Military Construction, Veterans' Affairs and Related Agencies Appropriations Act for FY 2010. These bills are **H.R. 3082**, which passed the House of Representatives on July 10 and is now on the Senate Legislative Calendar and **S. 1407**, which passed the Senate Appropriations Committee on July 7 and is also waiting for action on the Senate Legislative Calendar.

The American Legion will continue the monitor the progress of all of these bills.

POINT PAPER
ON
DISABLED VETERANS' TAX

The American Legion continues to support legislation allowing military retirees to receive their full military retired pay and VA awarded, service-connected disability compensation without the dollar-for-dollar offset commonly referred to as the Disabled Veterans' Tax. The concept of Disabled Veterans' Tax dates back to 1891, when Congress passed a law prohibiting active-duty or retired personnel from receiving disability pensions. Military retired pay is compensation for longevity of honorable military service. VA service-connected disability compensation is for medical conditions incurred or aggravated while on active duty. Payment is for two distinct and different reasons.

Traditionally, getting Disabled Veterans' Tax language included in the annual National Defense Authorization Act seemed automatic because of the support of longtime advocate, Senator Harry Reid (NV), the Majority Leader of the Senate. Over the last five years, the National Defense Authorization Act has included at least some Senator Reid-proposed initiative to reduce the remaining number of service-connected disabled military retirees affected by the dollar-for-dollar offset of retired pay. All of those legislative initiatives resulted in at least some progress toward the ultimate goal of totally eliminating the offset.

This year, Reid had proposed two separate amendments to the Defense bill. One would implement President Obama's budget proposal to phase out the offset for all Chapter 61, Title 10, United States Code (U.S.C.) (medically retired with less than 20 years of service) military retirees, regardless of their length of service. Starting January 2010, the plan would eliminate the offset for Chapter 61 retirees with 90-percent or 100-percent disability ratings (including unemployables) with less than 20 years of service. Between 2011 and 2014, it would phase out the offset for all remaining Chapter 61s. His other amendment would fix a glitch in the statutory calculation formula for Combat-Related Special Compensation (CRSC) which currently underpays certain combat-disabled retirees.

Unfortunately, neither provision was included in the list of approved amendments following Senate passage of the FY 2010 National Defense Authorization Act.

In the case of Senator Reid's Disabled Veterans' Tax amendments, Senator Tom Coburn (OK) objected to its inclusion in the Defense bill, effectively stymieing the amendments just before the final vote on the bill. Senator Coburn felt that the

amendments "would have risen mandatory spending by $5 billion over 10 years, with no proposed spending reduction to pay for it."

Disabled Veterans' Tax progress in this year's Defense bill is still a very strong possibility, despite the failure of the Senate amendments. That's because the Defense bill the House of Representatives passed in June (H.R. 2657) included virtually the same plan for Chapter 61, Title 10 (U.S.C.) retirees. House leaders found cost offsets for the first year's spending requirement, and pledged to find them for the remaining years. The House action guaranteed the issue will be on the table as House and Senate leaders meet in Conference to work out the differences between the two bills passed by their respective chambers. This should happen when lawmakers return from their August Recess.

Again, it is important that we make the case that retirement and disability payments are for two entirely different things. A veteran may receive other Federal and non-Federal benefits, in addition to VA service-connected disability compensation, either in part or in full. A veteran can receive service-connected disability compensation without any offsets, reductions or limits with:

- unemployment compensation;
- Social Security;
- Federal civil service pay;
- pay from a private sector job;
- Federal civil service retirement (including disability retirement);
- retirement pension from non-federal jobs; and,
- Federal workers compensation (benefits for work-caused disability or illness provided under FECA).

Since these income sources are not offset, it is hard to justify that military retirement pay be considered an offset.

Proponents argue that simple, equitable justice is one reason to allow the Disabled Veterans' Tax to continue. Military retirees are the only Federal employees who must offset their retired pay with VA disability compensation. Proponents also claim that the unique nature of military service, given their sacrifices and hardships, merit these retirees receiving both military retired pay and VA disability compensation. For the past decade, many veterans' programs have been pared to the bone in the name of balancing the budget. Many veterans' advocates feel it is time that retirees receive compensation for these fiscal sacrifices.

VA service-connected disability compensation is awarded for disabilities that cannot be equated with disabilities incurred in civilian life. Military service rendered in defense, and on behalf, of the Nation deserves special consideration in determining policy toward benefit offsets. It is a moral and ethical responsibility to award preferential treatment to the needs of any veteran, given their sacrifices and hardships incurred during honorable military service.

Two years ago, then-President Bush signed P.L. 108-136 to allow certain service-connected disabled military retirees with at least 20 years of service to concurrently receive both their military retired pay and their VA disability compensation without the dollar-for-dollar offset. This created two different programs, the Combat Related Special Compensation (CRSC) and the Concurrent Retirement and Disability Pay (CRDP). **CRSC** allows eligible military retirees to receive both their military retirement pay and VA disability compensations without any offsets and tax-free. Initially, **CRDP** would be phased in over a 10-year period for military retirees whose service-connected disabilities are rated at 50 percent or greater (military retirement pay is still taxable and VA disability compensation is tax-free, but there is no offset). PL 108-375 contained a provision to repeal the 10-year phase-in for eligible 100 percent service-connected disabled military retirees.

The National Defense Authorization Act for FY 2008, P.L. 110-181, included two significant Disabled Veterans' Tax provisions. It authorized full, immediate concurrent receipt for disabled retirees with at least 20 years of service deemed "unemployable" by the VA, with payment retroactive to Jan. 1, 2005. Payments will begin October 1, 2008. The second provision extended eligibility for Combat-Related Special Compensation to all military disability (chapter 61, Title 10, U.S.C.) retirees with less than 20 years of service who suffer from combat- or operations-caused conditions.

The American Legion will continue to seek the complete repeal of the prohibition on receiving payments from both programs. ***All*** service-connected disabled military retirees should be eligible to participate regardless of length in service or VA disability rating.

POINT PAPER
on
MEDICARE REIMBURSEMENT FOR VA MEDICAL CARE

Under current law, the Department of Veterans Affairs' Veterans Health Administration (VHA) cannot bill the Centers for Medicare and Medicaid Services (CMS) for third-party reimbursements for the treatment of nonservice-connected medical conditions of enrolled Medicare-eligible veterans, even if the health care is routinely covered under Medicare. This prohibition constitutes a multibillion-dollar annual subsidy to the Medicare Trust Fund. The American Legion does not agree with this policy and supports allowing Medicare reimbursement to VHA for the treatment of nonservice-connected medical conditions of enrolled Medicare-eligible veterans.

Medicare is a prepaid, Federally-mandated health insurance program for all eligible Americans. Generally, any person is eligible for Medicare if that person or their spouse worked for at least 10 years (or 40 quarters) in a Medicare-covered employment, is 65 years of age or older, and is a citizen, or permanent resident, of the United States. Others may qualify for coverage if they are under age 65 with severe disabilities. However, nearly every working person in the United States is mandated, by Federal statute, to make monthly contributions to Medicare throughout their working career. Veterans pay into the Medicare system, without choice, throughout their working lives, as do most other citizens. A portion of each earned dollar is allocated to the Medicare Trust Fund and although veterans must pay into the Medicare system, they cannot use their Medicare benefits at any VA health care facility. The American Legion believes veterans should be permitted to select their health care provider and use the Medicare benefits that they have paid for during their lifetime.

VHA is the nation's largest comprehensive, integrated health care delivery system that provides excellence in health care value, service, education, and research. One of the primary missions of VHA is to meet the medical needs of America's veterans by providing specialized care, primary care and related medical and social support services for eligible veterans. VHA consists of hospitals, ambulatory clinics, nursing homes, domiciliaries, and readjustment counseling centers located nationwide. Eligibility for enrollment in VHA is based on honorable military service and only limited by annual discretionary appropriations. Access to care is determined on a priority basis. Currently, although there are almost 24 million veterans; only about 8 million are enrolled in VHA. Of those enrollees, over half of the VHA patient population is Medicare-

eligible. Since VA is currently prohibited from collecting reimbursements from Medicare for allowable treatment of nonservice-connected medical conditions, VHA saves the Medicare Trust Fund billions of dollars annually (conservative estimates range between $2 to 4 billion annually).

VHA continues to seek other revenue streams to supplement limited annual Federal discretionary appropriations and meet the growing demands for quality treatment of enrolled veterans. VHA is authorized to bill, collect and retain payments from enrolled veterans and their health care insurers, except Medicare, for inpatient and outpatient care, outpatient medications and long-term care services. In contrast, the Indian Health Service (IHS) is successfully billing and collecting from both Medicare and Medicaid. In addition, TRICARE for Life is the Department of Defense's (DoD) newest version of Medicare reimbursement. The American Legion is unaware of any third-party reimbursement billing and collection problems with CMS by either of these two Federal agencies.

Fraud, waste and abuse continue to be a major problem in the Medicare program. Annually Medicare reports billions of dollars in fraudulent billing. However, the problem does not seem as severe in billing by Federal health care agencies, such as DoD or IHS.

The American Legion supports Medicare reimbursements to supplement VA's annual budget. The American Legion continues to lobby lawmakers to authorize VA to collect third-party reimbursements from the CMS.

House Veterans' Affairs Committee Chairman Bob Filner (CA), with four cosponsors, introduced H. R. 3365, the *Medicare VA Reimbursement Act of 2009*, on July 28, 2009. This bill provides Medicare payments to Department of Veterans Affairs medical facilities for items and services provided to Medicare-eligible veterans for nonservice-connected conditions. This bill is a legislatively complex bill because its subject matter crosses three committee jurisdictions in the House. Those committees are Veterans' Affairs, Energy and Commerce, and Ways and Means. When hearings are held on this bill, The American Legion intends to testify in support of this legislation.

In conclusion, today's fiscal realities require VHA to seek other revenue streams to supplement the growing demand for medical services and The American Legion believes that enactment of Medicare reimbursement will result in more accessible, quality health care for all enrolled Medicare-eligible veterans.

POINT PAPER
on
NEW GI BILL EDUCATIONAL BENEFITS LAW

The Servicemen's Readjustment Act of 1944, the GI Bill of Rights, was crafted to meet the needs of a massive demobilization of service members in the post-World War II society. Often considered one of the greatest pieces of social legislation ever enacted, the GI Bill continues to evolve with each new generation of wartime veterans because of significant changes in the country's existing social and economic cultures.

When educational benefits were updated in the 1984 Montgomery GI Bill (MGIB) for active duty service members, neither Congress nor the military envisioned Reserve component service members would be mobilized to active duty as they are today. However, the idea that Reserve components are a strategic force is no longer relevant in 21st Century warfighting. Today, Reserve forces are operational forces and they fight side-by-side with active duty forces, bringing their unique skills and abilities to the modern battlefield. The American Legion believes educational benefits due these Reserve component warriors must reflect this new military reality.

Currently, there are two forms of the GI Bill. They are the Montgomery GI Bill-Active Duty (MGIB-AD) and the Montgomery GI Bill-Selected Reserve (MGIB-SR). Active duty benefits are covered under title 38, United States Code (USC), and title 10, USC, covers Selected Reserve benefits. These programs remain in effect along with this new benefit. There is discussion in Congress to bring the current programs together under the administration of the Department of Veterans Affairs (VA).

The *Post-9/11 Veterans Educational Assistance Act of 2008* (Public Law 110-252) passed in the 110th Congress. The date this new benefit began was August 1, 2009. This new law covers the cost of tuition up to the most expensive in-state public school and provides stipends for books and housing based on the cost of living near the college. The law also allows members of the National Guard and Reserves to accumulate their active-duty time and qualify for full benefits after serving three years of active duty. Another significant provision allows service members to transfer all or some of their educational benefits to their spouses and children.

Even though the package of benefits under the new law, in most cases, provides a better financial deal compared to the old one, veterans must now carefully weigh benefits available to them under the new Post 9/11 GI bill and the older Montgomery GI bill before making an educational benefit choice, which will, according to VA, be irrevocable. The American Legion strongly suggests veterans and service members review the information provided in the Legion's GI Bill educational benefits guide which is found at www.legion.org by clicking on the MY GI BILL tab.

Below is a layout of MGIB benefits and comparable benefits in the new GI Bill. The American Legion will continue to monitor Congress, VA and DoD on their efforts to implement or amend this new law.

Benefit	*Current MGIB*	*New GI Bill*
Adjustments	*By Congress*	*Tied to highest in-State public institution of higher education tuition and other adjustments approved by Congress*
What determines benefit amount	*By Congress*	***Tuition** is based on the highest in-state public school tuition; **monthly stipend** rates set by basic allowance for housing (BAH) based on school locations-amount payable to a military E-5 with dependents**; flat rate annual stipend** for books**
Tuition	*None*	*Amount of tuition and fees charged, not to exceed the most expensive in-State undergraduate tuition at a public institution of higher education (**paid to the school**)*
Monthly Stipend	*$1,321 maximum per month for an eligible full time student (36 months*	*Variable monthly stipend is set by the basic allowance for housing*

	maximum)	*(BAH) authorized for an E-5 with kin based on school location (**paid to the veteran**)*
Flat rate annual book and supplies stipend	*None*	*Annual stipend of $1,000 (**paid to the veteran by semester**)*
Relocation payment	*None*	*One time payment of $500 may be payable to certain eligible veterans relocating from highly rural areas (**paid to veteran**)*
Tutorial assistance	*Tutorial assistance of $100 a month for 12 months, not to exceed $1,200*	*Tutorial assistance up to $1,200 per academic year (**paid to the veteran**)*
Administration of benefits payments	*Monthly check sent to veteran after proof of enrollment*	*3 separate benefits payments: 1. Tuition sent as voucher to school prior to semester, 2. Monthly living stipend paid to veteran, 3. Book stipend paid to veteran each semester*
Service requirement	*3+ years of continuous active duty for full benefit OR 2 years continuous active duty plus 4 years in Selected Reserve*	*Sliding scale of active duty served <u>after</u> September 10, 2001- 100% of benefits are paid after at least 36 months of active duty OR at least 30 continuous days of active duty and then discharged due to service connected disability*
Transferability	*Re-enlistees with critical skills can transfer up to 18 months (determined by each branch of service)*	*Service members on August 1, 2009, with 10 years of active duty may transfer tuition benefits to their spouse or dependent children;*

		spouses may receive benefit after 6 years if service member agrees to another four-year contract; benefit may be divided among family members
Service member contribution	*$1,200 pay reduction ($100 per month for one year)*	*New service members pay nothing; enrollees who previously paid DOD the $1,200 will have the amount refunded by VA*
Maximum months of benefits	*36 months*	*36 months*
Delimiting date	*10 years from discharge*	*15 years from last period of active duty of at least 90 consecutive days OR if released for a service connected disability, after at least 30 days of continuous service*
Type of discharge	*Honorable Discharge*	*Honorable Discharge*
Benefits for licensing courses or certification tests	*Licensing and certification tests*	*Entitled to payment for one licensing or certification test up to $2,000; does not include preparatory courses for licensing or certification tests*
Benefit enrollment	*Benefit election is made when entering service*	*May enroll anytime after meeting 90 days of active duty <u>after</u> September 10, 2001, until delimiting date*
Use of benefits to repay student loans	*Cannot use benefits to repay Federal or private student loans*	*Cannot use benefits to repay Federal or private student loans*
Additional educational assistance	*None*	*Yellow Ribbon G. I. Education Enhancement Program***

* Housing allowance and books and supplies stipend are not payable to individuals on active duty. Housing allowance is not payable for those pursuing training at half time or less or individuals taking distance learning.

** The *Yellow Ribbon G.I. Education Enhancement Program* allows the use of public-private contributions for additional educational assistance in instances where the educational assistance provided by this legislation does not cover the full cost of attending a particular college or university.

Notes:
-The American Legion has information on the new GI Bill on its web site, www.legion.org.

-The VA has a pamphlet on the new GI Bill on its web site, www.gibill.va.gov, and a toll-free number, 1-888-GIBILL1, for questions.

The 111th Congress has held hearings on the long term and short term implementation strategies for administration of the Post-9/11 GI Bill by VA. These hearings also updated Congress on VA's development of the information technology components for the new law and the progress that has been made towards its implementation. The American Legion testified before Congress earlier this year about its concerns regarding VA's implementation strategies and our demand that VA be ready to fulfill its administrative duties 'right the first time' on August 1.

There are three phases the VA Office of Information and Technology is using to implement the law. Phase 1 included improving VA's capability to accept applications for educational benefits and manually store eligibility and entitlement information. Phase 2 added specific data elements for electronically processing claims and providing tuition payment calculations to veterans. Phase 3 enhanced VA's capability to determine entitlement amounts and benefit levels for veterans based on years of military service.

Since May 1, 2009, VA has received more than 150,000 applications from veterans for the benefit. According to VA, approximately 35,000 of those claims have been processed by regional processing offices (RPOs). On July 6, 2009, VA began accepting enrollment certifications from school officials and began processing claims for payment. In addition, VA has hired and trained approximately 530 temporary claims examiners to help process the claims received. VA has authorized all RPOs to hire 230 additional claims examiners, if necessary.

Part of the new law is the Yellow Ribbon G.I. Bill Education Enhancement Program. The Yellow Ribbon program is a provision of the Post-9/11 GI Bill that funds tuition expenses exceeding the highest public in-state undergraduate tuition rate that VA covers.

Schools may contribute up to 50 percent of those expenses and VA will match this additional funding for eligible students. The Yellow Ribbon program is reserved for veterans eligible for the Post-9/11 GI Bill at the 100 percent benefit level. This includes those who served at least 36 months on active duty or served at least 30 continuous days and were discharged due to a service-related injury. The program's maximum benefit allows every eligible veteran or active duty or reserve component service member to receive an in-state, undergraduate education at a public institution at no cost. Provisions of the program include payments for tuition and fees, housing, plus a stipend for books and supplies. Benefits are payable for education pursued on or after August 1, 2009. The tuition and fee benefit is paid directly to the school. As of June 15, 2009, VA has approved approximately 2,229 Yellow Ribbon Program agreements. Information on specific schools participating in the Yellow Ribbon program may be found at www.gibill.va.gov/GI_Bill_Info/CH33/YRP/YRP_List.htm.

Lastly, The American Legion noticed there was a disparity in the benefit with regard to the wide ranging tuition and fees rates found in different states. The Post-9/11 GI Bill authorizes VA to pay actual tuition and fees charged by a private school up to the maximum charged by the most expensive public university in the state. California state schools, however charge little or no tuition, but instead label the cost as "fees." The result of this semantic difference was that veterans attending private schools in California would receive a far smaller benefit than those attending private schools in other states. The VA and California have resolved this issue by allowing VA to accept a new California billing line item called "Educational Fee/Tuition" to meet the requirements of the new law. This solution allows veterans attending a California private school the same benefits as any other veteran across the nation.

POINT PAPER
ON
THE WAR ON TERRORISM

Since the terrorist attacks of September 11, 2001, American Armed Forces have been involved in direct military actions against terrorist groups in Afghanistan and Iraq – Operations Enduring Freedom (OEF) and Iraqi Freedom OIF) – as well as deployments to other countries around the world. They are risking their lives in harsh, foreign environments to deliver freedom and stability to oppressed peoples, and to prevent future attacks against America.

Today's soldiers serving their country overseas do so against a backdrop of a small, overly vocal antiwar movement that has generated widespread international publicity. Intense media coverage of antiwar demonstrations conveys confidence to the enemy, giving them aid and comfort and hope that continued pressure will defeat a US military affected by home-front divisions. Troops at war need to know America stands behind them and behind the cause for which they are risking their lives – freedom. The privations of war and threats of enemy attack are strenuous enough without home-front protestors symbolically impugning the war and the warrior.

To "*support the warrior*" is to support the cause for which he or she fights. In the war against terrorism, traditional battle lines and definitions are blurred, but the connection is clear between the ***fighter*** and the ***fight***. As more National Guard and Reserve citizen-soldiers are deployed and see their deployments extended, the warrior is also more often than before a coworker, a neighbor, a father or a mother within the local community.

IRAQ

In late 2008, the Iraqi Parliament passed the U.S. – Iraq status of Forces Agreement (SOFA). This SOFA establishes a tentative timetable where U.S. combat forces were to withdraw from Iraqi cities by June 30, 2009, and that all U.S. forces will be completely out of Iraq by December 31, 2011. The pact is subject to possible negotiations which could delay withdrawal and a referendum scheduled for mid-2009 in Iraq which may require all U.S. forces to completely leave by the middle of 2010.

So far the withdrawal from the cities seems to be a qualified success. Although attacks are predictably higher, the ability of the Iraqi units to handle those issues seems to be fairly good. In fact, Secretary of Defense Gates even suggested that the pull out of troops could be faster than was initially envisioned. Gates said the original plan was to go from 14 to 12 brigade combat teams by January 1, but he said it is possible that maybe one more of the teams could be withdrawn. "I don't think there is anything in the cards for a slowdown. I think there is some chance of a modest acceleration. But because of the way Gen. Odierno sees things going, that remains to be seen," Gates told reporters on July 29th.

Although there still is no revenue sharing plan for the vast oil reserves in Iraq, Prime Minister Nuri al-Maliki and Kurdish regional president Masoud Barzani held a rare meeting early this month and agreed to further talks to solve the disagreements over land and oil seen as the greatest threat to Iraqi security. Al-Maliki's government has also drafted legislation to reform the Iraqi National Oil Company, with that legislation moving to the Parliament for action.

AFGANISTAN

On August 20, the second Presidential Elections in Afghanistan took place amid calls from Taliban leaders to refrain from voting, and a call to their people to disrupt the elections with violence. Although some violence did take place, most consider the elections a success based on early reports. Even in the Taliban stronghold of Kandahar voting participation was above 60 percent, higher even than percentages in the United States.

President Obama has declared Afghanistan and neighboring Pakistan one of his top foreign policy priorities. But his administration is grappling with next steps there as it seeks to disentangle 130,000 American troops from Iraq. President Obama's first move in the region was to place Gen. Stanley McChrystal, an expert at counter insurgency and kinetic operations, in charge.

Gen. McChrystal is currently mapping out a revised war plan that he will send to President Obama in the near future. Defense Secretary Robert Gates has said that report will not contain a request to expand the U.S. fighting force.

There are 62,000 U.S. troops in Afghanistan, and another 6,000 are headed there by the end of the year.

RESOLUTION 169

During the 90th National Convention in August 2008, The American Legion once again passed Resolution #169 entitled, "Support For The War On Terrorism." The resolution says in part:

Warriors, above all other people, pray for peace, for they must suffer and bear the deepest wounds and scars of war.

Because of the very nature of war, the warrior cannot be separated from the war itself.

The United States of America was suddenly, and without provocation, attacked by terrorists on September 11, 2001, resulting in the deaths of thousands of innocent civilians and members of the military of the United States.

This tragic event does not stand alone, but is a continuation of a long series of unprovoked terrorist attacks aimed at destroying American lives, and the very basic core values of freedom, democracy and respect for human life.

In response to this despicable act of cowardice, a united Congress in a bipartisan manner authorized the use of armed force against the global armies of terrorism no matter where they reside.

Recognizing that the global war on terrorism is as deadly as any war in which the United Stated has been previously engaged, the President and Congress did authorize military actions in both Afghanistan and Iraq.

The global war on terrorism is a just war, aimed at protecting the very foundations of freedom and freedom-loving people everywhere.

The American Legion agrees with the Commander-in-Chief that acts of terrorism mentioned heretofore were aimed at "the heart and soul of the civilized world, and the world has come together to fight a new and different war, the first, and we hope the only one, of the 21st

Century – a war against all those who seek to export terror, and a war against those governments that support or shelter them".

The American Legion fully supports the President of the United States, The United States Congress and the men and women and leadership of our armed forces as they are engaged in the global war on terrorism.

The American Legion urges all Americans and Freedom-loving people everywhere to stand united in their support of the global war on terrorism, and united in their support of the global war on terrorism, and united in their support of the troops who are engaged in protecting our values and way of life.

That the National Commander be and is hereby authorized to use whatever means at his disposal to disseminate accurate information about this war on terrorism, and to engage whatever means necessary to ensure the united support of the American people.

POINT PAPER
0N
ILLEGAL IMMIGRATION

Thus far President Obama has set his sights on many of the larger issues which he has set as his priorities: tackling the sagging economy, climate change, overseas military operations and health care reform. But the one issue he hasn't explicitly touched on as yet, and which the Congress is sure to act on when he does, is the issue of illegal immigration. During his time in the Senate, President Obama made clear his positions in dealing with this issue:

> *In approaching immigration reform, I believe that we must enact tough, practical reforms. . . . We need stronger enforcement on the border and at the workplace. . . .But for reform to work, we also must respond to what pulls people to America. . . . Where we can reunite families, we should. Where we can bring in more foreign-born workers with the skills our economy needs, we should. . . . The time to fix our broken immigration system is now. It is critical that as we embark on this enormous venture to update our immigration system, it is fully reflective of the powerful tradition of immigration in this country and fully reflective of our values and ideals.*

The American Legion believes that the security, economy and social fabric of the United States is seriously threatened by individuals who are illegally in this country. They are undocumented, live in the shadows of society and by failing to assimilate into our culture divide America into ethnic conclaves. The words "undocumented" and "illegal" are synonymous and describe those immigrants who: 1) enter illegally across the nation's borders; and 2) those who enter legally and illegally overstay their visas.

The number of illegal immigrants currently in the United States is uncertain. Estimates range from: 11 million (Pew Hispanic Research Center, 2005); 10 to 12 million (Federation for American Immigration Reform, 2005); and up to 20 million (Bear Stearns Report, January 2005). It is also not known just who these people are, exactly where they came from or what their intentions might be. According to a recent Center for Immigration Studies article:

> *The evidence indicates that the illegal population declined after July 2007 and then rebounded somewhat in the summer of 2008 before resuming its decline in the fall of 2008 and into the first quarter of 2009. Both increased immigration enforcement and the*

recession seem to explain this decline. There is evidence that the decline was caused by both fewer illegal immigrants coming and an increase in the number returning home. However, this pattern does not apply to the legal immigrant population, which has not fallen significantly.

There are many proposals to reform the nation's immigration laws, ranging from strict enforcement provisions to an across-the-board amnesty. The two sides, however, are miles apart and it is unlikely that any solution will be fully acceptable to all concerned.

The American Legion supports an immigration policy that eliminates social, economic and population problems resulting from illegal immigration. But above all, The American Legion views illegal immigration as a national security issue in its truest sense. The American Legion urges Congress to act responsibly in addressing the issue by accepting its responsibility as outlined in the U.S. Constitution. That is, "to provide for the common defense," and, most importantly, to provide for the safety of the citizens of this country. Illegal immigration is a violation of the law.

Illegal immigration is not a victimless crime. The poor, minorities, children and individuals with little education are particularly vulnerable. It causes an enormous drain on public services, depresses wages of American workers, and contributes to population growth that, in turn, contributes to school overcrowding and housing shortages. Directly and indirectly, U.S. taxpayers are paying for illegal immigration.

The costs of illegal immigration in terms of government expenditures for education, criminal justice, and medical care in California alone are significant, "costing the state's taxpayers more than $10.5 billion per year," according to the Federation for American Immigration Reform. Whereas states must pay the high cost of providing such services, illegal immigration has become one of the largest "unfunded" Federal mandates.

Although many of the largest costs are at the state and local level, there are also significant costs at the Federal level. According to a report by the Center for Immigration Studies the average illegal alien household in 2003 paid approximately $4,200 in Federal taxes while, on average, created $7,000 in costs at the federal level. Even though Federal laws require public assistance agencies to verify that a recipient of services is in this country legally, some agencies fail to verify that eligibility.

The American Legion has a 5 point proposal for U.S. Immigration Reform.

Secure the Borders and other Points of Entry

There can be no effective immigration reform without first securing the borders and the coastline boundaries to this country. When the United States shows it has control of its borders, then and only then should Congress consider guest worker or temporary worker initiatives.

Securing the borders and coastlines will require additional frontline Border Patrol agents, the newest surveillance technology, fences or barriers in some locations, support from U.S. military units and a commitment of cooperation from federal, state and local governments. A plan, including legislation for implementation, will not work if there is no funding or enforcement. That was a painful lesson learned from the Immigration Reform and Control Act of 1986 (IRCA) amnesty when legalization occurred without securing the borders. The result was a stampede of illegals across the borders to take advantage of the government's benevolence.

Eliminate the Jobs Magnet and Social Services Benefits for Illegals

The second step in immigration reform is the elimination or reduction of employment opportunities in this country for illegal immigrants. If the number of available jobs were reduced, there would be less incentive for illegals to remain in this country. There are native workers available to work in jobs currently being held by the illegal workforce, if they were given a decent wage.

The American Legion supports mandatory eligibility verification of all employees. It calls upon the Federal government to require the Department of Homeland Security and the Social Security Administration to develop a system providing electronic verification of work eligibility and an annual re-verification of aliens.

No Amnesty

The American Legion is opposed to any policy that would give illegal immigrants legal permission to remain in the United States, whether such a policy is referred to as "legalization," "regularization," "a guest worker program," "earned status adjustment," or "earned access."

The United States for over 200 years only granted amnesty in individual cases and did not give a blanket amnesty to large numbers of aliens until 1986. That was the year Congress passed the Immigration Reform and Control Act (IRCA) that legalized all illegal aliens who met certain criteria, resulting in 2.8 million illegal aliens being admitted as legal immigrants. It was supposed to be a "one time only" amnesty but six more followed.

The American Legion is not opposed to the legal temporary workers programs when administered with established numerical limits so as to prevent labor market distortions. Application for such programs must originate from the worker's home country and only after a criminal background check has been conducted.

Reduce the Number of Illegals in the United States

Currently, 10 million to 20 million individuals are in this country illegally. No one knows for sure the exact number, but it is safe to say that the majority of these individuals are both welcomed and scorned by the country's legal population. These illegals live on the fringe of our society on one hand adding strength to some segments of the economy, while on the other hand drawing from public assistance pool at the expense of American workers.

No one can dispute the need to reduce and control the illegal population in the United States. Some wish to deal with the problem by simply granting amnesty and providing an avenue toward citizenship. The American Legion believes we should seek to address the problem by reducing the number of illegals in this country through the enforcement of existing and new immigration laws.

The American Legion recognizes that mass deportation of all illegals is not a realistic option. Deportation of select groups is an option and one that should be used. The continuing threat of deportation and possible incarceration would serve as a deterrent to many who may be considering entering the United States illegally. The American Legion endorses a plan which calls for a strategy of attrition through enforcement of new and existing laws in combination with increased border security efforts.

Effectively Screen and Track all Foreign Visitors

Much of the illegal population in the United States entered the country by legal means and then overstayed their visas or other entrance documents. Such was the case of several of the September 11, 2001, terrorists who

came into the country via legal means and then dropped out of the government's sight until they flew airplanes into the World Trade Center, the Pentagon and into a Pennsylvania farm field, killing almost 3,000 people.

Historically, it has, for the most part, been those who have exploited weaknesses in this country's legal immigration system that have committed acts of terrorism in the United States. They include several individuals involved in the first World Trade Center attack, conspirators in plots to bomb the New York subway system, and the plot to destroy New York City landmarks.

The American Legion supports comprehensive screening and background checks on all foreign visitors and a means to track their whereabouts and monitor their intentions while physically in the United States. Releasing them in our society, as has often been the case in the past, is not in the best interest of national security.

A more lengthy discussion of The American Legion's Policy on Illegal Immigration can be found at our website at:

http://www.legion.org/documents/legion/pdf/illegalimmigration.pdf

111TH CONGRESS – 1ST SESSION
LEGISLATIVE POINT PAPERS

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September 2009

POINT PAPER
ON

FY 2010 MILITARY CONSTRUCTION, VETERANS' AFFAIRS, AND RELATED AGENCIES APPROPRIATIONS

The American Legion has presented its views to Congress for many years to spotlight the needs of this country's veterans and their dependents. On September 11, 2008, National Commander Dave Rehbein addressed a Joint Session of the Veterans' Affairs Committees to present The American Legion's views regarding matters that will come before the 111th Congress concerning key veterans' issues. The Commander's testimony can be found at http://veterans.house.gov/Media/File/110/9-11-08/CommanderTestimony.pdf. Normally, the budget process for Fiscal Year (FY) 2010 would be well underway at this time. However, due to a new administration taking office on January 20, 2009, the FY 2010 budget process did not begin until after the November 2008 election. Thus, National Commander Rehbein's testimony opened the Department of Veterans Affairs (VA) appropriations process for FY 2010.

The American Legion presented its views on the FY 2010 VA budget request to Congress on March 10. Testimony was given separately before the Senate and House Committees on Veterans' Affairs. After those hearings, the committees submitted their views to the Senate and House Budget Committees respectively.

The Budget Committees met and each passed their version of the FY 2010 budget resolution (the budget resolution is a non-binding 'blueprint' Congress will use to provide funding for FY 2010). With regard to advance appropriations, the House Budget resolution did not contain a provision for advance appropriations; however, the Senate Budget resolution, S. Con. Res. 13, did adopt an amendment for advance appropriations offered by Senator James M. Inhofe (OK). Because the Senate and House resolutions differed, the budget resolution needed to be resolved in a Senate-House Conference Committee. In the Conference Committee, the House agreed with the Senate and left the provision for advance appropriations in its Conference Report; however, the Conference Report said the FY 2011 VA medical care appropriations would be the same as the FY 2010 VA medical care appropriations.

The Conference Committee was very favorable to The American Legion's request. The Conference agreement for the FY 2010 budget provided $53.4

billion for FY 2010 for veterans' health care and other appropriated programs for veterans (not including medical care collections). The budget agreement provided $5.6 billion (11.7 percent) more funding for FY 2010 than the FY 2009 level (excluding emergency funding).

The budget agreement also allows Congress to provide appropriations for VA medical care one year in advance. So, Congress could appropriate in the FY 2010 appropriations bill funding for VA's three medical care accounts not only for FY 2010, but also funding to become available at the start of FY 2011.

The Budget Conference Committee agreement also affirmed VA's current policy of billing private insurance companies only for VA's treatment of health conditions that are not related to a veterans' military service. VA is not and should not be authorized to bill such companies for treating veterans' service-connected conditions.

On May 7, the President transmitted his VA budget request to Congress. It provided $112.8 billion (total including collections); $55.9 billion in discretionary funding and $56.9 billion in mandatory funding. The chart below provides additional discretionary funding information.

On July 10, the House of Representatives, by a vote of 415-3, passed H.R. 3082, a bill to fund the Department of Veterans Affairs and military construction programs for FY 2010. The bill is now before the Senate for action. Three days earlier, the Senate Appropriations Committee approved its version of the bill, S. 1407, by a vote of 30-0 and sent it to the full Senate for action as well.

In addition to FY 2010 appropriations, both H.R. 3082 and S. 1407 include advance appropriations for FY 2011 for the medical care accounts, totaling nearly $48.2 billion. These FY 2011 accounts include: $37.1 billion for medical services; $5.3 billion for medical support and compliance; and, $5.7 billion for medical facilities.

The chart below presents the major discretionary funding categories of VA's budget, showing funding in H.R. 3082 that was passed by the House, the funding requested by the Senate Appropriations Committee in S. 1407, and The American Legion's FY 2010 budget proposal as presented by Past National Commander Rehbein last September.

VA Discretionary Programs	H.R. 3082 FY 2010 VA Appropriations	S. 1407 FY 2010 VA Appropriations	American Legion's FY 2010 Request
Medical Services	$34.7 bil.	$34.7 bil.	***$42.8 billion (includes medical & prosthetic research)***
Medical Support and Compliance	$4.9 bil.	$5.1 bil.	
Medical Facilities	$4.9 bil.	$4.8 bil.	
Total Medical Care	***$44.5 bil.***	***$44.6 bil.***	
Medical Care Collections Funds	[$2.9 bil.]	[$2.9 bil.]	*
Medical/Prosthetic Research	$580 mil.	$580 mil.	$532 mil.
Information Technology	$3.3 bil.	$3.3 bil.	$2.7 bil.
General Operating Expenses	$2.1 bil.	$2.1 bil.	$2.8 bil.
National Cemetery Administration	$250 mil.	$250 mil.	$249 mil.
Major Construction	$1.2 bil.	$1.2 bil.	$1.8 bil.
Minor Construction	$700 mil.	$685 mil.	$1.5 bil.
State Homes Construction Grants	$85 mil.	$115 mil.	$275 mil.
State Cemeteries Construction Grants	$42 mil.	$42 mil.	$49 mil.

* The American Legion supports using Medical Care Collections Funds as *supplements*, not *offsets*, to discretionary VA funding.

The American Legion will continue to monitor the progress of the FY 2010 VA budget process. The new fiscal year begins on October 1, 2009.

The American Legion's legislative portfolio includes mandates that:

- Support a health care funding system that is *sufficient, timely, and predictable*;
- Support legislation allowing VA to collect Medicare payments;
- Increase access to VA health care for veterans in rural areas;
- End the VA ban on the enrollment of Priority Group 8 veterans;
- Ensure a seamless transition for veterans from the Department of Defense (DoD) to the VA, including reserve component service members;

- Ensure the long-term care needs of America's aging veterans are addressed;
- Support medical and prosthetics research development;
- Support construction of state-of-the-art medical facilities and the repair of those structures that require renovations and upgrades;
- Develop information technology for electronic medical records and ensure the technology allows DoD and VA medical systems to communicate these records to each other securely;
- Support the reduction of the outrageous disability compensation claims and appeals backlog;
- Ensure the disability benefits review process does not diminish veterans' rights;
- Support veterans' employment rights and veterans' hiring preference programs by government and government contractors and subcontractors;
- Support veteran-owned and service disabled veteran-owned small businesses in government procurement programs;
- Support legislation to provide job training programs for veterans with military occupational specialty skills that are not readily transferable to the private sector;
- Support grants to provide shelter and support for homeless veterans; and,
- Ensure the New GI Bill benefits are properly administered.

POINT PAPER
ON

FY 2011 MILITARY CONSTRUCTION, VETERANS' AFFAIRS, AND RELATED AGENCIES APPROPRIATIONS

The American Legion has presented its views to Congress for many years to spotlight the needs of this country's veterans and their dependents. On September 10, 2009, National Commander Clarence Hill addressed a Joint Session of the Veterans' Affairs Committees to present The American Legion's views regarding matters that will come before the 111th Congress concerning key veterans' issues.

Normally, the budget process for Fiscal Year (FY) 2011 begins in the Springtime when the Office of Management and Budget sends its funding recommendations to Federal Agencies. However, due to persistent lobbying by The American Legion and other veterans' service organization, the Military Construction, Veterans' Affairs, and Related Agencies for FY 2010 contains advance appropriations for the Department of Veterans Affairs' (VA's) medical care appropriations for $48.2 billion in FY 2011. Thus, National Commander Hill's testimony continues the appropriations process for the balance of VA's budget for FY 2011.

The American Legion hopes that this testimony will assist both Congress and the Administration in developing the VA budget for FY 2011. Once again, The American Legion will ask Congress and the Administration to provide advance appropriations for VA medical care in FY 2012.

The table below outlines The American Legion's VA funding recommendations for FY 2011:

Program	Legion's Recommendations for FY 2011
Medical Services	**$48 billion** (including Medical and Prosthetic Research)
Medical Administration	
Medical Facilities	
Medical Care Total	
Medical Care Recovery Fund	*
Medical and Prosthetic Research	**$700 million**
Major Construction	**$2 billion**
Minor Construction	**$1.5 billion**
State Veterans Homes Grants	**$275 million**
State Veterans Cemetery Grants	**$50 million**
National Cemetery Administration	**$260 million**
Information Technology	**$3.8 billion**
General Operating Expenses	**$3.2 billion**

* The American Legion continues to support using Medical Care Recovery Funds as *supplements*, not *offsets*, to discretionary VA funding.

The American Legion welcomes the opportunity to work with the Administration and Congress to assure veterans and their families continues to receive timely access to the "best care anywhere" in the nation's largest integrated health care delivery system.

The American Legion recognizes the challenges facing the Veterans Benefit Administration (VBA) and the million case backlog. The American Legion pledges to work with VBA at the local and national level to aggressively attack the backlog dilemma. The American Legion is committed to the professional training of its Veterans Service Officers to assist veterans and their families in providing VBA with well developed claims.

The American Legion will continue its visits of VA medical facilities in 2010 and submitting a written report, **A System Worth Saving**, to Congress and the Administration. This excellent report is designed to provide a "snapshot" of construction observations.

Once again, The American Legion will urge timely completion of both Major and Minor Construction projects throughout VA. The nation's best health care

delivery deserves the best infrastructure possible to support the VA's primary missions.

Without question, the State Veterans Homes Grants are a valuable complement to VA Long-Term Care efforts. This State and Federal government partnership is a jewel that will continue to need polishing. With an aging veterans' population, demands for access will continue to grow. However, The American Legion is deeply concerned with the amount of funding VA pays these State Veterans Homes for the quality of services they provide.

The final resting place for many veterans is within National Veterans' Cemeteries or their local veterans' cemetery. The American Legion applauds the efforts of the National Cemetery Administration and all State Veterans' Cemeteries. Many Legionnaires perform burial ceremonies in these excellent cemeteries and have a deep appreciation for the maintenance of these hallowed grounds.

The American Legion will continue to support Information Technology, especially with regards to VA and Department of Defense (DoD) interconnectivity of electronic medical records. The American Legion fully supports achieving this objective within the next four years.

POINT PAPER
ON

FY 2011 LABOR, HEALTH AND HUMAN SERVICES, EDUCATION, AND RELATED AGENCIES APPROPRIATIONS

The Assistant Secretary for Veterans' Employment and Training (ASVET) serves as the principal advisor to the Secretary of Labor on policies and procedures affecting veterans' employment matters. The Veterans' Employment and Training Service (VETS) furnishes employment and training services to service members and veterans through a variety of programs, including providing grants to States, public entities, and non-profit organizations, to assist veterans seeking employment. VETS investigates complaints filed under veterans' preference and re-employment laws. VETS administers the Disabled Veterans' Outreach Program (DVOP) and Local Veterans' Employment Representatives (LVER) state grant programs; Transition Assistance Program; veterans' preference and Uniformed Services Employment and Reemployment Rights Act (USERRA); Homeless Veterans' Reintegration Program (HVRP); Veterans Workforce Investment Program (VWIP); and the National Veterans' Training Institute (NVTI). VETS mission is to promote the economic security of America's veterans by assisting them in finding meaningful employment. VETS is one of the Federal government's best-kept secrets and The American Legion believes the Department of Labor (DOL) should endeavor to better promote it around the country.

The President requested a FY 2010 budget of $255.1 million to support the staffing and grant-making ability of VETS. The House provided an additional $2 million in its appropriations bill, H.R. 3293, which passed by a vote of 265-153 on July 24, and was sent to the Senate. The Senate Appropriations Committee, however, amended H.R. 3293 back to the President's original budget request and passed the bill to the full Senate. This bill is now on the Senate calendar.

Program	**President's Proposal FY 2010**	**H.R. 3293 FY 2010**	**H.R. 3293 Senate Appropriations Committee bill**
State Administration Grants	$172.4 million	$175.9 million	$172.4 million
Program Administration	$35.3 million	$31.9 million	$35.3 million

Natl. Veterans Training Institute	$2.4 million	$2.4 million	$2.4 million
Homeless Veterans Program	$35.3 million	$37.3 million	$35.3 million
Veterans' Workforce Investment Programs	$9.6 million	$9.6 million	$9.6 million
Total	***$255.1 million***	***$257.1 million***	***$255.1 million***

The American Legion continues to lobby Congress to reauthorize and adequately appropriate funds for the Service Members Occupational Conversion and Training Act (SMOCTA) program. 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 determined is not readily transferable to the civilian workforce or for those veterans with a service-connected disability rating of 30 per cent or higher. SMOCTA is a unique job-training program because there is a job for the veteran upon completion of training. Many LVERs and DVOPs Specialists publicly praised the effectiveness of SMOCTA because it successfully returned veterans to the civilian workforce.

On February 9, 2009, Representatives Peter Welch (VT) and John Boozman (AR) introduced H.R. 929, which will essentially reauthorize the SMOCTA program, but renames it the Military Occupation Specialty Transition (MOST) Program. The bill includes $60 million for the next ten years to fund this program. Although SMOCTA has been changed to the Military Occupational Specialty Transition (MOST) program, the language and intent of the program still applies in this new legislation. The American Legion was instrumental in support of the development of this legislation and supports its passage. If enacted, MOST would be the only Federal job training program available strictly for veterans and the only Federal job training program specifically designed and available for use by state veterans' employment personnel to assist veterans with barriers to employment.

POINT PAPER
ON
ADVANCE APPROPRIATIONS FOR VA HEALTH CARE

The American Legion believes the cost of the Department of Veterans Affairs (VA) medical care is a continuing cost of freedom.

Over the years, The American Legion has worked diligently to increase *discretionary* medical care funding for VA to care for America's veterans and their families. The VA receives these discretionary funds from an annual appropriations law passed by Congress and signed by the President every year. The VA's Fiscal Year (FY) is supposed to begin on October 1.

The problem for America's veterans is that these funds are not always available to VA on October 1 because of political conflicts. This delay in the timely provision of medical care funds means the VA medical care system administrators cannot hire medical personnel; procure new medical equipment, supplies and services; and construct and maintain VA medical facilities until those funds are authorized and appropriated.

The core problem in adequately funding veterans' medical care is the inherent political nature of the appropriations process. In essence, the VA budget is not created based upon the medical care needs of veterans and their dependents, rather it is a budget based upon the political agendas of Congress and the President, both of which see the VA budget as a political document, not as a medical care document.

The American Legion decided this approach to annual funding failed America's veterans who earned this benefit by virtue of their selfless devotion to country through their military service. Because the current medical care funding model used to approve annual discretionary appropriations is clearly flawed, The American Legion joined with eight other veteran service organizations (VSOs) to advocate for change. In 2001, The American Legion joined The Partnership for Veterans Health Care Budget Reform (Partnership) with Disabled American Veterans, Veterans of Foreign Wars, Paralyzed Veterans of America, AMVETS, Vietnam Veterans of America, Military Order of the Purple Heart, Jewish War Veterans, and Blinded Veterans Association. The original intent of the Partnership was to support a mandatory funding mechanism to the VA appropriations process. This approach arose from a recommendation taken from

the final report of the President's Task Force to Improve Health Care Delivery for Our Nation's Veterans.

The Partnership wanted to end the yearly political fight for discretionary appropriations for VA's Veteran Health Administration (VHA) which administers three VA medical care accounts. Those accounts are: Medical Services; Medical Support and Compliance; and Medical Facilities. Mandatory funding for these accounts meant that veterans medical care funding would be on par with Medicare or Medicaid funding, both of which do not have to go through the annual appropriations process. However, even with all nine VSOs strongly lobbying for this change for the past eight years, Congress opposed all efforts to change their failed funding system.

The two main reasons Congress gives for maintaining the current flawed system are that mandatory funding would interfere with Congress' own self-imposed budgetary rules (known as PAYGO) and that Congress may lose oversight capability of the VA medical care system. Although the Partnership disagrees with both reasons and still supports mandatory funding, it has decided to develop a second approach to Congress for providing VA health care funding; one that meets the Partnership goals of providing *sufficient, timely and predictable* funding for VA medical care, but also meets the concerns of Congress.

The Partnership proposes that Congress appropriate funds for the VHA accounts one year ahead of the current fiscal year; this process is also known as '*advance appropriations'*.

Advance appropriations is a technique used by Congress for the last several decades to secure discretionary budget authority one year *in advance* for certain government programs. In this instance, The American Legion advocates VA have its three VHA medical care accounts funded one year ahead of most other government programs; Congress still maintains its discretionary authority to approve and oversee the use of these funds. By having its discretionary appropriations authority decided one year ahead of time the three VHA medical care accounts would be removed from current fiscal year competition and VA would have its medical care funds available on October 1 of every new fiscal year (there would have to be a one-time two year appropriation process to start this cycle). In addition, if advance appropriations for VA medical care are adopted by Congress, VHA administrators will know one year in advance what their fiscal year appropriations will be and can thus plan accordingly for delivering quality medical care services to all enrolled veterans who need it.

Two bills for VA advance appropriations were introduced on February 12, 2009; each was entitled the *"Veterans Health Care Budget Reform and Transparency Act of 2009."* The Senate bill**, S. 423**, was introduced by Senate Veterans' Affairs Committee Chairman Daniel Akaka (HI) and has 53 cosponsors. The House bill, **H.R. 1016**, was introduced by House Veterans' Affairs Committee Chairman Bob Filner (CA) and has 125 cosponsors.

H.R. 1016 passed the House of Representatives on June 23 and was sent to the Senate for action. S. 423 passed the Senate Veterans' Affairs Committee on July 8 and was sent to the full Senate for action. On August 6, the full Senate debated H.R. 1016. The Senate amended H.R. 1016 by deleting the language of the House bill and inserting the language of S. 423 into H.R. 1016. The Senate then passed this amended H.R. 1016 by Unanimous Consent and returned the now amended H.R. 1016 back to the House for further action.

The American Legion strongly supports enacting legislation for advance appropriations of the VHA medical care accounts. The goal is to stabilize VA medical care funding by providing sufficiency, timeliness, and predictability in VA's annual appropriations process.

In addition to those legislative bills, provisions for advance appropriations for FY 2011 have been incorporated in both the House and Senate versions of the Military Construction, Veterans' Affairs and Related Agencies Appropriations Act for FY 2010. These bills are **H.R. 3082**, which passed the House of Representatives on July 10 and is now on the Senate Legislative Calendar and **S. 1407**, which passed the Senate Appropriations Committee on July 7 and is also waiting for action on the Senate Legislative Calendar.

The American Legion will continue to monitor the progress of all of these bills.

POINT PAPER
on
MEDICARE REIMBURSEMENT FOR VA MEDICAL CARE

Under current law, the Department of Veterans Affairs' Veterans Health Administration (VHA) cannot bill the Centers for Medicare and Medicaid Services (CMS) for third-party reimbursements for the treatment of nonservice-connected medical conditions of enrolled Medicare-eligible veterans, even if the health care is routinely covered under Medicare. This prohibition constitutes a multibillion-dollar annual subsidy to the Medicare Trust Fund. The American Legion does not agree with this policy and supports allowing Medicare reimbursement to VHA for the treatment of nonservice-connected medical conditions of enrolled Medicare-eligible veterans.

Medicare is a prepaid, Federally-mandated health insurance program for all eligible Americans. Generally, any person is eligible for Medicare if that person or their spouse worked for at least 10 years (or 40 quarters) in a Medicare-covered employment, is 65 years of age or older, and is a citizen, or permanent resident, of the United States. Others may qualify for coverage if they are under age 65 with severe disabilities. However, nearly every working person in the United States is mandated, by Federal statute, to make monthly contributions to Medicare throughout their working career. Veterans pay into the Medicare system, without choice, throughout their working lives, as do most other citizens. A portion of each earned dollar is allocated to the Medicare Trust Fund and although veterans must pay into the Medicare system, they cannot use their Medicare benefits at any VA health care facility. The American Legion believes veterans should be permitted to select their health care provider and use the Medicare benefits that they have paid for during their lifetime.

VHA is the nation's largest comprehensive, integrated health care delivery system that provides excellence in health care value, service, education, and research. One of the primary missions of VHA is to meet the medical needs of America's veterans by providing specialized care, primary care and related medical and social support services for eligible veterans. VHA consists of hospitals, ambulatory clinics, nursing homes, domiciliaries, and readjustment counseling centers located nationwide. Eligibility for enrollment in VHA is based on honorable military service and only limited by annual discretionary appropriations. Access to care is determined on a priority basis. Currently, although there are almost 24 million veterans; only about 8 million are enrolled in VHA. Of those enrollees, over half of the VHA patient population is Medicare-

eligible. Since VA is currently prohibited from collecting reimbursements from Medicare for allowable treatment of nonservice-connected medical conditions, VHA saves the Medicare Trust Fund billions of dollars annually (conservative estimates range between $2 to 4 billion annually).

VHA continues to seek other revenue streams to supplement limited annual Federal discretionary appropriations and meet the growing demands for quality treatment of enrolled veterans. VHA is authorized to bill, collect and retain payments from enrolled veterans and their health care insurers, except Medicare, for inpatient and outpatient care, outpatient medications and long-term care services. In contrast, the Indian Health Service (IHS) is successfully billing and collecting from both Medicare and Medicaid. In addition, TRICARE for Life is the Department of Defense's (DoD) newest version of Medicare reimbursement. The American Legion is unaware of any third-party reimbursement billing and collection problems with CMS by either of these two Federal agencies.

Fraud, waste and abuse continue to be a major problem in the Medicare program. Annually Medicare reports billions of dollars in fraudulent billing. However, the problem does not seem as severe in billing by Federal health care agencies, such as DoD or IHS.

The American Legion supports Medicare reimbursements to supplement VA's annual budget. The American Legion continues to lobby lawmakers to authorize VA to collect third-party reimbursements from the CMS.

House Veterans' Affairs Committee Chairman Bob Filner (CA), with four cosponsors, introduced H. R. 3365, the *Medicare VA Reimbursement Act of 2009*, on July 28, 2009. This bill provides Medicare payments to Department of Veterans Affairs medical facilities for items and services provided to Medicare-eligible veterans for nonservice-connected conditions. This bill is a legislatively complex bill because its subject matter crosses three committees' jurisdictions in the House. Those committees are Veterans' Affairs, Energy and Commerce, and Ways and Means. When hearings are held on this bill, The American Legion intends to testify in support of this legislation.

In conclusion, today's fiscal realities require VHA to seek other revenue streams to supplement the growing demand for medical services and The American Legion believes that enactment of Medicare reimbursement will result in more accessible, quality health care for all enrolled Medicare-eligible veterans.

POINT PAPER
on
NEW GI BILL EDUCATIONAL BENEFITS LAW

The Servicemen's Readjustment Act of 1944, the GI Bill of Rights, was crafted to meet the needs of a massive demobilization of service members in the post-World War II society. Often considered one of the greatest pieces of social legislation ever enacted, the GI Bill continues to evolve with each new generation of wartime veterans because of significant changes in the country's existing social and economic cultures.

When educational benefits were updated in the 1984 Montgomery GI Bill (MGIB) for active duty service members, neither Congress nor the military envisioned Reserve component service members would be mobilized to active duty as they are today. However, the idea that Reserve components are a strategic force is no longer relevant in 21st Century warfighting. Today, Reserve forces are operational forces and they fight side-by-side with active duty forces, bringing their unique skills and abilities to the modern battlefield. The American Legion believes educational benefits due these Reserve component warriors must reflect this new military reality.

Currently, there are two forms of the GI Bill. They are the Montgomery GI Bill-Active Duty (MGIB-AD) and the Montgomery GI Bill-Selected Reserve (MGIB-SR). Active duty benefits are covered under title 38, United States Code (USC), and title 10, USC, covers Selected Reserve benefits. These programs remain in effect along with this new benefit. There is discussion in Congress to bring the current programs together under the administration of the Department of Veterans Affairs (VA).

The *Post-9/11 Veterans Educational Assistance Act of 2008* (Public Law 110-252) passed in the 110th Congress. The date this new benefit began was August 1, 2009. This new law covers the cost of tuition up to the most expensive in-state public school and provides stipends for books and housing based on the cost of living near the college. The law also allows members of the National Guard and Reserves to accumulate their active-duty time and qualify for full benefits after serving three years of active duty. Another significant provision allows service members to transfer all or some of their educational benefits to their spouses and children.

Even though the package of benefits under the new law, in most cases, provides a better financial deal compared to the old one, veterans must now carefully weigh benefits available to them under the new Post 9/11 GI Bill and the older Montgomery GI Bill before making an educational benefit choice, which will, according to VA, be irrevocable. The American Legion strongly suggests veterans and service members review the information provided in the Legion's GI Bill educational benefits guide which is found at www.legion.org by clicking on the MY GI BILL tab.

Below is a layout of MGIB benefits and comparable benefits in the new GI Bill. The American Legion will continue to monitor Congress, VA and DoD on their efforts to implement or amend this new law.

Benefit	*Current MGIB*	*New GI Bill*
Adjustments	*By Congress*	*Tied to highest in-State public institution of higher education tuition and other adjustments approved by Congress*
What determines benefit amount	*By Congress*	***Tuition** is based on the highest in-state public school tuition; **monthly stipend** rates set by basic allowance for housing (BAH) based on school locations-amount payable to a military E-5 with dependents**; flat rate annual stipend** for books**
Tuition	*None*	*Amount of tuition and fees charged, not to exceed the most expensive in-State undergraduate tuition at a public institution of higher education (**paid to the school**)*
Monthly Stipend	*$1,321 maximum per month for an eligible full time student (36 months*	*Variable monthly stipend is set by the basic allowance for housing*

	maximum)	*(BAH) authorized for an E-5 with kin based on school location (**paid to the veteran**)*
Flat rate annual book and supplies stipend	*None*	*Annual stipend of $1,000 (**paid to the veteran by semester**)*
Relocation payment	*None*	*One time payment of $500 may be payable to certain eligible veterans relocating from highly rural areas (**paid to veteran**)*
Tutorial assistance	*Tutorial assistance of $100 a month for 12 months, not to exceed $1,200*	*Tutorial assistance up to $1,200 per academic year (**paid to the veteran**)*
Administration of benefits payments	*Monthly check sent to veteran after proof of enrollment*	*3 separate benefits payments: 1. Tuition sent as voucher to school prior to semester, 2. Monthly living stipend paid to veteran, 3. Book stipend paid to veteran each semester*
Service requirement	*3+ years of continuous active duty for full benefit OR 2 years continuous active duty plus 4 years in Selected Reserve*	*Sliding scale of active duty served <u>after</u> September 10, 2001- 100% of benefits are paid after at least 36 months of active duty OR at least 30 continuous days of active duty and then discharged due to service connected disability*
Transferability	*Re-enlistees with critical skills can transfer up to 18 months (determined by each branch of service)*	*Service members on August 1, 2009, with 10 years of active duty may transfer tuition benefits to their spouse or dependent children;*

		spouses may receive benefit after 6 years if service member agrees to another four-year contract; benefit may be divided among family members
Service member contribution	*$1,200 pay reduction ($100 per month for one year)*	*New service members pay nothing; enrollees who previously paid DOD the $1,200 will have the amount refunded by VA*
Maximum months of benefits	*36 months*	*36 months*
Delimiting date	*10 years from discharge*	*15 years from last period of active duty of at least 90 consecutive days OR if released for a service connected disability, after at least 30 days of continuous service*
Type of discharge	*Honorable Discharge*	*Honorable Discharge*
Benefits for licensing courses or certification tests	*Licensing and certification tests*	*Entitled to payment for one licensing or certification test up to $2,000; does not include preparatory courses for licensing or certification tests*
Benefit enrollment	*Benefit election is made when entering service*	*May enroll anytime after meeting 90 days of active duty <u>after</u> September 10, 2001, until delimiting date*
Use of benefits to repay student loans	*Cannot use benefits to repay Federal or private student loans*	*Cannot use benefits to repay Federal or private student loans*
Additional educational assistance	*None*	*Yellow Ribbon G. I. Education Enhancement Program***

* Housing allowance and books and supplies stipend are not payable to individuals on active duty. Housing allowance is not payable for those pursuing training at half time or less or individuals taking distance learning.

** The *Yellow Ribbon G.I. Education Enhancement Program* allows the use of public-private contributions for additional educational assistance in instances where the educational assistance provided by this legislation does not cover the full cost of attending a particular college or university.

Notes:
-The American Legion has information on the new GI Bill on its web site, www.legion.org.

-The VA has a pamphlet on the new GI Bill on its web site, www.gibill.va.gov, and a toll-free number, 1-888-GIBILL1, for questions.

The 111th Congress has held hearings on the long term and short term implementation strategies for administration of the Post-9/11 GI Bill by VA. These hearings also updated Congress on VA's development of the information technology components for the new law and the progress that has been made towards its implementation. The American Legion testified before Congress earlier this year about its concerns regarding VA's implementation strategies and our demand that VA be ready to fulfill its administrative duties 'right the first time' on August 1.

There are three phases the VA Office of Information and Technology is using to implement the law. Phase 1 included improving VA's capability to accept applications for educational benefits and manually store eligibility and entitlement information. Phase 2 added specific data elements for electronically processing claims and providing tuition payment calculations to veterans. Phase 3 enhanced VA's capability to determine entitlement amounts and benefit levels for veterans based on years of military service.

Since May 1, 2009, VA has received more than 150,000 applications from veterans for the benefit. According to VA, approximately 35,000 of those claims have been processed by regional processing offices (RPOs). On July 6, 2009, VA began accepting enrollment certifications from school officials and began processing claims for payment. In addition, VA has hired and trained approximately 530 temporary claims examiners to help process the claims received. VA has authorized all RPOs to hire 230 additional claims examiners, if necessary.

Part of the new law is the Yellow Ribbon G.I. Bill Education Enhancement Program. The Yellow Ribbon program is a provision of the Post-9/11 GI Bill that funds tuition expenses exceeding the highest public in-state undergraduate tuition rate that VA covers.

Schools may contribute up to 50 percent of those expenses and VA will match this additional funding for eligible students. The Yellow Ribbon program is reserved for veterans eligible for the Post-9/11 GI Bill at the 100 percent benefit level. This includes those who served at least 36 months on active duty or served at least 30 continuous days and were discharged due to a service-related injury. The program's maximum benefit allows every eligible veteran or active duty or reserve component service member to receive an in-state, undergraduate education at a public institution at no cost. Provisions of the program include payments for tuition and fees, housing, plus a stipend for books and supplies. Benefits are payable for education pursued on or after August 1, 2009. The tuition and fee benefit is paid directly to the school. As of June 15, 2009, VA has approved approximately 2,229 Yellow Ribbon Program agreements. Information on specific schools participating in the Yellow Ribbon program may be found at www.gibill.va.gov/GI_Bill_Info/CH33/YRP/YRP_List.htm.

Lastly, The American Legion noticed there was a disparity in the benefit with regard to the wide ranging tuition and fees rates found in different states. The Post-9/11 GI Bill authorizes VA to pay actual tuition and fees charged by a private school up to the maximum charged by the most expensive public university in the state. California state schools, however charge little or no tuition, but instead label the cost as "fees." The result of this semantic difference was that veterans attending private schools in California would receive a far smaller benefit than those attending private schools in other states. The VA and California have resolved this issue by allowing VA to accept a new California billing line item called "Educational Fee/Tuition" to meet the requirements of the new law. This solution allows veterans attending a California private school the same benefits as any other veteran across the nation.