112TH CONGRESS – 1ST SESSION
LEGISLATIVE POINT PAPERS

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March 2011

THE AMERICAN LEGION LEGISLATIVE POINT PAPER

FISCAL YEAR 2011 CONTINUING RESOLUTION

Federal government agencies, departments and other programs for fiscal year (FY) 2011 have been funded – since October 1 of last year – by continuing resolutions (CRs). These are short-term funding measures, sometimes for very short periods of time. Rather than developing new appropriations amounts, CRs merely keep federal programs running at FY 2010 funding totals. To date, a total of six CR's have kept the country running on temporary funding.

The latest CR – **House Joint Resolution 48** – was passed by the House of Representatives on March 15 by a recorded vote of 271-158. It was then approved by the Senate on March 17 by an 87-13 tally. This measure will fund government programs until April 8. The bill will save about $2.6 billion by eliminating money for FY 2010 earmarks that were automatically extended by previous FY 2011 CRs. Among the areas affected would be earmarks from the Agriculture, Commerce-Justice-Science, Financial Services, and Interior sections of previous appropriations laws. It also will reduce or eliminate funding for 25 federal government programs, many of which have been targeted by President Obama for elimination, saving another $3.4 billion. Two programs targeted include the Bureau of the Census (saving $1.7 billion) and pandemic flu-fighting efforts ($276 million).

A sixth CR will fund government programs until April 8, and save $6 billion by eliminating earmarks and funding for other programs.

However, many government departments and agencies are working under serious limitations which have hampered their ability to function properly. One primary example is the U.S. Army. Some of the major impacts of the CR include:

Operation and Maintenance, Army (OMA) – The base budget funding level under the current CR is over $3 billion less than the Army's request in the President's proposed FY 2012 budget. If required, the Army will realign funds from other OMA accounts to ensure that programs under the Army Family Covenant are fully funded. These programs include Family Programs, Wounded Warrior support, and quality of life at Army garrisons. Under the current level of funding, Base Operations Support (BOS) has a $1 billion shortfall. This shortfall impacts civilian pay, utilities, logistics, and installation services. This shortfall will require the Army to take aggressive measures to reduce its installation services.

Funds for Sustainment, Restoration, and Modernization will be severely impacted. Sustainment will be reduced to work required for life/health/safety

and emergency repairs, while Restoration and Modernization will be curtailed. Home station training dollars will be prioritized to support the next deploying units. Training for other forces and Combat Training Center rotations will be reduced. Because of the uncertainty under a CR, the Army instituted a 30-day civilian hiring freeze on February 2.

Research, Development, and Acquisition (RDA) – The primary impact of the CR on the RDA accounts is the restriction on new starts and rate of production increases. These restrictions will result in scheduling delays and breaks in production that will cause layoffs and increased unit costs. Over 100 individual systems/programs are impacted under the CR, including the Ground Combat Vehicle, Stryker Mobile Gun System, HMMWV Recap, and CH-47 Helicopters.

Military Construction (MILCON) – In the area of military construction – whose funding is included in the same appropriations measure that fund VA programs – the Army has over $900 million in construction projects that are ready to be awarded. However, the department lacks authority to begin these new projects under the CR.

This example is only a small part of the prevailing problems of funding federal government programs in a piecemeal fashion, as has been going on since September of last year. For the past several years, political partisanship has stalled the usual congressional budget process. The current controversy on Capitol Hill revolves around how much of the huge federal budget should be trimmed without having a detrimental effect on the lagging economy. Finally, with so much attention focused on finalizing FY '11 funding, there is only minimal headway being made to develop legislation for funding the FY '12 budget. It is hoped that Congress can find solutions to this year's budget soon, and begin work on next year's funding matters.

However, while much of the nation's capital is trying to keep the government open, others are focusing on plans for a long-term debate that will likely last the entire year. Passing a sixth CR only lays the groundwork for efforts to enact final FY 2011 spending for the balance of the fiscal year, which ends on September 30. Passage of that legislation is still far from certain. Then, an FY 2012 budget resolution would be considered. That resolution is the basis for developing the 12 appropriations measures needed to fund the federal government for the next fiscal year, which begins October 1, 2011. Finally, debate and passage of FY '12 spending bills are almost certain to occupy Congress through the summer, and likely into the fall.

THE AMERICAN LEGION LEGISLATIVE POINT PAPER

VBA TOPICS FOR OVERSIGHT

Background:

The Veterans' Benefits Administration (VBA) is one of the primary subdivisions of the Department of Veterans Affairs (VA). VBA is charged with providing for benefits delivered to disabled veterans, as opposed to health care, which is provided by the Veterans' Health Administration (VHA) and burial benefits which are administered by the National Cemetery Administration (NCA).

The backlog is not the problem, but merely a symptom of the overall issues with VBA itself. Fix the institutional problems, and the backlog will resolve itself.

The lion's share of press received by VBA over the past several years has revolved around the claims backlog. Recently referred to as "the million claims backlog" the number can be argued, but several facts are relevant. First and foremost, over the last two years, VBA has taken in over a million claims a year, and is lagging behind in delivering rating actions on these claims. While the actual number of claims that are past their proper date is debatable, it is generally agreed that over 400,000 claims have languished past Secretary Shinseki's stated goal of 125 days processing time.

The American Legion has long maintained that these delays are largely caused by a system that is overworked and inadequate to deal with the volume of claims. Rather than stressing quality and accurate work the first time through, speed is stressed leading to employees who miss crucial data and improperly adjudicate claims resulting in appeals that then take years to reach their final, just adjudication. Because VBA has been run with a culture that stresses quantity over quality, the overall operational environment has contributed to the quagmire of backlogged claims that currently plagues the system.

The Legion has long pushed for hearings to examine VBA's work credit system. Under the current system, VA workers receive the same credit whether a claim is processed properly or improperly. Thus, there is no incentive to do the job right, merely to shuffle paper from one desk to the next. Therefore, Congress should be urged to direct VBA to adopt a work credit system that properly accounts equally not only for timely work, but also for work executed without errors that lead to lengthy appeals and needless delays for the veterans.

The House Veterans' Affairs Committee has proposed the following topics for oversight within the Disability and Memorial Affairs (DAMA) Subcommittee. Along with each topic is the position of HVAC regarding the intent of HVAC with the hearing, followed by previous Legion policy regarding the topics at hand:

1. ***Modernizing the Department of Veterans Affairs (VA) Disability Rating Schedule and Benefits Claims Processing System*** — The DAMA Subcommittee will perform rigorous oversight over ongoing efforts to modernize VA's disability benefits claims process, which includes the implementation of the Veterans Benefit Management System (VBMS). The VBMS consists of several different pilot programs that must be synthesized into one coherent process. A primary element of VBMS is the digitalization of claims files and electronic transfer of information.

   Converting to an electronic system while retaining the old VA climate of quantity over quality will merely result in doing bad claims faster.

   a. ***Legion*** – *The American Legion Veterans Affairs and Rehabilitation (VA&R) Division has closely followed the development of VBMS. While the system is promising, and implementation and piloting will need to be closely followed one chord has remained true – simply changing the tools will not fix a broken system. If VBA merely chooses to perpetuate the same quality over quantity culture through VBMS rather than taking the opportunity to change the way they do business, then they will simply be processing more bad claims faster. VBMS offers many tools to efficiently process claims more accurately, but unless VBA alters their outlook, this will merely be expensive window dressing.*
2. ***Appeals*** — The Subcommittee will continue to monitor the compensation and pension claims appeal process at the Board of Veterans Appeals (BVA), the Appeals Management Center (AMC) and the Court of Appeals for Veterans Claims (CAVC). The Subcommittee plans to focus on exploring avenues to simplify the current appeal process, increase accountability and reduce avoidable remands.
   a. ***Legion*** – *The American Legion has previously lobbied to provide for an accounting system to track common errors at the various appeals sites (BVA and AMC) and to hold regional offices accountable for trends and common errors. Furthermore, recent changes have sought to streamline the process and oversight is necessary to ensure VA is complying with Congressional intent.*
3. ***Presumptions*** – The Subcommittee will continue to examine the process for establishing presumptions of service-connection for the purpose of providing disability benefits compensation, focusing on veterans from both current and past conflicts.

a. ***Legion*** *– Last year the Legion fought hard to preserve the process of the determination of presumptively service-connected disabilities as determined through the Institute of Medicine (IOM). The issue arose in relation to three new presumptive conditions associated with Agent Orange. Those three new conditions, and the process by which VA determines presumptive conditions, became the centerpiece of a battle between VA and Congressional forces centered around Senator Jim Webb (VA). The end result was that the three conditions moved forward; however, the clear implication was that the process of presumptive decision making would be examined by Congress in the future, with the possible eye towards shifting some of that responsibility back to Congress. The American Legion maintains that such decisions should be made scientifically, through the system already in place, and not be subject to political will or whim. The existing system is based on rigorous scientific analysis by IOM and should be therefore regarded as more accurate than a process determined through lawmaking, which is less guaranteed to be free from academic bias and less likely to be supported by peer reviewed scientific study.*

> *The determination of presumptive disability is a scientific manner and must remain in the hands of scientists, rather than by popular vote of lawmakers.*

4. ***Examining Underperforming VA Regional Offices (VAROs)*** — Several VAROs produce chronically low efficiency and accuracy rates in the disability benefits claims process. Such offices are typically associated with larger metropolitan areas that also have high employee turnover rates as compared to parts of the country where the cost of living is lower. Consideration should be given to consolidating VAROs and reassigning claims work to locations that have consistently proven to be able to process veterans' claims with efficiency and accuracy.
    a. ***Legion*** - The American Legion has stressed that, much like the variations between VA Medical Centers and VISNs, VA Regional Offices suffer from uneven management and are widely inconsistent from office to office. American Legion ROAR (Regional Office Action Review) Quality Review visits bear this out. If there is to be a rise in quality of work, consistency nationwide is essential.
5. ***Information Technology*** — The Subcommittee will continue to review current information technology systems and software applications being used by the VBA with a focus on VBMS. The Subcommittee will explore the applicability of rules-based and other expert systems to automate the adjudication of disability claims through VBMS.
    a. ***Legion*** - As stated before, The American Legion believes that simply changing the tools to updated e-tools will not result in corrections to the quality of the system. VA must change institutional attitudes which place quantity above quality if lasting change is to be

achieved and the backlog is to be reduced. Furthermore with relation to the IT component, it is essential that this year Congress hold VA and DOD accountable for improving the compatibility of the electronic records for veterans between the two agencies. The vision of one record for GI's from induction through the rest of their life is admirable, but since it has been proposed there has been little movement or progress along this front.

THE AMERICAN LEGION LEGISLATIVE POINT PAPER

VETERANS HEALTH ADMINISTRATION OVERSIGHT PLAN

The House of Representatives required the House Veterans' Affairs Committee to adopt an oversight plan for the 112th Congress. The oversight plan was submitted to the House Committees on Oversight and Government Reform and on House Administration. The oversight discussed here refers to the congressional administration of the Department of Veterans Affairs (VA) Veterans Health Administration (VHA) which includes reviewing, monitoring, and supervising VHA's programs, activities, and policy implementation.

The following agenda lists those items in the oversight plans for VHA which are also legislative mandates of The American Legion. Some of these topics are generally covered by Convention Resolution (Con. Res.) 172: GI Bill of Health. Some topics are also specific legislative mandates of The American Legion. All resolutions cited are from the 2010 National Convention. Because the committee generally conducts oversight through its four subcommittees, the plan is organized by subcommittee. The full committee may, however, conduct oversight planned by the subcommittees.

The American Legion's intent is to ensure a permanent and effective veterans' health care delivery system for the nation's veterans and their eligible dependents in the 21st century.

Subcommittee on Disability Assistance and Memorial Affairs

No hearings regarding VHA are in the plan.

Subcommittee on Economic Opportunity

The subcommittee will conduct oversight on *VA Federal Procurement, Contract Bundling, and Non-Competitive Contracts.* VA has the second largest federal procurement budget after the Department of Defense (DOD).

The American Legion is concerned that large prime contractors fail to comply with their small business subcontract plans that incorporate veteran-owned businesses and service-disabled veteran-owned businesses as subcontractors that are submitted as part of their bid for government business. In addition, VA has imposed no penalty on any company for failing to execute their small business plan nor has VA acted to debar businesses who fraudulently claim

veteran-owned status. The American Legion wants the subcommittee to ensure VA takes corrective measures on these matters.

Subcommittee on Health

The subcommittee will conduct oversight over VHA including: medical services; medical support and compliance; medical facilities; medical and prosthetic research; and, major and minor construction.

The American Legion is very concerned with recent testimony from VA Central Office witnesses and those witnesses representing VA field operations. The complaint from the field staff is that due to budget shortfalls they have had to institute hiring freezes, delay equipment purchases and take other cost containment actions that may affect patient care.

The American Legion is concerned about these recent testimonies because the enactment of the new law for VA advance appropriations for VA medical care accounts was intended to alleviate these very cost containment actions and avoid the budgeting problems of patient care when Congress fails to pass a VA appropriations bill. Consequently, The American Legion wants the subcommittee to aggressively conduct oversight hearings to investigate current VA budget practices and ensure VA is getting their advance appropriations to VA field facilities properly and in a timely fashion.

The American Legion recommends the subcommittee also hold specific hearings on:

1. Access to Health Care—examining how VHA provides care to veterans, the various ways in which veterans' access care, and opportunities to expand and improve the provision of high quality care through non-traditional delivery methods, including the use of local health care providers closer to the veteran's home.

The American Legion wants VA to meet the unique needs of veterans whose access to traditional medical care is limited by geography, disability, or other challenges.

2. Virtual Lifetime Electronic Record—evaluating the progress being made by VA and DOD in the development of a single electronic, bi-directional, standards-based medical record.

The American Legion wants VA and DOD to track service members from their first day of enlistment in the armed forces through the end of their lives as veterans.

3. Mental Health and Combat Related Stress—reviewing VHA's mental health programs, including those for Post Traumatic Stress, Substance Use Disorder and Suicide Prevention.

Women are one of the fastest growing segment of the veteran population. The subcommittee should focus on assisting women veterans to get the health care they need, including readjustment and child care pilot programs.

The American Legion wants the VA to focus on: implementation of the mental health strategic plan; veteran-patient compliance with treatment; improving outcomes; overcoming stigma; conducting outreach; assessing future demand for care; and, allocation and tracking of mental health funds.

4. Women Veterans—evaluating VHA's progress with health care quality and satisfaction for women veterans.

The American Legion recognizes women are the fastest growing segment of the veteran population and these veterans should be receiving comparable levels of benefits as compared to male veterans.

5. Support for Families and Caregivers—examining implementation of P.L. 111-163, which requires VA to establish a comprehensive program of assistance for family caregivers and strengthens statutory authority to provide support, counseling, and mental health services for family members of a recovering veteran.

The American Legion wants VA to fully implement the Family Caregiver program as enacted last year.

6. *Specialized Services for Wounded Warriors*—evaluating VHA specialized care programs. Evaluations should include the continuum of care for veterans with amputations, Traumatic Brain Injury (TBI), Blind Rehabilitation, and Spinal Cord injury.

The American Legion wants VA to have state-of-the-art health care system-wide with the latest technology and best health care practices.

7. Seamless Transition—reviewing the transition of a service member from active duty to veteran status.

The American Legion wants VA to focus on: the accuracy and timeliness of VA's assessment of the health status of separating service members; DOD force protection practices and policies; the Post-Deployment Health Re-assessment tool; and, streamlining the enrollment process for VA health care. In addition, all separating or retiring service members must receive an end-of-service medical

examination to ensure VA has these service members latest medical information to ensure these veterans will have proper medical care and their earned benefits after their military service.

8. Medical and Prosthetic Research Program—examining the value of VA research with respect to injuries and illnesses related to military service and the acceleration of discoveries and applications, especially for neurotrauma, sensory loss, amputation, polytrauma, and prosthetic needs.

The American Legion wants Congress to provide the funding necessary for VA to have adequate research space and equipment and for the development of a clearinghouse designed to promote VA and DOD researchers awareness, collaboration, and joint publication of research.

9. *Long-Term Care*—evaluating current programs and planning for institutional and non-institutional long term care.

The American Legion wants the subcommittee to review ways for VA to improve the age-appropriateness of the delivery of long-term care services, improve and increase home and community-based care options, and develop and implement a single, structured, and uniformly applied policy for care provided in VA facilities, state veterans' homes, and contract community nursing homes as well as rectify issues with implementation of P.L. 109-461 which requires VA to pay State Homes a new rate for mandatory veterans known as the "70 percent program."

10. Homeless Veterans' Programs—assessing the use, effectiveness, and any duplication of programs to assist homeless veterans.

The American Legion wants the subcommittee to examine ways to strengthen VA's ability to help homeless veterans to regain their independence and to prevent those at risk from becoming homeless.

11. Health Care Personnel Practices and Procedures—reviewing VHA employee recruitment and retention issues.

The American Legion wants the subcommittee to focus on: current and future VA workforce requirements; VA human resource policies; employee training and education; and, the establishment of performance standards and outcome measures.

Subcommittee on Oversight and Investigations

The subcommittee will conduct oversight over the identification of wasteful, duplicative, and ineffective spending; improving operations to ensure effective delivery of services; and partnering with VA to improve the lives of veterans via expenditure of finite and limited taxpayer dollars.

The American Legion recommends the subcommittee hold specific hearings on:

1. Veterans Records—The National Archives and Records Administration, the National Personnel Records Center, the Records Management Center, and the military services maintain the military personnel records of discharged service members.

The American Legion wants the subcommittee to examine the security of these records and the transmittal of these records to VA to assist veterans in the claims process and to reduce the claims backlog.

2. VA/DOD Benefits Delivery at Discharge Program—The subcommittee will evaluate DOD utilization of a single examination that meets both military services' separation requirements and VA's disability compensation criteria.

The American Legion wants the subcommittee to scrutinize VA efforts to provide one-stop claims processing by co-locating Veterans Benefits Administration and VHA personnel involved in compensation and pension claims processing, and to examine the effectiveness of the integrated DOD/VA Disability Evaluation System.

3. Small Business Contracting Goals for Service Connected Disabled Business Owners—The subcommittee will probe the poor results related to small business contracting goals with service-connected disabled veteran small business owners.

The American Legion wants the subcommittee to review VA corrective measures to ensure VA meets or exceeds VA's own contracting goals.

THE AMERICAN LEGION LEGISLATIVE POINT PAPER

CONCURRENT RECEIPT – THE DISABLED VETERANS' TAX

Background:

The Disabled Veterans' Tax references the current practice which bars certain veterans from receiving both their full, retirement pay as well as their full disability pay. Prior to the National Defense Authorization Act (NDAA) of 2004, all veterans who received disability compensation from the VA would have their retirement pay reduced by an offset, preventing them from receiving the full retirement pay as earned. With the passage of that act, a phased progression was put in place to work downwards from 100 percent disabled veterans to 50 percent disabled veterans to allow more severely disabled veterans to receive both benefits in full. This phase-in provides for the addition of levels of disabilities at a rate of approximately 10% per year and will be fully implemented by 2014.

Regardless of the passage of this act, veterans receiving 40 percent or lower rates of disability (VA disability is divided into rates at 10 percent intervals: 0 percent, 10 percent, 20 percent, etc.) must still offset their retirement pay. This is the disabled veterans' tax and is opposed by The American Legion.

Retirement pay and disability compensation are entirely different benefits made for distinct and different reasons.

Furthermore, those service members medically retired without 20 years of service (Chapter 61 retirees) have never been included in relief from this offset, as the phased offset was intended for 20 year military retirees only.

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. These payments to a veteran are thus made for two distinct and different reasons.

Traditionally, getting Disabled Veterans' Tax language included in the annual National Defense Authorization Act (NDAA) was virtually automatic because of the support of longtime advocate, Senator Harry Reid (NV), Majority Leader of the Senate. Over the past five years, the NDAA has included at least some Senator Reid-proposed initiatives to reduce the remaining number of service-connected disabled military retirees affected by the dollar-for-dollar offset.

Bills regarding the Disabled Veterans Tax in the 112th Congress:

On January 18, 2011, Representative Gus Bilirakis (FL) introduced H.R. 303, the House version of the *Retired Pay Restoration Act*.

Senator Reid initiated S 344, the Senate version of the *Retired Pay Restoration Act of 2011* on February 14, 2011. These bills are intended to:

The American Legion supports the Retired Pay Restoration Act in both houses – S. 344 and HR. 303, as well as HR. 333, the Disabled Veterans Tax Termination Act.

a) allow the receipt of both military retired pay and veterans' disability compensation with respect to any service-connected disability,
b) repeal provisions phasing in the full concurrent receipt of such pay through December 31, 2013, and
c) make eligible for the full concurrent receipt of both veterans' disability compensation and either military retired pay or combat-related special pay those individuals who were retired or separated from military service due to a service-connected disability

H.R. 333, the *Disabled Veterans Tax Termination Act* was introduced January 19, 2011 by Representative Sanford Bishop Jr. (GA). The bill has 109 cosponsors. H.R. 333 seeks to amend federal military retired pay provisions to:

(a) permit veterans with a service-connected disability of less than 50 percent to concurrently receive both retired pay and disability compensation;
(2) eliminate provisions requiring a phase-in between January 1, 2004, and December 31, 2013, of concurrent receipt of retired pay and disability compensation;
(3) eliminate the four-year phase-in of concurrent receipt of retired pay and disability compensation for disabled veterans determined to be individually unemployable; and
(4) require a limited reduction in retired pay for combat-related disability retirees with less than 20 years of retirement-creditable service.

On January 5, 2011, Representative Joe Wilson (SC) introduced H.R. 186 to expand concurrent receipt to all retirees including Chapter 61 retirees. This bill included provisions for retired pay and disability compensation for those Chapter 61 retirees with less than 20 years of service based upon a five-year sliding schedule of their level of disability; all retirees would receive both their retired pay and their disability compensation regardless of rating percentage by January 1, 2015.

Legion Position:

It is essential that The American Legion continue to make the case that retired pay and disability compensation 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. Currently, 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 employment; and,
- Federal workers compensation (benefits for work-caused disability or illness provided under FECA).

Military retirees are the only Federal employees who must offset their retired pay with their VA disability compensation.

Since these other income sources are not offset, as a matter of public policy as well as fairness, it is hard to justify that military retired pay should be offset.

Succinctly, simple and equitable justice is one reason to end the Disabled Veterans' Tax. Military retirees are the only Federal employees who must offset their retired pay with their VA disability compensation. Certainly it can be argued that the unique nature of military service, given its sacrifices and hardships, merits retirees receiving both military retired pay and VA disability compensation.

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 their honorable military service.

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 of service or VA disability rating.

THE AMERICAN LEGION LEGISLATIVE POINT PAPER

FLAG PROTECTION 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. 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…." 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…."

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.

With a new Congress, The American Legion Family has launched a renewed grassroots effort to generate support for the constitutional amendment and it is time to rally once more around the flag and tell legislators the public wants passage of the flag amendment.

House Actions

In the first session of the 112th Congress, Representative Jo Ann Emerson (MO) reintroduced **House Joint Resolution (H.J. Res.) 13**, 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 January 7. It was later referred to the House Subcommittee on the Constitution, Civil Rights, and Civil Liberties on January 24.

The Judiciary Committee chairman is Rep. Lamar Smith (TX) and the chairman of the Constitution, Civil Rights and Civil Liberties Subcommittee is Rep. Trent Franks (AZ). Unlike the past two Congresses, both are known supporters of the proposed constitutional amendment, therefore the possibility of hearings in the House are good and the chances of passage, at least in this body, are much improved. A request for hearings on the matter is planned for the Judiciary Committee and its Constitution Subcommittee, along with a cosponsorship drive.

> 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 following list contains the 26 current House members as of March 15, 2011, 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 (26)

Bachus, Spencer [AL-6] - 1/19/2011
Biggert, Judy [IL-13] - 2/8/2011
Canseco, Francisco [TX-23] - 3/3/2011
Coffman, Mike [CO-6] - 2/8/2011
Duncan, John J., Jr. [TN-2] - 2/8/2011
Forbes, J. Randy [VA-4] - 2/16/2011
Frelinghuysen, Rodney [NJ-11] - 2/8/2011
Green, Gene [TX-29] - 2/8/2011
Keating, William R. [MA-10] - 2/9/2011
King, Steve [IA-5] - 2/8/2011
Kline, John [MN-2] - 1/24/2011
Latham, Tom [IA-4] - 2/9/2011
Lee, Christopher J. [NY-26] - 2/8/2011
LoBiondo, Frank A. [NJ-2] - 2/8/2011
Luetkemeyer, Blaine [MO-9] - 2/8/2011
McCarthy, Carolyn [NY-4] - 2/8/2011
McKinley, David B. [WV-1] - 2/16/2011
Miller, Jeff [FL-1] - 1/19/2011
Noem, Kristi L. [SD] - 3/3/2011
Platts, Todd Russell [PA-19] - 2/16/2011
Ross, Dennis [FL-12] - 2/18/2011
Ross, Mike [AR-4] - 1/24/2011
Simpson, Michael K. [ID-2] - 2/8/2011
Smith, Adam [WA-9] - 2/16/2011
Smith, Christopher H. [NJ-4] - 2/9/2011
Young, C.W. Bill [FL-10] - 2/8/2011
Young, Don [AK] - 1/19/2011

Senate Update

A companion bill in the Senate by Senator Orrin Hatch (UT) will be introduced in April. In previous Congresses, the House overwhelmingly adopted this flag protection amendment, but the necessary two-thirds majority in the Senate needed to send it to the states for ratification has never been achieved.

The Judiciary Committee is chaired by Senator Patrick Leahy (VT), and the chairman of the Constitution Subcommittee is Sen. Dick Durbin (IL). They are well-known opponents of the flag amendment. As in past years, this will be an uphill fight in the Senate. Nevertheless, we intend to persevere until we prevail.

Senator Hatch's office will be circulating a "Dear Colleague" letter shortly asking fellow senators to sign on as original cosponsors of the flag amendment. If your senator is either a known supporter or undecided, please ask that they respond to the request if they want to sign on.

THE AMERICAN LEGION LEGISLATIVE POINT PAPER

FISCAL YEAR 2012 VA BUDGET

Background:

On February 14, the Obama Administration released its request for the FY 2012 federal budget, including VA. The President's overall VA budget request would provide $124.3 billion for health care, benefits, and memorial service to this nation's veterans, $16.8 billion below the anticipated FY 2011 enacted level. This proposal includes $58.7 billion in discretionary funding to include medical programs to provide high-quality health care for veterans and research for conditions and diseases that affect these veterans. This represents a 10 percent increase over 2011 funding amounts. It further provides $65.6 billion for mandatory programs, including benefits for veterans and their beneficiaries.

On February 14, the Obama Administration released its request for the FY 2012 federal budget, including VA.

There are several major areas of emphasis in this new budget that the President has made an integral part of VA's FY 2012 budget:

Prioritize Specialized Care for Veterans with Psychological and Cognitive Health Needs: The President's budget includes $6 billion to enhance the VA's ability to provide the best possible specialized care for post-traumatic stress, traumatic brain injury (TBI), and other mental health needs. The budget makes possible collaborative programs between the Department of Defense and VA that target psychological health, research new evidence-based approaches, and increase outreach to veterans. Those programs will increase VA's ability to care for the psychological and cognitive conditions that will continue to impact our veteran population for many years to come.

Effectively Utilize Estimated Savings and Multi-Year Funding to Manage VA Medical Care: The Administration proposes $52.5 billion in advance appropriations for the VA medical care program in 2013, which enables timely and predictable funding for VA's medical care to prevent our Nation's veterans from being adversely affected by budget delays. Advance appropriations require a multi-year approach to budget planning whereby one year builds off the previous year. For example, estimated savings from management improvements in 2011 and 2012 will be carried forward into the following years to reduce the new appropriations needed in 2012 and 2013. Without the

carryover of those resources from 2011 and 2012—currently estimated at $1.1 billion—VA would need a higher level of appropriations in 2012 and 2013.

Expand Benefits for Veteran's Caregivers: The President's budget provides $208 million to improve services for veteran caregivers. The new caregiver benefits and services include training adapted to the veterans' individual care needs, a direct stipend payment, and health care and mental health services. These benefits will enhance the standard of care provided to veterans who need ongoing care through the retention of better trained and more qualified caregivers.

Combat Veteran Homelessness: The President's Budget invests $939 million to continue the expansion of VA services for homeless and at-risk veterans. These funds will combat veteran homelessness through collaborative partnerships with local governments, non-profit organizations, and the Departments of Housing and Urban Development (HUD), Justice (DOJ), and Labor (DOL).

Begin Implementation of a New Paperless Claims System and Other Initiatives to Boost Efficiency and Responsiveness: The President's budget provides $183 million for the implementation of a new paperless claims processing system. These funds will allow the VA to move away from its reliance on paper records, thereby improving the speed and efficiency of claims processing while simultaneously enhancing the security of veterans' personal information. Furthermore, the President's budget reduces spending for construction to focus resources on providing timely, high-quality care and benefits to veterans.

The chart below shows VA's medical care accounts, with FY 2010 and anticipated current year (FY 2011) funding amounts, the President's proposed FY 2012 VA discretionary funding, the proposed FY 2013 advance appropriations for the medical care accounts, and The American Legion's proposed appropriations totals as presented to Congress last September by National Commander Foster.

VA MEDICAL DISCRETIONARY PROGRAMS

	P.L. 111-117 FY 2010 VA Final Funding	P.L. 111-322 FY 2011 VA Final Funding	President's FY 2012 VA Budget Proposal	FY 2013 Proposed Advance Appropriations	American Legion's FY 2013 Request
Medical Services	$34.7 billion	$37.1 billion	$39.5 billion	$41.3 billion	$38.1 billion
Medical Support & Compliance	$4.9 billion	$5.3 billion	$5.4 billion	$5.7 billion	$5.3 billion
Medical Facilities	$4.8 billion	$5.7 billion	$5.4 billion	$5.4 billion	$6.2 billion
Medical/Prosthetic Research	$510 million	$581 million	$581 million	$509 million	$600 million
Medical Care Collections Fund	[$2.9 billion]	[$2.9 billion]	[$3.1 billion]	----------	----------
Total Medical Care	***$47.9 billion***	***$51.6 billion***	***$53.9 billion***	***$52.4 billion***	***$50.2 billion***

The chart below presents funding for non-medical programs, showing FY 2010 and 2011 funding, the President's FY 2012 proposal, and The American Legion's proposal for next fiscal year.

VA NON-MEDICAL DISCRETIONARY PROGRAMS

	P.L. 111-117 FY 2010 Final VA Funding	P.L. 111-322 FY 2011 VA Funding	President's FY 2012 VA Budget Proposal	American Legion's FY 2012 VA Budget Request
Major Construction	$1.2 billion	$1.2 billion	$590 million	$1.2 billion
Minor Construction	$703 million	$703 million	$550 million	$800 million
State Veterans' Homes Construction Grants	$100 million	$100 million	$85 million	$100 million
State Veterans' Cemeteries Construction Grants	$46 million	$46 million	$46 million	$60 million
General Operating Expenses	$2.1 billion	$2.5 billion	$2.5 billion	$2.6 billion
Information Technology	$3.3 billion	$3.3 billion	$3.2 billion	$3.5 billion
National Cemetery System	$250 million	$250 million	$251 million	$260 million

The American Legion has testified before House and Senate Budget and Veterans' Affairs committees over the past month, presenting our organization's proposals for the next fiscal year. During a hearing on March 10 of the Senate Budget Committee, Committee Chairman Kent Conrad (ND) stated, "The days of the open checkbook are ended - for everyone. We're on a collision course for a financial crash." Sen. Jeff Sessions (AL), the Ranking Member of the committee, further noted that, in contrast to cuts in other parts of the budget, the Obama Administration has proposed 10-percent increases for some other departments. "These aren't acceptable increases, and I don't think they'll be approved," he said.

Many times in the past, The American Legion has stated that balancing the Federal budget on the backs of America's veterans is bad policy. The American Legion will continue to lobby Congress and the executive branch for appropriations that are equitable, sustainable and timely for the nation's veterans and their dependents.

President Obama has stated his intention to place a spending freeze on many areas in the overall federal budget, but will exclude the Department of Veterans Affairs. In addition, with a Republican majority now in control of the House of Representatives, the new Veterans' Affairs Committee Chairman Jeff Miller (FL) has stated his intention to carefully examine the VA budget. Chairman Miller said the VA has had record budget increases in the last decade with little oversight by either party over how the money was spent. "As we move forward, all areas will have to be reviewed, and that includes …looking at Veterans Affairs," he said.

New House VA Committee Chairman Jeff Miller (FL) has stated his intention to carefully examine the VA budget, saying that in the past decade there has been little oversight over how the money was spent.

THE AMERICAN LEGION LEGISLATIVE POINT PAPER

FISCAL YEAR 2012 DoD BUDGET

Background:

"We must come to realize that not every defense program is necessary, not every defense dollar is sacred and well-spent, and that more of nearly everything is simply not sustainable." – Secretary of Defense Robert Gates, January 6, 2011

After making the above statement in a lengthy speech, Secretary Gates has set forth the basic outline for the fiscal year (FY) 2012 funding process which the Department of Defense (DoD) will take. He sought input from all the chiefs of the armed services for this effort. Secretary Gates and his advisors reviewed the entire DoD budget, leaving no area unaffected. They found savings in many areas of the Pentagon – personnel accounts, unneeded reports, the IT infrastructure, DoD's commands and bureaucracies, and aviation fuel.

On February 14 President Obama's federal budget proposal was released to the public. The White House DoD budget closely mirrors the outlines of Mr. Gates' proposal announced the previous month.

All in all, the President's proposed FY 2012 defense budget would amount to $553 billion, less than 1 percent more in nominal terms over the proposed (but never enacted) FY 2011 DoD budget of $549.1 billion, and 1.5 percent more in real terms, than the enacted FY 2010 budget ($530.8) billion). Not included in this total is discretionary funding for the continuing military operations in Iraq and Afghanistan – listed separately in the President's budget proposal as the "Overseas Contingency Operations," or OCO. Funding for that account is pegged at $117.6 billion.

The President's FY 2012 proposal would amount to $553 billion, an increase of 1.5 percent more than the enacted FY 2010 budget of $530.8 billion.

Defense spending is projected to grow slightly (1 percent per year) in FYs 2012-2014, then remain flat during FYs 2015-2016. The President's proposal seeks to accomplish what many people stated could not be done: generate annual bureaucracy / duplication / overhead / personnel / waste savings of over $20 billion per year, i.e. $100 billion over five years. Contrary to what other experts

have said, President Obama does **not** intend to cut defense spending by any amount.

The announced defense spending does not assume any defense spending cuts at all. Indeed, Secretary Gates has spoken out against DoD spending cuts. He said he's opposed to reductions of defense spending, and that the level of defense spending he has proposed for FY 2012 is the minimum amount of money needed to protect America. The President's budget intends to reinvest 100 percent of those savings back into DoD. Of that total, $28 billion would be reinvested in DoD Operations and Maintenance (O&M) and force structure costs to "pay the bills DoD must pay," as Secretary Gates termed it. Nonetheless, DoD would still be able to reinvest $72 billion over five years in military capabilities under his plan.

The Military Personnel account would receive $142.8 billion, an increase of $7.8 billion over the FY 2010 enacted amount. This account funds the day-to-day personnel costs of the Active, Reserve, and Guard forces of the Army, Navy, Air Force, and Marine Corps. They include pay and allowances of officers, enlisted personnel, cadets and midshipmen, permanent change of station travel, inactive duty and active duty training, accruing retirement and health benefits, enlistment, reenlistment and affiliation bonuses, special and incentive pays, and other personnel costs. The President's budget also includes a 1.6 percent pay raise for all military personnel.

Under the President's FY 2012 proposal, the Operations and Maintenance (O&M) account would increase to $204.4 billion, $20.1 billion above FY 2010's total for that account. These costs include operating and maintaining the Armed Forces, including the Reserve components and related support activities of DoD, training and operation costs, pay of civilians, contract services for maintenance of equipment and facilities,

The Military Personnel account would receive $142.8 billion, an increase of $7.8 billion over the FY 2010 enacted amount. It would also include a 1.6 percent pay raise for all military personnel.

Also included in the O&M budget is $8.3 billion to support military families, including:

- $4.7 billion to improve service members' quality of life;
- $2.4 billion to sustain and build DoD schools, supporting quality education for military dependents; and,
- $1.2 billion to expand availability of affordable, high-quality child care.

The Defense Health System provides high-quality medical care to the over 9.7 million service members, retirees, and their families. This includes support for

Wounded Warrior transition units and centers of excellence in vision, hearing, traumatic brain injury (TBI), and other areas to continuously improve the care to wounded, ill and injured service members.

However, one area that the Administration has slated for "savings" is the TRICARE program. This medical program is used by former service members, their dependents and some members of the Reserve Component, mainly for its low cost. However, Secretary Gates has voiced the opinion that the current cost of the Defense Health System – budgeted at $32.2 billion for FY 2012 – cannot be sustained in the future. He further predicted that military health care will consume 10 percent of the DoD budget by 2015. Mr. Gates seeks to cut $7 billion from the Defense Health System during the next five years.

Under the Administration's budget proposal, TRICARE Prime annual fees would increase next year from $230 to $260 per year for an individual, and from $460 to $520 a year for a family.

Part of the President's budget would include fee increases for TRICARE, which will **not** require approval from Congress. The current TRICARE Prime annual enrollment fees of $230 for an individual retiree and $460 for a family have not changed since TRICARE was created in 1996. The Administration's proposal would increase next year's fees to $260 per year for an individual and $520 a year for a family. Starting in 2013, annual fees for retirees using TRICARE Prime coverage would increase over time at the rate of medical inflation, which typically rises more rapidly than the broader inflation rate and cost-of-living adjustments. The budget anticipates a 6% per year increase in premiums.

The proposed fee increase of 13 percent on retirees' enrollment fees was significantly smaller than past proposals and far less than many veterans groups expected. The proposal does not change health coverage fees for active-duty members and their families or for Medicare-eligible TRICARE for Life beneficiaries, or for widow/widowers and disabled retirees.

Other proposed changes to TRICARE include pharmacy co-pay fees. TRICARE would eliminate the $3 drug co-pay fee for generic drugs obtained through the military's mail-order pharmacy system, while fees for drugs purchased through neighborhood retail pharmacies will increase by up to $3. Health officials hope the shift will encourage more people to use the mail-order service, which is significantly cheaper for the military, compared with retail pharmacies.

The changes are likely to be controversial, which is why Pentagon officials underscored fees that will not change. These include out-of pocket costs for active-duty service members and their families, fees and co-pays for medically retired service members or survivors of service members, TRICARE Standard coverage fees and the catastrophic cap for all plans. Calls for increased fees

for stakeholders in TRICARE have been met with opposition in the past. However, in order for these changes to be avoided in this debate congress would need to find $7 billion to "cover" this portion of the budget.

A major goal of the Administration is to provide service members with the most effective and modern equipment possible in a cost-efficient manner. The FY 2012 budget requests $113 billion to continue to procure advanced weapons systems and other necessary equipment to support both today's wars as well as possible future conflicts. These include:

- Continued development and construction of the F-35 Joint Strike Fighter ($9.7 billion);
- Construction of the *Virginia*-class submarine to improve the Navy's ability to operate in coastal waters and support special operations forces ($4.7 billion);
- Development of the Advanced Extremely High Frequency satellite to provide secure communications to all of the armed forces ($975 million); and,
- Upgraded armored vehicles to better protect the troops ($593 million).

One area where the President's projected savings will be spent includes badly-needed equipment, such as next-generation bombers, warships, and fighter planes as well as radars for them. The proposed FY 2012 budget would provide or increase funding for a number of priority programs, including: the F/A-18E/F Super Hornet; the EA-18G Growler; the Next Generation Bomber, touted as a new, long-range, nuclear-capable penetrating bomber, which will have the option of being piloted remotely; the MQ-9 Reaper hunter-killer unmanned aerial vehicle; the MC-12 Liberty, the Air Force's newest intelligence, reconnaissance and surveillance aircraft; and the X-47 Pegasus, an unmanned carrier-based combat aircraft.

The President's budget also bolsters the capabilities of key components in the on-going effort to rebalance the military to focus on current and emerging threats, namely cyber and electronic warfare, Unmanned Aerial Vehicles (UAVs), and helicopters.

The President's budget also bolsters the capabilities of the key components in the on-going effort to rebalance the military to focus on current and emerging threats, namely cyber and electronic warfare, Unmanned Aerial Vehicles (UAVs), and helicopters.

One weapons program that the President has decided to axe – one that the U.S. Marine Corps (USMC) badly needs, but one which has experienced serious cost overruns – is the Expeditionary Fighting Vehicle program, the USMC's #1 ground vehicle priority program. The fact is that the Marine Corps needs to be prepared for amphibious landings, and that such landings may occur someday.

The Marine Corps Commandant himself believes the EFV program is unaffordable. The budget proposal predicts that the program, if pursued to completion, would consume the USMC's entire annual ground vehicle budget and the majority of its total procurement budget. Recommended alternative policies include modernization of the USMC's existing amphibious armored personnel carriers (APCs).

The Research, Development, Test and Evaluation (RDT&E) account would receive $75.3 billion, a decrease of $4.8 billion from FY 2010. These appropriations are primarily aimed at modernization through basic and applied research, fabrication of technology-demonstration devices, and development and testing of prototypes and full-scale preproduction hardware. Resources presented under the RDT&E area contribute primarily to achieving DoD's annual goals of transforming the force for new missions and reforming processes and organizations.

Despite the proposed increases, the President surely received a wakeup call of sorts on March 10, when Deputy DoD Secretary William Lynn testified before the Senate Budget Committee. Lynn asserted that the Pentagon's FY 2012 defense budget request represented a "reasonable" amount to address wartime national security needs, while also supporting Administration efforts to contain the deficit. Sen. Jeff Sessions (AL), the panel's Ranking Member, responded, "It may look that way [to you], but it's not, in light of the national debt we have and the [fiscal] crisis in our country."

Committee Chairman Kent Conrad (ND) agreed, saying, "The days of the open checkbook are ended - for everyone. We're on a collision course for a financial crash." Sen. Sessions further noted that, in contrast to cuts in other parts of the budget, the Obama Administration has proposed a five-percent increase for defense, and 10-percent increases for some other departments. "These aren't acceptable increases, and I don't think they'll be approved," he said.

It should be pointed out that plans similar to Secretary Gates' have been proposed periodically over the last 30 years, especially after the end of periods of military activity. Whether his proposals and their projected savings will actually be realized is another story. Congressional authorizers and appropriators are notorious for staking out their own little fiefs in the budget process, and defending them with the fervor of a medieval overlord.

In addition, the new Congress has made a priority of reducing federal spending, whether in selected areas or across-the-board has yet to be determined. Some budget-cutters have sought to wield a budgetary butter knife by protecting some areas of the federal fiscal pie, such as Social Security, defense, and

veterans benefits. Others, brandishing a meat-cleaver, want the entire federal budget open to cuts. Only time will tell which process will be dominant.

THE AMERICAN LEGION LEGISLATIVE POINT PAPER

FISCAL YEAR 2012 DOL VETS APPROPRIATIONS

Background:

The Department of Labor (DOL) Veterans' Employment and Training Service (VETS) mission is to promote the economic security of America's veterans by assisting them in finding meaningful employment. 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.

VETS provides its services through a variety of programs; including providing grants to States, public entities, and non-profit organizations to assist veterans seeking employment. VETS investigates veterans' complaints filed under veterans' hiring preference and Uniformed Services Employment and Reemployment Rights Act (USERRA).

VETS provides employment and training services to eligible veterans through the Jobs for Veterans State Grants Program. Under this program, funds are allocated to State Workforce Agencies in direct proportion to the number of veterans seeking employment within their state. VETS administers the Disabled Veterans' Outreach Program (DVOP) and Local Veterans' Employment Representatives (LVER) state grant programs. VETS also provides assistance to service members and veterans through the Transition Assistance Program; Homeless Veterans' Reintegration Program (HVRP); Veterans Workforce Investment Program (VWIP); and the National Veterans' Training Institute (NVTI).

On March 3, 2011, The American Legion testified before the Subcommittee on Economic Opportunity of the Committee on Veterans' Affairs about its concerns regarding the VETS Jobs for Veterans State Grants Program (VSGP) and made recommendations for its improvement.

In that testimony The American Legion stated that veterans of the Iraq and Afghanistan wars face an unemployment rate over 15 percent, two thirds higher than the national average, according to the Bureau of Labor Statistics (BLS) in February. And the problem is getting worse because the BLS also noted the rate last year was 12.6 percent. Clearly, these statistics put into question the effectiveness of the State Grant Program. It does not appear the states are

adequately providing all the services they should to eligible veterans who are seeking job assistance nor are the states conducting outreach activities to local employers to promote the hiring of veterans.

The VSGP is funded to provide advanced or intensive services to veterans seeking employment. Through the law, its regulations, and personnel training, those services offered to unemployed veterans are to go beyond those offered to the non-veteran who seeks employment through state employment centers. Yet analysis of 2009 performance data indicated only 22% of veterans received these intensive services. And the corresponding employment rate of veterans was only slightly greater despite the resources offered under the VETS program. Consequently not only were veterans not receiving the intensive services funded by the VETS program, but the services they were receiving were no more successful than those provided to unemployed non-veterans.

The Jobs for Veterans State Grant Program is staffed by Disabled Veterans Outreach Program (DVOP) specialists and Local Veterans Employment Representatives (LVERs) who are each responsible for carrying out a very specific mission. DVOPs provide basic career guidance to qualified veterans and service members and LVERs provide job development for veterans by finding potential employers. The American Legion recommended that one area Congress should investigate is whether the one-stop career centers, where these employees work, need to have a transparent form of measurement made available to the public. These reports should include the number of veterans they see on a daily basis and what types of assistance the veterans were provided. True transparency and accountability are essential to ensure the money invested is achieving the desired goal of meaningful employment for veterans.

The American Legion also recommended DOL monitor the staffing levels for DVOPs and LVERs to match the needs of the veterans' community in each state coupled with the performance indicators and success rates. Staffing levels should not be based solely on the fiscal needs of the state government. Adequate funding will allow increased staff to provide the comprehensive case management and job assistance required to provide employment to service-disabled and other eligible veterans.

Other problems The American Legion identified were that state budgets have been cut; thus limiting access DVOPs and LVERs have to veterans who live in particularly remote and rural areas. DVOP and LVER travel funding is also reduced and this lack of travel funding prevents them from contacting rural veterans, who might not be aware of this program, as well as contacting potential employers to provide the necessary education regarding the program. Without the DVOPs and LVERs traveling and maintaining contacts in rural areas

and meeting potential employers, their ability to provide the services needed for the veterans they serve is severely diminished.

The Legion Position:

The American Legion made these recommendations to improve the State Grant Program:

- Transfer all DVOPs and LVERs from the State Agencies to DOL-VETS for greater supervision and oversight,
- Adjust staffing levels to meet the needs of the state veterans' community, not merely the fiscal needs of the States,
- Initiate a General Accountability Office investigation on the Jobs for Veterans State Grant Program to ensure the program is properly serving eligible veterans.

Below is a chart indicating the current funding for the VETS program, the President's FY 2012 request, and recommendation of The American Legion.

Program	**FY 2011 Annualized Funding (CR expires March 18, 2011)**	**President's Budget Request FY 2012**	**Legion's Budget Request FY 2012**
State Administration Grants	$166 million	$166 million	$166 million
Transition Assistance Program	$7 million	$8 million	$9 million
Homeless Veterans Program	$36 million	$36 million	$50 million
Veterans' Workforce Investment Program	$10 million	$10 million	$20 million
National Veterans Training Institute	$2 million	$2 million	$4.2 million
Program Administration	$35 million	$35 million	$40 million
Total	***$256 million***	***$257 million***	***$280.2 million***

In conclusion, successful veterans' employment and training programs require both an adequate level of funding and oversight to ensure the services are being delivered to eligible veterans. Given the number of newly-separated veterans transitioning from military to civilian life and the obligation to also provide these employment services to veterans of prior wars who need assistance due to the unstable job market, The American Legion believes Congress must fully fund the FY 2012 VETS budget request that provides these employment, training, and placement programs.

THE AMERICAN LEGION LEGISLATIVE POINT PAPER

"THE CAREGIVER ACT"

Chairman Patty Murray – "[VA's implementation] hardly resembles the bill that unanimously passed Congress last year.

Background:

Public Law 111-163, "The Caregiver and Veterans Omnibus Health Service Act" was signed into law amidst much fanfare at an Oval Office ceremony on May 5th of last year. The Act, now commonly referred to as "The Caregiver Act", provided a broad range of benefits to family members who sacrificed careers and time to provide full time care to severely disabled veterans. This was a bipartisan effort passed unanimously in both houses of Congress, with overwhelming support on both sides of the aisle. The Act was limited to the families of veterans of the Post 9-11 era.

The Act created two caregiver support programs: one for caregivers of veterans who served in Iraq and Afghanistan, and another for caregivers of other veterans. Both groups are to be eligible for training and education assistance, counseling and mental health services, and respite care, including 24-hour, in-home respite care. The Act provides that Caregivers of Iraq and Afghanistan war veterans will be eligible for lodging and subsistence payments when accompanying patients on medical visits. They also will receive health care through the VA s Civilian Health and Medical Program (CHAMPVA) and a monthly financial stipend.

VA was directed to begin implementing the benefits no later than January 31, 2011. During the fall of 2010, VA held two meetings with Veterans' Service Organizations to receive input regarding implementation of the Act. The assembled VSOs raised concerns at that time, or noted for VA's purposes where the more difficult aspects of implementation would lie. At the time, very little feedback from VA was given as to which of the concerns, if any, would be incorporated into any final regulations to implement the program. Subsequent revelations regarding VA's proposed implementation plan have shown that VA incorporated little of this input into their plan.

On February 8, 2011 the combined leadership of both parties in the House and Senate Veterans Affairs Committees issued a letter to VA stating that not only

had VA failed to begin implementing the program on January 31st as directed, they were a week past the deadline and Congress had yet to see even a proposed regulation. Both parties expressed their extreme concerns and indicated that they would be holding VA accountable for the tardiness in implementation of the law.

February 28th VA submitted an Interim Final Regulation to the Office of Management and Budget (OMB) for review. The advantage of the Interim Final Regulation is that VA could begin to implement the regulation immediately after OMB review, and bypass the usual 60 day waiting period for public comment. VA stated this was the advantage in that they could begin the program as soon as the summer of 2011 and not the end of the year, almost a full year after their deadline. The lack of a public comment period proved frustrating however, and Congress began to press VA on perceived inadequacies of their plan.

During VA's budget testimony, while not specifically on the topic of budget, leadership on both sides of the aisle abandoned many of their other concerns to question VA about their plan. The pressure was strongest from the Senate side, where Chairman Patty Murray (WA) and Ranking Member Richard Burr (NC) led a blistering tag team assault on VA's "Interim Final Rule". Here, Murray stated unequivocally that VA's plan did not resembled their intent with the bill, excluded many Caregivers such as Ted and Sarah Wade, the poster children of the Act, was going to be implemented at a quarter of the projected project, and was falling well behind Congressional expectations.

Ted and Sarah Wade, the "poster children" for this legislation, who stood behind President Obama in the Oval Office as he signed the bill into law, may not be eligible under VA's proposed regulations.

Specifically, she cited that the original estimates saw the programs reaching over 3,500 families, while VA's plan was only projecting less than 850 and the budget which was expected to be over $330 million was hovering around $60 million. The answers from VA essentially stated they were viewing this as a "starting point" and the program "could be expanded in the future"

Senator Burr, the Ranking Member refused to even hear VA comment, was so incensed he dropped all other questions, instead opting to utilize his time to lecture VA about how badly they were failing in this measure and concluding: *"If I were you I'd pull this regulation back from OMB and start rewriting it now…if you insist on going forward with this as written it will be a HELL of a fight."*

The House Committee on Veterans' Affairs (HVAC) Subcommittee on Health, chaired by Ann Marie Buerkle (NY), held an oversight hearing March 11, 2011 on the VA implementation plan. In this hearing, Dr. Petzl, VA's Undersecretary for

Health, appeared before the subcommittee to answer for VA. The same concerns were reiterated. The plan is too narrow in scope, does not help the families it was intended to serve, is overly restrictive, has invasive oversight, and other concerns.

Perhaps the most troubling recurring feature of VA's responses has been the careful avoidance of stating the ultimate implementation will match the law. While VA Secretary Eric Shinseki did express remorse for the tardiness of the implementation plan, and admit that VA was late, there has been no indication that VA has any remorse for the smallness of scope, or plans to extend it in full. While VA states the program *could* be expanded in the future, they offer no timetable and do not state that they *will* expand the program to meet the needs of the families that Congress and the VSOs have been screaming are being left behind.

VA's plan limits the affected families to less than a quarter of the intended scope by imposing six additional restrictions not included in the original law.

Clearly, while the Interim Final Rule is not intended to be the last word in this matter, VA's rhetoric to this point indicates they are unwilling to commit themselves through testimony to full expansion of the program to the levels Congress intended. Instead of a simple answer that states: "We are beginning small but that is because this is a complex issue but rest assured that VA *will* meet the full measure of the law." Veterans and their families are being treated to empty answers that do nothing but stall, perhaps with the intention of letting the rest slide as attention is lifted from the issue by more pressing matters.

*While VA states the program **could** be expanded in the future, they offer no timetable and do not state that they **will** expand the program to meet the needs of the families*

The American Legion stands ready to ensure the pressure remains on VA until the law is fully implemented as intended.

The Legion Position:

The American Legion has praised VA for eventually developing a plan to get money to families sooner rather than later, even if only the families who will receive aid are only a fraction of the original intent. However, on March 16, 2011 the Legion also sent letters from the National Commander to all four leaders of the Veterans Committees of Congress, majority and minority in both Houses, expressing our strong concerns about the narrow scope of the implementation plan, as well as our concerns about affected family members that may have been left out of the original law.

The affected family members left behind fall into two general categories: veterans of wars other than the present War on Terror (OEF and OIF) and the children of those families affected in which both parents are unable to work.

While it is easier to recognize the sacrifices currently being made by families of veterans currently returning with catastrophic injuries, the Legion has consistently reminded concerned parties that catastrophic injury is by no means limited to the present wars. Families of veterans in Vietnam, Korea, World War Two, indeed any conflict the nation has fought have had to cope with life changing injuries. The American Legion by policy has sought to avoid regulations which create a separate class of veterans, and insisted that veterans of different wars must be treated equally and not subject to special privileges.

Therefore the Legion continues to press to ensure this program is expanded to include veterans of all eras, and not be limited to solely OEF/OIF veterans' families.

Furthermore, the Act recognizes that a Caregiver spouse may have to give up a full time job to provide the necessary care to their disabled veteran, and therefore provides CHAMPVA health insurance to that spouse, as health insurance can be difficult to obtain if unemployed. However, what is overlooked is the simple fact that if the veteran receives care through VA, and the spouse receives care through CHAMPVA, any children of that family will not be eligible for care under their parents' plans. This is unconscionable.

The American Legion has thus far been the loudest and in many cases the only voice recognizing this omission. To leave children without insurance and access to health care is an undue burden these families should not have to face. The American Legion will continue to push for additional legislation if necessary to correct this failing.

THE AMERICAN LEGION LEGISLATIVE POINT PAPER

TRICARE

American Legion giving little ground over proposed cost-shifting

The Department of Defense's (DoD) Fiscal Year 2012 budget request includes modest increases in fees for retirees under 65 and proposes raising them annually at the rate of medical inflation.

The Administration's FY 2010 and 2011 budget submissions did not. Previously, the FY 2007, FY 2008, and FY 2009 budget submissions had proposed *significant* increases in TRICARE enrollment fees, deductibles, and pharmacy co-payments for retired beneficiaries not yet eligible for Medicare. These actions were justified by DoD as necessary to constrain the growth of health care spending as an increasing proportion of the overall defense budget in the next decade. But Congress passed legislation each year to prohibit the proposed fee increases.

For years, benefits for military service members and retirees were politically off-limits as defense budgets grew and Congress resisted cutting benefits while the military was fighting two wars. Unfortunately, however, the growing alarm over the federal debt, budget pressures and a weak economy has eroded Congressional resistance to the idea of shifting more military health care costs over to beneficiaries.

The FY 2012 budget request includes $52.5 billion for the DoD health care system that employs 85,000 military personnel and 53,000 civilian DoD employees. The system serves 9.5 million eligible beneficiaries through 56 hospitals, 363 out-patient medical facilities, and 275 dental clinics. The system's cost, which was $19 billion in FY2001, has more than doubled in the 10 years since then.

The cost of the medical program is projected by DoD to increase annually at a rate of 5-7% through FY 2015, when it is projected to account for 10% of the planned DoD budget. In addition to the cost of general inflation and new developments in medical technology, DoD officials attribute the steady increase in military health care costs to several factors, including:

- an increase in the number of retirees using DoD's TRICARE medical insurance rather than other, less generous insurance plans for which they are eligible; and

• an increase in the frequency with which eligible beneficiaries use DoD medical services.
• legislatively mandated increases in benefits, such as TRICARE-for-Life for reservists.
• no increase in fees and copayments for TRICARE beneficiaries since 1995, when the TRICARE program was created.

In the broad perspective, the military's medical system suffers from many of the same problems affecting the civilian system: an aging population, soaring prescription drug prices and advanced technology that fuels the cost of testing and treatment.

In comparison to other plans, where soaring medical costs have forced steep cuts to benefits offered by government and private plans, DoD provides a generous benefit with limited contributions and co-payments required of beneficiaries.

Observers also point out that most defense health care is not directly related to treating combat injuries. In recent decades, the system has been directed towards care of dependents, especially in the areas of obstetrics and pediatrics, and to the care of retirees at stages of their lives when medical needs tend to increase. Even with the need to care for injuries resulting from the U.S. commitments in Iraq and Afghanistan, the bulk of DoD medical care is currently provided to dependents and retirees—not to the operating forces.

While the first priority of the Military Health System is to provide health care benefits to active duty personnel, less than half of TRICARE beneficiaries are active duty military personnel and their dependents. The remaining 58% of TRICARE beneficiaries are retirees and their dependents, with working–age retirees and their families making up more than a third of the total.

TRICARE beneficiaries, both active duty and retired, tend to make greater use of professional care than other sectors of the population. In FY 2004, according to one estimate, in TRICARE Prime the outpatient utilization rate was 44% higher than in civilian HMOs; the inpatient utilization rate was 60% higher. Health-care analysts tend to ascribe this to lower out-of-pocket costs for DoD beneficiaries. Low cost to beneficiaries and increases in the quality and efficiency of Defense health care in recent years have reportedly led many retirees with civilian jobs to choose TEICARE rather than plans available through their civilian employers.

As noted above, DoD's FY12 budget request avoids the significant fee increases that were previously prohibited and acknowledges the sacrifices endured through decades of arduous military service. The current proposal:

- Makes no changes to TRICARE Standard or TRICARE for Life.
- Raises the 2012 TRICARE Prime enrollment fees by 13% -- from $230 to $260 for the single or $460 to $520 for the family. Survivors and disabled retirees would remain at current rates.
- Ties premium adjustments for non-disabled under 65 year old retirees to a medical cost growth index for elderly and disabled Medicare beneficiaries. DoD's budget estimates this would increase premiums by 6.2% annually.
- Slightly increases retail pharmacy co-pays and decreases mail-order pharmacy co-pays.
- Generates an estimated $8 billion over the next five years through these fee and deductible changes and other "operational savings."

Because the fee hike is far smaller than previous Pentagon proposals and given the dire fiscal situation this country faces, The American Legion stands in a position where vociferous opposition to any changes to TRICARE could be not only ineffective, but counterproductive by minimizing or negating the impact we could have on the long-term debate on those aspects of current or future proposals with which we adamantly disagree.

Therefore, our approach this year is to "accentuate the positive, eliminate the negative." Thus, we endorse and support the protections to survivors and disabled retirees, increased retail pharmacy co-pays and decreased mail-order pharmacy co-pays, and other operational savings. But, we will challenge and fight against the proposal to raise future fees annually at the rate of medical inflation. Instead, we are insisting on far smaller increases that would be linked to annual pay increases or retiree cost-of-living adjustments.

The distinction is critical. For example, TRICARE fees, if linked to medical inflation, would have risen 3.4 percent this year – but only 1.4 percent had they been tied to the military's annual raise in basic pay. And fees would have remained flat if linked to retired pay because, for the second year in a row, there is no cost-of-living adjustment for retirees.

For as National Commander Jimmie Foster has stated with regard to the proposals:

> We need to remember that our military retirees have given decades of service to their country, risking their lives in combat, often serving under arduous conditions and being separated from their families. Keeping their insurance rates low is one way we can repay them for their honorable service.

112TH CONGRESS – 1ST SESSION
LEGISLATIVE POINT PAPERS

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August 2011

THE AMERICAN LEGION LEGISLATIVE POINT PAPER

FLAG PROTECTION 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 protection 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 ignored a century of American law and tradition that provided a measure of protection for the flag. Acts of physical desecration are conduct, not speech. Accordingly, these acts should not be recognized and protected as "speech" by the First Amendment. 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…." The American people intend to give 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…."

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.

With a new Congress, The American Legion Family has launched a renewed grassroots effort to generate support for the constitutional amendment. It is time to rally around the flag once again and tell legislators the public wants passage of the flag amendment.

House Actions

In the first session of the 112th Congress, Representative Jo Ann Emerson (MO) introduced **House Joint Resolution (H.J. Res.) 13**, 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 January 7. It was later referred to the House Subcommittee on the Constitution, Civil Rights, and Civil Liberties on January 24.

The Judiciary Committee chairman is Rep. Lamar Smith (TX) and the chairman of the Constitution, Civil Rights and Civil Liberties Subcommittee is Rep. Trent Franks (AZ). Unlike the past two Congresses, both Smith and Franks are known supporters of the proposed constitutional amendment; therefore, the possibility of hearings in the House are good and the chances of passage, at least in this body, are much improved.

> 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 following list contains the 54 House members as of August 10, 2011, who are cosponsors of the bill. If your representative is not listed please contact him or her and ask that they sign on as a cosponsor.

COSPONSORS (54)

Austria, Steve [OH-7] - 3/29/2011
Bachus, Spencer [AL-6] - 1/19/2011
Biggert, Judy [IL-13] - 2/8/2011
Canseco, Francisco [TX-23] - 3/3/2011
Coffman, Mike [CO-6] - 2/8/2011
Duncan, John J., Jr. [TN-2] - 2/8/2011
Ellmers, Renee L. [NC-2] - 4/1/2011
Fitzpatrick, Michael G. [PA-8] - 3/16/2011
Forbes, J. Randy [VA-4] - 2/16/2011
Fortenberry, Jeff [NE-1] - 3/30/2011
Foxx, Virginia [NC-5] - 3/16/2011
Frelinghuysen, Rodney [NJ-11] - 2/8/2011
Green, Gene [TX-29] - 2/8/2011
Guinta, Frank C. [NH-1] - 6/21/2011
Hall, Ralph M. [TX-4] - 7/25/2011
Harris, Andy [MD-1] - 5/5/2011
Manzullo, Donald A. [IL-16] - 4/6/2011
McCarthy, Carolyn [NY-4] - 2/8/2011
McKinley, David B. [WV-1] - 2/16/2011
Miller, Jeff [FL-1] - 1/19/2011
Myrick, Sue Wilkins [NC-9] - 3/29/2011
Noem, Kristi L. [SD] - 3/3/2011
Palazzo, Steven M. [MS-4] - 7/18/2011
Pearce, Stevan [NM-2] - 3/30/2011
Platts, Todd Russell [PA-19] - 2/16/2011
Pompeo, Mike [KS-4] - 5/5/2011
Posey, Bill [FL-15] - 3/29/2011
Rahall, Nick J., II [WV-3] - 4/6/2011
Reed, Tom [NY-29] - 4/6/2011
Rehberg, Denny [MT] - 5/2/2011
Rogers, Mike J. [MI-8] - 3/29/2011
Ross, Dennis [FL-12] - 2/18/2011

Hartzler, Vicky [MO-4] - 4/1/2011
Heller, Dean [NV-2] - 4/6/2011
Jordan, Jim [OH-4] - 3/29/2011
Keating, William R. [MA-10] - 2/9/2011
King, Steve [IA-5] - 2/8/2011
Kline, John [MN-2] - 1/24/2011
Lance, Leonard [NJ-7] - 7/11/2011
Latham, Tom [IA-4] - 2/9/2011
Lee, Christopher J. [NY-26] - 2/8/2011
LoBiondo, Frank A. [NJ-2] - 2/8/2011
Luetkemeyer, Blaine [MO-9] - 2/8/2011
Lummis, Cynthia M. [WY] - 5/24/2011
Ross, Mike [AR-4] - 1/24/2011
Runyan, Jon [NJ-3] - 3/29/2011
Scott, Austin [GA-8] - 4/1/2011
Simpson, Michael K. [ID-2] - 2/8/2011
Smith, Adam [WA-9] - 2/16/2011
Smith, Christopher H. [NJ-4] - 2/9/2011
Tiberi, Patrick J. [OH-12] - 5/12/2011
Walden, Greg [OR-2] - 5/5/2011
Young, C.W. Bill [FL-10] - 2/8/2011
Young, Don [AK] - 1/19/2011

Senate Update

On June 14, 2011, Senator Orrin Hatch (UT), along with Max Baucus (MT), introduced a companion bill, **Senate Joint Resolution (S.J. Res.) 19.** 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. Dick Durbin (IL). Both are outspoken opponents of the flag amendment. As in past years, this will be an uphill fight in the Senate. Nevertheless, we intend to persevere until we prevail.

The following list contains the 24 Senate members who are cosponsors of the bill. If your senators are not listed please contact them and ask that they sign on as cosponsors.

COSPONSORS (24)

Barrasso, John [WY] - 6/14/2011
Baucus, Max [MT] - 6/14/2011
Blunt, Roy [MO] - 6/15/2011
Burr, Richard [NC] - 6/20/2011
Chambliss, Saxby [GA] - 7/6/2011
Coats, Daniel [IN] - 7/12/2011
Coburn, Tom [OK] - 6/21/2011
Collins, Susan M. [ME] - 7/13/2011
Cornyn, John [TX] - 6/15/2011
Enzi, Michael B. [WY] - 6/15/2011
Graham, Lindsey [SC] - 6/15/2011
Grassley, Chuck [IA] - 6/14/2011
Hutchison, Kay Bailey [TX] - 7/7/2011
Inhofe, James M. [OK] - 6/14/2011
Isakson, Johnny [GA] - 6/29/2011
Johanns, Mike [NE] - 6/21/2011
Kyl, Jon [AZ] - 6/20/2011
Lugar, Richard G. [IN] - 6/14/2011
Nelson, E. Benjamin [NE] - 6/22/2011
Roberts, Pat [KS] - 7/25/2011
Rubio, Marco [FL] - 6/29/2011
Sessions, Jeff [AL] - 6/20/2011
Thune, John [SD] - 7/7/2011
Vitter, David [LA] - 6/14/2011

Next Steps

Given the makeup of the 112th Congress and the chairs of the relevant committees, the chances for hearings on the flag protection amendment, at least in the House, are good. Neither the House nor the Senate has held a vote on this amendment since 2006. But with the turnover in the House as a result of the 2010 elections, known supporters now hold the leadership positions in that body. Therefore, convincing the House leadership to bring this to the House floor for a vote, and back on to the radar screen, is the next big step ahead of us.

Past precedent has shown that constitutional amendments can take a long time, but they can be accomplished. The successful effort to change constitutional law, and in particular to overturn a Supreme Court decision, is dependent on a sense of conviction. Thus, we have a great advantage, because the American people love their flag. And that, in the end, is our treasure on which we can, should, and will draw.

THE AMERICAN LEGION LEGISLATIVE POINT PAPER

FISCAL YEAR 2012 VA BUDGET

Background:

On June 14, by a vote of 411-5, the House of Representatives approved H.R. 2055, the FY 2012 Military Construction and VA appropriations measure. On July 20, the Senate passed its version of this bill by a vote of 97-2. The House version recommended $129.7 billion for VA programs, $7.8 billion more than FY 2011 funding amounts, and nearly half a billion dollars below the President's requested figure of $130.2 billion. The Senate bill recommended $128.1 billion for the same VA programs, $6.2 billion above the FY 2011 figures and approximatley $2.1 billion less than the President's budget proposal. H.R. 2055 becomes the first FY 2012 spending measure to be approved by both congressional chambers.

There are several major areas of emphasis in VA's FY 2012 budget:

The House of Representatives on June 14 passed H.R. 2055, the FY 2012 VA spending bill by a vote of 411-5. On July 20, the Senate approved its version of the

Rural Veterans' Health Care: H.R. 2055 provides $250 million to improve access and quality of care for the 3.3 million veterans residing in rural and highly rural areas. Congress is concerned about the health care needs of elderly veteran populations in rural areas. These veterans have difficulty obtaining access to quality health care and disability services, due to having to travel long distances to healthcare facilities and the lack of specialty providers working in rural areas. While VA has made strides in expanding access to rural veterans, it is clear the department continues to struggle to find an adequate and effective strategy to reach these men and women.

Lifetime electronic records: When a member of the armed forces leaves the military, he or she has had to physically walk paperwork from a military duty station to a local VA health center. For years, Congress has been encouraging and funding efforts by VA and DOD to develop interoperable technology to facilitate the rapid exchange of patient and beneficiary information that will yield consolidated, coherent and consistent access to electronic records between VA and DOD. Lifetime electronic health records would significantly improve the delivery of care to service members transitioning from military to civilian life. H.R. 2055 provides $70 million as requested by the President for the ongoing effort to create the virtual lifetime electronic record (VLER).

Women Veterans: The percentage of women veterans is expected to rise significantly over the next two decades. While VA is an institution originally designed and focused toward serving male veterans, there is an urgent need to adapt older facilities to these changing demographics. VA facilities must be better adapted to meet the unique needs of women veterans. Congress urges VA to continue to upgrade facilities to address the needs of women veterans and veterans with children.

Homeless Veterans: VA has placed an emphasis on ending homelessness among the veteran population. Over the past 6 years tremendous progress has been made in reducing the number of veterans that experience homelessness on any given night, from an estimated 195,000 in 2005, to an estimated 75,600 this year. The 2012 budget includes $939 million for specific programs to prevent and reduce homelessness among veterans. This is an increase of $140 million over the 2011 funding. This increase includes an additional $50 million to enhance case management for permanent housing solutions offered through the Housing and Urban Development-VA Supported Housing [HUD–VASH] program.

Integrated Mental Health Strategy: The frequency of individual deployments to Iraq and Afghanistan, and exposure to the risks and stresses of combat have contributed to a higher than expected prevalence of mental health conditions among those who have deployed. Without question the VA has made earnest efforts to identify and treat mental health issues by instituting system-wide mental health screenings, increasing levels of mental health staffing, conducting training on clinical techniques, and increasing the focus on integrating primary care and mental health treatment. In a groundbreaking joint effort, VA and DOD have agreed on an integrated mental health strategy that will standardize treatment across the departments. As one measure of the need for these services, in April of 2011 the Veterans Crisis Line received its highest call volume since its inception. Over 14,000 calls were received, which is an average of more than 400 calls per day. This increase is evidence that the service is being utilized by service members and veterans. Given the critically important nature of this service, it is imperative VA remain vigilant in efforts to ensure all aspects of these programs are fully resourced. Congress urges VA and DOD to continue implementation of the Integrated Mental Health Strategy.

In April of 2011, the Veterans Crisis Line received its highest call volume since its inception, over 14,000 calls, or an average of 400 a day.

The chart below shows VA's medical care accounts, with the President's proposed FY 2012 VA discretionary funding, the proposed FY 2013 advance

appropriations for the medical care accounts, the advance funding contained in the House version of H.R. 2055, the advance appropriations amounts contained in the Senate version of the same measure, and The American Legion's proposed appropriations totals as presented to Congress last September by National Commander Foster.

VA MEDICAL DISCRETIONARY PROGRAMS

	President's FY 2012 VA Advance Appropriations	President's FY 2013 VA Advance Appropriations	H.R. 2055 FY 2013 Advance Appropriations	Senate Version Of H.R. 2055 FY 2013 Advance Appropriations	American Legion's FY 2013 Request
Medical Services	$39.9 bil.@	$41.3 bil.	$41.3 bil.	$41.3 bil.	$38.1 bil.
Medical Support & Compliance	$5.5 bil.	$5.7 bil.	$5.7 bil.	$5.7 bil.	$5.3 bil.
Medical Facilities	$5.4 bil.	$5.4 bil.	$5.4 bil.	$5.4 bil.	$6.2 bil.
Medical/Prosthetic Research	$509 mil.	$509 mil.	$531mil.	$581 mil.	$600 mil.
Total Medical Care	***$51.3 bil.***	***$53.0 bil.***	***$53.1 bil.***	***$53.1 bil.***	***$50.2 bil.***

@ As part of President Obama's FY 2012 VA budget proposal, he requested $240 million be added to the Medical Services account for the upcoming fiscal year.

The chart below presents funding for non-medical programs, showing: the final FY 2011 discretionary funding totals for VA's non-medical accounts; the President's FY 2012 proposal for these accounts; funding amounts contained in the House version of H.R. 2055; appropriations contained in the Senate version; and The American Legion's proposal for next fiscal year.

VA NON-MEDICAL DISCRETIONARY PROGRAMS

	P.L. 111-322 FY 2011 VA Funding	President's FY 2012 VA Budget Proposal	H.R. 2055 FY 2012 VA Appropriations	Senate Version Of H.R. 2055 FY 2013 VA Appropriations	American Legion's FY 2012 VA Budget Request
National Cemetery Administration	$250 mil.	$251 mil.	$251 mil.	$251 mil.	$260 mil.
General Operating Expenses – VBA	$2.5 bil.	$2.5 bil.	$2.0 bil.	$2.0 bil.	$2.6 bil.
Information Technology	$3.3 bil.	$3.2 bil.	$3.0 bil.	$3.2 bil.	$3.5 bil.
Major Construction	$1.2 bil.	$590 mil.	$590 mil.	$590 mil.	$1.2 bil.
Minor Construction	$468 mil.	$550 mil.	$475 mil.	$550 mil.	$800 mil.
State Veterans' Homes Grants	$100 mil.	$85 mil.	$85 mil.	$85 mil.	$100 mil.
State Veterans' Cemeteries Grants	$46 mil.	$46 mil.	$46 mil.	$46 mil.	$60 mil.

Since both the House and Senate have passed a spending measure with differing language and appropriations figures, a conference committee must now be formed to reconcile the two versions before the President can sign the bill into law.

Many times in the past, The American Legion has stated that balancing the Federal budget on the backs of America's veterans is bad policy. The American Legion will continue to lobby Congress and the executive branch for appropriations that are equitable, sustainable and timely for the nation's veterans and their dependents.

THE AMERICAN LEGION LEGISLATIVE POINT PAPER

FISCAL YEAR 2012 DOD BUDGET

Background:

On July 8 the House by a vote of 336-87 passed H.R. 2219 the Department of Defense (DOD) spending measure for FY 2012. Discretionary programs would be funded at $519.8 billion, an increase of $17.4 billion over the FY 2011 enacted amounts. An additional $118.5 billion would be assigned to cover the Overseas Contingency Operations (OCO) account – the military actions in Afghanistan and Iraq. Some of the major funding proposals include:

- $132.1 billion for Military Personnel, which includes pay and allowance, training, bonuses and incentive pays, and health and retirement benefits;
- $170 billion for Operations and Maintenance, which provides for operating and maintaining the armed forces;
- $107.6 billion for Procurement accounts, allowing DOD to provide the troops with the best weapons possible; and,
- $73 billion for Research, Development, Testing and Evaluation (RDTE), which aims to keep U.S. armed forces as up-to-date and modernized as is practicable.

Under the President's original FY 2012 budget proposal, defense spending is projected to grow slightly (1 percent per year) in FYs 2012-2014, then remain flat during FYs 2015-2016. The President's proposal seeks to accomplish what many people stated could not be done: generate annual bureaucracy / duplication / overhead / personnel / waste savings of over $20 billion per year, i.e. $100 billion over five years. Contrary to what other experts have said, President Obama has **not** cut overall defense spending.

The House-passed legislation would assign $519.8 billion for DOD programs in FY 2012, an increase of $17.4 billion over the enacted FY 2011 amounts.

The Military Personnel account would receive $132.1 billion, a decrease of $10.7 billion over the President's proposed FY 2011 amount. This account funds the day-to-day personnel costs of the Active, Reserve, and Guard forces of the Army, Navy, Air Force, and Marine Corps. They include pay and allowances of officers, enlisted personnel, cadets and midshipmen, permanent change of station travel, inactive duty and active duty training, accruing retirement and

health benefits, enlistment, reenlistment and affiliation bonuses, special and incentive pays, and other personnel costs.

Under H.R. 2219, the Operations and Maintenance (O&M) account would be funded at $170 billion, $34.4 billion below Obama's FY 2012's proposal for that account. These costs include operating and maintaining the Armed Forces, including the Reserve components and related support activities of DOD, training and operation costs, pay of civilians, contract services for maintenance of equipment and facilities. Also included in this account are:

H.R. 2219 would fund the Procurement account at $107.6 billion, for advanced weapons systems and other equipment to support not only current overseas operations, but also possible future conflicts.

- $508 million for the Cooperative Threat Reduction program, the purpose of which is to secure and dismantle weapons of mass destruction and their associated infrastructure in states of the former Soviet Union.

The House-approved measure seeks to fund the FY 2012 Procurement account at $107.6 billion for advanced weapons systems and other necessary equipment to support both today's wars as well as possible future conflicts. These include:

- $5.4 billion for procurement of 26 F-35 Lightnings (the Joint Strike Fighter) for the Navy and Air Force;
- $4.7 billion for procurement of 2 more *Virginia*-class attack submarines;
- $2.6 billion for 71 Blackhawk and 47 Chinook helicopters;
- $2.5 billion for 35 MV-22s and CV-22 Ospreys for the Air Force and Marines;
- $2.4 billion for 28 F/A-18E/F Super Hornet aircraft for the Navy;
- $2.1 billion for an additional *Arleigh Burke*-class guided missile destroyer;
- $633 million for 100 more Stryker vehicles; and,
- $453 million for 54 M1A2 SEP Abrams tanks.

The Research, Development, Test and Evaluation (RDT&E) account would receive $73 billion, a decrease of $2.3 billion from the President's request. These appropriations are primarily aimed at modernization through basic and applied research, fabrication of technology-demonstration devices, and development and testing of prototypes and full-scale preproduction hardware. Resources presented under the RDT&E area contribute primarily to achieving DOD's annual goals of transforming the force for new missions and reforming processes and organizations. Some major areas covered under this category include:

- $2.7 billion for further RDTE for the F-35 program;
- $1.3 billion for further RDTE for the Joint Strike Fighter program; and,
- $1.3 billion for addition RDTE on the *Virginia*-class submarine program.

Other programs which interest The American Legion include:

- $1.5 billion for the chemical agents and munitions destruction account;
- $1.2 billion for the drug interdiction and counter-drug activities account; and,
- $40 million for impact aid for local school districts which contain large numbers of DOD dependent students.

In addition, the Defense Health System provides high-quality medical care to the over 9.7 million service members, retirees, and their families. This includes support for Wounded Warrior transition units and centers of excellence in vision, hearing, traumatic brain injury (TBI), and other areas to continuously improve the care to wounded, ill and injured service members.

However, one area the Administration has slated for "savings" is the TRICARE program. This medical program is used by former service members, their dependents and some members of the Reserve Component, mainly for its low cost. However, former DOD Secretary Robert Gates has voiced the opinion that the current cost of the Defense Health System – budgeted at $32.3 billion for FY 2012 – cannot be sustained in the future. He further projected that military health care will consume 10 percent of the DOD budget by 2015. Secretary Gates sought to cut $7 billion from the Defense Health System over the next five years.

Under the Administration's budget proposal, TRICARE Prime annual fees would increase next year from $230 to $260 per year for an individual, and from $460 to $520 a year for a family.

Part of the President's budget would include fee increases for TRICARE, which will **not** require approval from Congress. The current TRICARE Prime annual enrollment fees of $230 for an individual retiree and $460 for a family have not changed since TRICARE was created in 1996. The Administration's proposal would increase next year's fees to $260 per year for an individual and $520 a year for a family. Starting in 2013, annual fees for retirees using TRICARE Prime coverage would increase over time at the rate of medical inflation, which typically rises more rapidly than the broader inflation rate and cost-of-living adjustments. The budget anticipates 6 percent annual increases in premiums.

The proposed fee increase of 13 percent on retirees' enrollment fees was significantly smaller than past proposals and far less than many veterans groups expected. The proposal does not change health coverage fees for active-duty members and their families or for Medicare-eligible TRICARE for Life beneficiaries, or for widow/widowers and disabled retirees.

Other proposed changes to TRICARE include pharmacy co-pay fees. TRICARE would eliminate the $3 drug co-pay fee for generic drugs obtained through the military's mail-order pharmacy system, while fees for drugs purchased through neighborhood retail pharmacies will increase by up to $3. Health officials hope the shift will encourage more people to use the mail-order service, which is significantly cheaper for the military, compared with retail pharmacies.

The changes are likely to be controversial, which is why Pentagon officials underscored fees that will not change. These include out-of pocket costs for active-duty service members and their families, fees and co-pays for medically retired service members or survivors of service members, TRICARE Standard coverage fees and the catastrophic cap for all plans. Calls for increased fees for stakeholders in TRICARE have been met with opposition in the past. However, in order for these changes to be avoided in this debate congress would need to find $7 billion to "cover" this portion of the budget.

The recent showdown between Congress and the White House over raising the debt limit highlighted the need for the federal government to reduce its spending levels. If this country is ever to get its economic house in order, the federal government needs to cut its exorbitant spending which has pushed the current national debt into the $14 trillion range.

Furthermore, the new Congress has made a priority of reducing federal spending, whether in selected areas or across-the-board has yet to be determined. Some budget-cutters have sought to wield a budgetary butter knife by protecting some areas of the federal fiscal pie, such as Social Security, defense, and veterans benefits. Others, brandishing a meat-cleaver, want the entire federal budget open to cuts. Only time will tell which process will be dominant.

THE AMERICAN LEGION LEGISLATIVE POINT PAPER

FISCAL YEAR 2012 DOL VETS APPROPRIATIONS

Background:

The mission of the Department of Labor's (DOL) Veterans' Employment and Training Service (VETS) is to promote the economic security of America's veterans by assisting them in finding meaningful employment. 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.

VETS delivers its services through a variety of programs; including providing grants to states, public entities, and non-profit organizations to assist veterans seeking employment. This agency also investigates veterans' complaints filed under veterans' hiring preference and Uniformed Services Employment and Reemployment Rights Act (USERRA).

VETS provides employment and training services to eligible veterans through the Jobs for Veterans State Grants Program. Under this program, funds are allocated to State Workforce Agencies in direct proportion to the number of veterans seeking employment within their state. The agency administers the Disabled Veterans' Outreach Program (DVOP) and Local Veterans' Employment Representatives (LVER) state grant programs. VETS also provides assistance to service members and veterans through the Transition Assistance Program; Homeless Veterans' Reintegration Program (HVRP); Veterans Workforce Investment Program (VWIP); and the National Veterans' Training Institute (NVTI).

The House Appropriations Committee is still working on a measure to fund DOL functions for the next fiscal year. It is anticipated an appropriations bill will be passed in September, prior to the beginning of the next fiscal year.

Below is a chart indicating the current funding for the VETS program, the President's FY 2012 request, and funding recommendations of The American Legion.

Program	FY 2011 Annualized Funding	President's Budget Request FY 2012	Legion's Budget Request FY 2012
State Administration Grants	$166 million	$166 million	$166 million
Transition Assistance Program	$7 million	$8 million	$9 million
Homeless Veterans Program	$36 million	$36 million	$50 million
Veterans' Workforce Investment Program	$10 million	$10 million	$20 million
National Veterans Training Institute	$2 million	$2 million	$4.2 million
Program Administration	$35 million	$35 million	$40 million
Total	***$256 million***	***$257 million***	***$280.2 million***

Successful veterans' employment and training programs require both an adequate level of funding and oversight to ensure the services are being delivered to eligible veterans. Given the number of newly-separated veterans transitioning from military to civilian life and the obligation to also provide these employment services to veterans of prior wars who need assistance due to the unstable job market, The American Legion believes Congress must fully fund the FY 2012 VETS budget request that provides these employment, training, and placement programs.

THE AMERICAN LEGION LEGISLATIVE POINT PAPER

MEDICARE REIMBURSEMENT FOR VA MEDICAL CARE

Under current law, the Department of Veterans Affairs' Veterans Health Administration (VHA) is prohibited from receiving Medicare payments 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-covered veterans, a concept called "Medicare subvention."

Medicare is a 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 must continue 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 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 approximately 22.1 million veterans; only about 8.5 million are enrolled in VHA. Of those enrollees, about half of the VHA patient population is estimated to be 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 must continue to seek other revenue streams to supplement limited annual Federal discretionary appropriations and meet the growing demands for quality treatment of enrolled veterans. Highlighting this necessity is an October 2010 report by the Congressional Budget Office (CBO), a nonpartisan agency that provides economic data to Congress. It projects that the future costs for VA to treat enrolled veterans will be substantially higher than recent appropriations for that purpose, partly because more veterans are likely to seek care in the VA system but mostly because health care costs per enrolled veteran are projected to increase at a faster rate than the consumer price index. In order to help close this gap, The American Legion supports Medicare reimbursements to supplement VA's annual budget.

112th Congress Update

House Veterans' Affairs Ranking Member Bob Filner (CA) introduced H. R. 814, the *Medicare VA Reimbursement Act of 2011*, on February 18, 2011. This bill provides Medicare payments to VA medical facilities for items and services provided to Medicare-eligible veterans for nonservice-connected conditions. As of August 10, 2011, the bill has 5 cosponsors.

This bill is legislatively complex because its subject matter crosses three committees' jurisdictions in the House. Those committees are Veterans' Affairs, Energy and Commerce, and Ways and Means. No hearings have been scheduled on the bill and no Senate companion legislation has been introduced. 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.

THE AMERICAN LEGION LEGISLATIVE POINT PAPER

H.R. 2369, THE AMERICAN LEGION CHARTER LEGISLATION

Resolution 1: Direct Payment of Renewal Dues was adopted at last year's National Convention. This resolution changed the National Constitution and made needed changes that will support our membership. As The American Legion was chartered by Congress, Congress needs to authorize these changes, by legislation, to our Congressional charter.

On June 24, 2011, Representative Jason Altmire (PA), with Representative Thomas J. Rooney (FL), introduced H.R. 2369, entitled the *American Legion Modernization Act*, to amend our Congressional charter to authorize these changes mandated by Resolution 1.

This legislation has a twofold purpose. One, it protects The American Legion from frivolous lawsuits and, two, it allows The American Legion to collect annual dues renewals over the internet by using a credit card.

HR 2369 protects The American Legion from frivolous law suits.

The legislation clarifies, by statute, the autonomous, independent nature of our posts and departments. This legislation will set into law what courts have ruled: that no independent entity of The American Legion is legally responsible for the actions of another. This clarification is necessary because as we begin to accept dues over the internet, and sending these funds to the departments and posts, someone may sue the National Organization claiming that it now 'controlled' this money because it was providing this service. This bill provides protection from that legal liability claim by setting into law that our posts and departments are independent of the national organization.

H.R. 2369 is assigned to the House Committee on Judiciary where it awaits further action.

THE AMERICAN LEGION LEGISLATIVE POINT PAPER

THE CONGRESSIONAL "SUPERCOMMITTEE"

With enactment of the Budget Control Act of 2011 (P.L.112-25), Congress agreed to increase the debt ceiling in exchange for immediate deficit reductions and a process to enact additional deficit reduction measures. As the first step of this Act, new caps were put on discretionary spending for the next ten years, which, if maintained, will result in approximately $900 billion in deficit reduction.

For fiscal years (FY) 2012 and 2013, there are separate "caps" for security and non-security spending. Security spending includes defense, state and foreign operations, homeland security, and military construction/veterans affairs. In those two years, the "security savings" would comprise $5 billion of the approximate $10 billion in savings. The Department of Defense has begun drafting cuts of approximately $350 billion across those ten years. Because of advance appropriations for the medical accounts of the VA budget, most agree VA will be burdened with very little in FY12.

The second step was the creation of a Joint Select Committee on Deficit Reduction (popularly referred to as the "Supercommittee") which is tasked with proposing at least $1.2 trillion in additional deficit reduction, which could come from any combination of spending reductions, entitlement reforms, or revenue increases. The committee has an aggressive timeline with a final proposal to be completed November 23.

If this Committee is unable to reach agreement on a proposal, or if Congress does not approve the proposal made by the Committee, automatic "across-the-board" cuts would take effect under a process called "sequestration" beginning in January 2013. Under the Budget Control Act, if sequestration were to take effect, 50 percent of the budget cuts would come from defense spending and 50 percent would come from non-defense accounts.

The sequestration mechanism dates back to P.L. 99-177, the Balanced Budget and Emergency Deficit Control Act of 1985 (BBEDCA), commonly known as the "Gramm-Rudman-Hollings Act." Under the BBEDCA, there were exemptions from these "across-the-board" cuts, including veterans' compensation and pension payments. Other programs that are exempt from cuts include Social Security, Medicaid, and most welfare programs including food stamps.

The BBEDCA was amended by the Statutory Pay-As-You-Go Act of 2010 (P.L. 111-139) in the 111th Congress. This law expanded the exemptions from compensation and pension, to "all programs administered by the Department of Veterans Affairs," applying to both mandatory benefits and discretionary programs, including VA health care. As a result, it is expected if the "supercommittee" process fails and sequestration is invoked, the law would be interpreted to exempt all VA programs from cuts.

Despite the protections which appear to extend to automatic cuts to VA programs, The American Legion's work is not done at this point. There are programs providing veterans' benefits outside of VA, including the Department of Labor's Veterans Employment and Training Service (VETS), which are still subject to sequestration cuts. Moreover, defense and foreign affairs spending would suffer tremendous cuts. The Department of Defense (DOD) anticipates their cuts would total approximately $600 billion across that ten year period – thus burdening the DOD with $950 billion of the $2.4 trillion of cuts imposed by the Budget Control Act. So while defense spending comprises about 20 percent of the spending, it would be burdened with almost 40 percent of the cuts. The sequestration "trigger" was developed so that both parties would find failure by the "supercommittee" to be unpalatable.

The DOD has not been without a voice in this debate. Army General Martin Dempsey, President Obama's nominee for the Chairman of the Joint Chiefs of Staff, the highest ranking post in the military, has been a vociferous opponent of over-cutting from the Defense budget and compromising national security. "National security didn't cause the debt crisis nor will it solve it." Dempsey stated firmly to the Senate Armed Service Committee. Distancing himself from remarks by the outgoing Chief of Staff Admiral Mike Mullen, who had noted the economic crisis was the "single biggest threat to national security" Dempsey continued "I wouldn't describe our economic condition as the single biggest threat…there are a lot of clear and present threats to national security in the current operational environment."

Other military leaders have cautioned of the dangers of a "hollow force" such as the state of affairs in the late 1970's when aircraft sat idle on runways without engines because of budget shortfalls. General Phillip Breedlove, the Air Force Vice Chief of Staff and General Joseph Dunford, Assistant Commandant of the Marine Corps have both gone on record to state if the cuts exceed $400 billion they would have to consider "fundamental changes" to the nature of their capability and mission.

Few observers are optimistic the "supercommittee" process will be successful. They point to the equal distribution of members from each party. Once the membership had been appointed, many point to the backgrounds and links of the "supercommittee's" members to the party leadership. Others point to the failure of other committees in the past when dealing with such all-encompassing issues. Finally, President Obama and some members of the "supercommittee" have recently expressed a desire to make the work of the panel larger in scope including perhaps another round of stimulus spending and job initiatives. As the committee's proposal grows in either dollars or complexity, the likelihood of losing the votes necessary to pass a recommendation increases.

For the time being, The American Legion's work must revolve around influencing the "supercommittee" to make recommendations as benign as possible for our programs and constituency. By October 14th, each House and Senate committee will submit recommendations on programs and savings that the supercommittee can look to for savings to comprise the $1.2 trillion. The guidance on how each committee can do that, or what type of savings the "supercommittee" is asking for is unknown at this point.

Because of the limited staff and timeline imposed on the supercommittee, most agree the recommendations will be those we've seen recently. For VA those could include:

- Further restrict enrollment of Priority Group 8 *and/or* **dis**-enroll Priority Group 8 veterans
- Require enrollment fees and/or increase medical and prescription drug copayments
- Reduce the number of VA health care facilities, expand provision of private sector vouchers for veterans, and other efforts to downsize VA health care
- Means test all benefits, including disability compensation
- Tax disability compensation payments
- Offset disability compensation for veterans also receiving SSDI
- Provide lump sum payments for some or all disability compensation
- Change standard for "service-connection" to performance of duty
- Higher participation fees for GI Bill and insurance programs
- Tighten the evidentiary requirements for new presumptive conditions
- Change current Social Security CPI to "chained" CPI (lower)

For the DOD these recommendations could include:

- Savings achieved by reduction and/or removal of troops in Afghanistan and Iraq
- Elimination of certain weapons programs or development
- Change to the active duty and reserve benefits including housing allowances, education benefits, and medical coverage
- Change to the military retirement and benefits programs including eligibility for years in service, effective dates, and TRICARE coverage/fees
- Reduction in National Guard and Reserve units and replacement equipment

While The American Legion has resolutions covering many of these proposals and a history of arguing successfully against them, some are not covered by our existing resolutions. Moreover, we could be backed into a position of having to choose between two proposals or find it necessary to leverage one reduction against an expansion.

For example, The American Legion has a resolution which dictates our opposition to enrollment fees for anyone who is eligible for VA health care. This would extend to enrollment fees that are means tested. Yet, could it be appropriate to leverage means tested enrollment fees if we could open Category 8 for further enrollment? This would satisfy another resolution and private insurance fees collected on these veterans could be used to supplement the VA budget.

In contrast, The American Legion does not have a resolution opposed to changing the cost of living adjustment (COLA); yet one of the likely proposals to be considered will be a revision of the COLA to better reflect the Consumer Price Index (CPI) – also known as chained CPI. In implementing such a change, it is estimated this could generate approximately $140 billion in savings in the next ten years. This would decrease the Social Security, and therefore VA, COLA adjustments by approximately .25 percent annually.

In mid-August, the Office of Management and Budget (OMB) directed federal agencies to reduce their FY13 budget proposals. Citing difficult fiscal times and the budget reductions created by the Budget Control Act, the agencies were told to plan for FY13 budgets that were at least 5 percent below, but possibly 10 percent below, FY11 budget levels. This amount of reduction, on top of reductions by the DOD, DoL, and VA would be detrimental to the programs and benefits provided to our military and veterans.

In response to the overall tenor of budget discussion, including the "supercommittee," The American Legion has activated the grassroots lobbying efforts of the Legislative Council. The twelve members of the Legislative Council who liaise with the members of the committee have been tasked with reaching out and beginning a dialogue with their member of Congress. Legion family members from those districts and states were encouraged to do the same. These efforts will be followed up by personal meetings during the 2011 National Commander's testimony on the Hill and visits by Legion family members.

The "supercommittee" has a narrow window in which to operate and therefore they are going to be looking for the "tried and true" budget cuts that have been floated in the past. Yet other efforts, whether it be in budget planning for FY13, or the long-term ideas proposed through blue-ribbon study groups and commissions, will forever look to the military and veterans' benefits, programs and budgets to determine where there might be "savings" either real or imagined that can be used. The American Legion will continue to demonstrate that we will shoulder our fair share, but that share doesn't begin until others, other American's who did not sacrifice in service to this country, have given a share.

Timeline of Actions under the Debt Deal

Immediately Establishes discretionary caps for 10 fiscal years, with firewalls for fiscal year 2012 and 2013 between security and nonsecurity spending.

Allows an increase of $900 billion in the debt ceiling.
$400 billion increase happens automatically.

Within two weeks House and Senate appoint a total of 12 members to a new Joint Select Committee on Deficit Reduction, whose goal is **deficit reduction of at least $1.5 trillion** over ten fiscal years.

Late September Congress has 50 days after the debt ceiling is increased to pass a resolution of disapproval, or else the debt ceiling is increased by the remaining $500 billion.
If the President vetoes the resolution of disapproval, Congress can vote to override. If the override succeeds, the debt ceiling is not raised and there is a $400 billion sequestration equal to the original debt ceiling increase.

October-December Between September 30 and December 31 both Houses of Congress must vote on a "Joint resolution proposing a balanced budget amendment to the Constitution of the United States."

October 14 Each Congressional committee may transmit recommendations to the Joint Select Committee.

November 23 The Joint Select Committee **reports its recommendations.**

December 2 If a majority of the 12 Committee members approve the report, the report and legislative **language go to the President, the House, and the Senate.**

December 23 The **House and Senate vote** on the Committee's report.

Winter (estimate) When the debt subject to limit is again within $100 billion of the ceiling, **the debt ceiling can be increased by between $1.2 trillion and $1.5 trillion.**

If Congress has passed a Constitutional amendment or if Congress has approved additional deficit reduction of at least $1.5 trillion, the debt ceiling can be increased by $1.5 trillion.
If Congress has approved additional deficit reduction of between $1.2 trillion and $1.5 trillion, the debt ceiling can be increased by that amount.

15 days later Congress has 15 calendar days after being notified of the need to increase the debt ceiling to enact a joint resolution of disapproval, or else the debt ceiling is increased. House Budget Committee Democratic Staff August 3, 2011 Page 7

January 15, 2012 If Congress has not approved additional deficit reduction of at least $1.2 trillion, the debt ceiling can be increased by $1.2 trillion, with automatic sequestration to take effect one year later and lasting the next nine fiscal years.

January 2013 If the additional deficit reduction of at least $1.2 trillion was not enacted by January 15, 2012, **a sequester takes effect**, spread equally across defense and non-defense spending, with certain programs exempt. The sequester continues through fiscal year 2021.

Debt Ceiling "Super Committee"

Sen. Patty Murray (D-WA), Co-Chair

Residence: Seattle
Marital Status: Married (Rob)
Prev. Occupation: Educator
Prev. Political Exp.: Shoreline School Board, 1983-89; WA Senate, 1989-93
Education: BA Washington State University, 1972
Birthdate: 10/11/1950
Birthplace: Bothell, WA
Religion: Catholic
Percentage in Last Election: 52%
Major Opponent: Dino Rossi
448 Russell Senate Office Building,
District of Columbia 20510-4704
Phone: (202) 224-2621
Fax: (202) 224-0238

- Chief of Staff: Mike Spahn
- Scheduler: Grace Rooney

Sen. Max Baucus (D-MT)

Residence: Helena
Marital Status: Married (Melodee Hanes)
Prev. Occupation: Attorney
Prev. Political Exp.: MT House, 1973-75; US House, 1975-78
Education: BA Stanford University, 1964; LLB Stanford University, 1967
Birthdate: 12/11/1941
Birthplace: Helena, MT
Religion: United Church of Christ
Percentage in Last Election: 73%
Major Opponent: Bob Kelleher
511 Hart Senate Office Building,
District of Columbia 20510-2602
Phone: (202) 224-2651
Fax: (202) 224-9412

- Chief of Staff: Jon Selib
- Scheduler: Nancy Orloff

Sen. John Kerry (D-MA)

Residence: Boston
Marital Status: Married (Teresa Heinz Kerry)
Prev. Occupation: Attorney
Prev. Political Exp.: MA Lt. Governor, 1983-85
Military: USN, 1966-70
Education: BA Yale University, 1966; JD Boston College, 1976
Birthdate: 12/11/1943
Birthplace: Denver, CO
Religion: Catholic
Percentage in Last Election: 66%
Major Opponent: Jeffrey Beatty
218 Russell Senate Office Building,
District of Columbia 20510-2102
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Fax: (202) 224-8525

- Chief of Staff: David Wade
- Scheduler: Julie Wirkkala

Sen. Jon Kyl (R-AZ)

Residence: Phoenix
Marital Status: Married (Caryll)
Prev. Occupation: Attorney
Prev. Political Exp.: US House, 1987-95
Education: BA University of Arizona, 1964; LLB University of Arizona, 1966
Birthdate: 04/25/1942
Birthplace: Oakland, NE
Religion: Presbyterian
Percentage in Last Election: 53%
Major Opponent: Jim Pederson
730 Hart Senate Office Building,
District of Columbia 20510-0304
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Fax: (202) 224-2207

- Chief of Staff: Tim Glazewski

Sen. Patrick Toomey (R-PA)

Residence: Zionsville
Marital Status: Married (Kris)
Prev. Occupation: Investment Banker, Restaurateur
Prev. Political Exp.: US House, 1999-2005
Education: AB Harvard University, 1984
Birthdate: 11/17/1961
Birthplace: Providence, RI
Religion: Catholic
Percentage in Last Election: 51%
Major Opponent: Joe Sestak
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District of Columbia 20510-3802
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Fax: (202) 228-0284

- Chief of Staff: Christopher Gahan
- Scheduler: Danielle Joos

Sen. Rob Portman (R-OH)

Residence: Terrace Park
Marital Status: Married (Jane)
Prev. Occupation: Attorney, Business Owner
Prev. Political Exp.: US House, 1993-2005; US Trade Representative, 2005-06; Office of Management & Budget Director, 2006-07
Education: BA Dartmouth College, 1979; JD University of Michigan, 1984
Birthdate: 12/19/1955
Birthplace: Cincinnati, OH
Religion: Methodist
Percentage in Last Election: 57%
Major Opponent: Lee Fisher
338 Russell Senate Office Building,
District of Columbia 20510-3504
Phone: (202) 224-3353
Fax: (202) 224-9075

- Chief of Staff: Rob Lehman
- Scheduler: Marisa Etter

Rep. Jeb Hensarling (R-TX), Co-Chair

Residence: Dallas
Marital Status: Married (Melissa)
Prev. Occupation: Businessman
Prev. Political Exp.: no prior elected office
Education: BA Texas A&M University, 1979; JD University of Texas, 1982
Birthdate: 05/29/1957
Birthplace: Stephenville, TX
Religion: Episcopal
Percentage in Last Election: 71%
Major Opponent: Tom Berry
129 Cannon House Office Building,
District of Columbia 20515-4305
Phone: (202) 225-3484
Fax: (202) 226-4888
Chief of Staff: Andrew Duke

Rep. Dave Camp (R-MI)

Residence: Midland
Marital Status: Married (Nancy)
Prev. Occupation: Attorney, Congressional Aide
Prev. Political Exp.: MI House, 1989-91
Education: BA Albion College, 1975; JD University of San Diego, 1978
Birthdate: 07/09/1953
Birthplace: Midland, MI
Religion: Catholic
Percentage in Last Election: 66%
Major Opponent: Jerry Campbell
341 Cannon House Office Building,
District of Columbia 20515-2204
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Fax: (202) 225-9679

- Chief of Staff: Jim Brandell
- Appt. Secy.: Allie Judson

Rep. Fred Upton (R-MI)

Residence: St. Joseph
Marital Status: Married (Amey)
Prev. Occupation: Congressional Aide
Prev. Political Exp.: no prior elected office
Education: BA University of Michigan, 1975
Birthdate: 04/23/1953
Birthplace: St. Joseph, MI
Religion: Protestant
Percentage in Last Election: 62%
Major Opponent: Don Cooney
2183 Rayburn House Office Building,
District of Columbia 20515-2206
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Fax: (202) 225-4986

- Chief of Staff: Joan Hillebrands
- Scheduler: Bits Thomas

Rep. James Clyburn (D-SC)

Democrat – South Carolina
Residence: Columbia
Marital Status: Married (Emily)
Prev. Occupation: Educator
Prev. Political Exp.: SC Human Affairs Commissioner, 1974-92
Education: BS South Carolina State College, 1961
Birthdate: 07/21/1940
Birthplace: Sumter, SC
Religion: African Methodist Episcopal
Percentage in Last Election: 63%
Major Opponent: Jim Pratt
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Fax: (202) 225-2313

- ☐ Chief of Staff: Yelberton Watkins
- ☐ Scheduler: Angela Wright

Rep. Xavier Becerra (D-CA)

Democrat - California
Residence: Los Angeles
Marital Status: Married (Carolina Reyes)
Prev. Occupation: Attorney
Prev. Political Exp.: CA Assembly, 1990-92
Education: BA Stanford University, 1980; JD Stanford University, 1984
Birthdate: 01/26/1958
Birthplace: Sacramento, CA
Religion: Catholic
Percentage in Last Election: 84%
Major Opponent: Stephen Smith
1226 Longworth House Office Building,
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Fax: (202) 225-2202

- Chief of Staff: Debra Dixon
- Scheduler: Stephanie Venegas

Chris Van Hollen (D-MD)

Residence: Kensington
Marital Status: Married (Katherine)
Prev. Occupation: Attorney
Prev. Political Exp.: MD House, 1991-95; MD Senate, 1995-2003
Education: BA Swarthmore College, 1982; MPP Harvard University, 1985; JD Georgetown University, 1990
Birthdate: 01/10/1959
Birthplace: Karachi, Pakistan
Religion: Episcopal
Percentage in Last Election: 73%
Major Opponent: Michael Philips
1707 Longworth House Office Building,
District of Columbia 20515-2008
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Fax: (202) 225-0375

- Acting Chief of Staff: C.R. Wooters
- Appt. Secy.: Emily Contillo

112TH CONGRESS – 1ST SESSION
LEGISLATIVE POINT PAPERS

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September 2011

THE AMERICAN LEGION LEGISLATIVE POINT PAPER

FISCAL YEAR 2012 VA BUDGET

Background:

On June 14, by a vote of 411-5, the House of Representatives approved H.R. 2055, the FY 2012 Military Construction and VA appropriations measure. On July 20, the Senate passed its version of this bill by a vote of 97-2. The House version recommended $129.7 billion for VA programs, $7.8 billion more than FY 2011 funding amounts, and nearly half a billion dollars below the President's requested figure of $130.2 billion. The Senate bill recommended $128.1 billion for the same VA programs, $6.2 billion above the FY 2011 figures and approximately $2.1 billion less than the President's budget proposal. H.R. 2055 becomes the first FY 2012 spending measure to be approved by both congressional chambers.

There are several major areas of emphasis in VA's FY 2012 budget:

The House of Representatives on June 14 passed H.R. 2055, the FY 2012 VA spending bill by a vote of 411-5. On July 20, the Senate approved its version of the

Rural Veterans' Health Care: H.R. 2055 provides $250 million to improve access and quality of care for the 3.3 million veterans residing in rural and highly rural areas. Congress is concerned about the health care needs of elderly veteran populations in rural areas. These veterans have difficulty obtaining access to quality health care and disability services, due to having to travel long distances to healthcare facilities and the lack of specialty providers working in rural areas. While VA has made strides in expanding access to rural veterans, it is clear the department continues to struggle to find an adequate and effective strategy to reach these men and women.

Lifetime electronic records: When a member of the armed forces leaves the military, he or she has had to physically walk paperwork from a military duty station to a local VA health center. For years, Congress has been encouraging and funding efforts by VA and DOD to develop interoperable technology to facilitate the rapid exchange of patient and beneficiary information that will yield consolidated, coherent and consistent access to electronic records between VA and DOD. Lifetime electronic health records would significantly improve the delivery of care to service members transitioning from military to

civilian life. H.R. 2055 provides $70 million as requested by the President for the ongoing effort to create the virtual lifetime electronic record (VLER).

Women Veterans: The percentage of women veterans is expected to rise significantly over the next two decades. While VA is an institution originally designed and focused toward serving male veterans, there is an urgent need to adapt older facilities to these changing demographics. VA facilities must be better adapted to meet the unique needs of women veterans. Congress urges VA to continue to upgrade facilities to address the needs of women veterans and veterans with children.

Homeless Veterans: VA has placed an emphasis on ending homelessness among the veteran population. Over the past 6 years tremendous progress has been made in reducing the number of veterans that experience homelessness on any given night, from an estimated 195,000 in 2005, to an estimated 75,600 this year. The 2012 budget includes $939 million for specific programs to prevent and reduce homelessness among veterans. This is an increase of $140 million over the 2011 funding. This increase includes an additional $50 million to enhance case management for permanent housing solutions offered through the Housing and Urban Development-VA Supported Housing [HUD–VASH] program.

Integrated Mental Health Strategy: The frequency of individual deployments to Iraq and Afghanistan, and exposure to the risks and stresses of combat have contributed to a higher than expected prevalence of mental health conditions among those who have deployed. Without question the VA has made earnest efforts to identify and treat mental health issues by instituting system-wide mental health screenings, increasing levels of mental health staffing, conducting training on clinical techniques, and increasing the focus on integrating primary care and mental health treatment. In a groundbreaking joint effort, VA and DOD have agreed on an integrated mental health strategy that will standardize treatment across the departments. As one measure of the need for these services, in April of 2011 the Veterans Crisis Line received its highest call volume since its inception. Over 14,000 calls were received, which is an average of more than 400 calls per day. This increase is evidence that the service is being utilized by service members and veterans. Given the critically important nature of this service, it is imperative VA remain vigilant in efforts to

In April of 2011, the Veterans Crisis Line received its highest call volume since its inception, over 14,000 calls, or an average of 400 a day.

ensure all aspects of these programs are fully resourced. Congress urges VA and DOD to continue implementation of the Integrated Mental Health Strategy.

The chart below shows VA's medical care accounts, with the President's proposed FY 2012 VA discretionary funding, the proposed FY 2013 advance appropriations for the medical care accounts, the advance funding contained in the House version of H.R. 2055, the advance appropriations amounts contained in the Senate version of the same measure, and The American Legion's proposed appropriations totals as presented to Congress last September by National Commander Foster.

VA MEDICAL DISCRETIONARY PROGRAMS

	President's FY 2012 VA Advance Appropriations	President's FY 2013 VA Advance Appropriations	H.R. 2055 FY 2013 Advance Appropriations	Senate Version Of H.R. 2055 FY 2013 Advance Appropriations	American Legion's FY 2013 Request
Medical Services	$39.9 bil.@	$41.3 bil.	$41.3 bil.	$41.3 bil.	$38.1 bil.
Medical Support & Compliance	$5.5 bil.	$5.7 bil.	$5.7 bil.	$5.7 bil.	$5.3 bil.
Medical Facilities	$5.4 bil.	$5.4 bil.	$5.4 bil.	$5.4 bil.	$6.2 bil.
Medical/Prosthetic Research	$509 mil.	$509 mil.	$531mil.	$581 mil.	$600 mil.
Total Medical Care	***$51.3 bil.***	***$53.0 bil.***	***$53.1 bil.***	***$53.1 bil.***	***$50.2 bil.***

@ As part of President Obama's FY 2012 VA budget proposal, he requested $240 million be added to the Medical Services account for the upcoming fiscal year.

The chart below presents funding for non-medical programs, showing: the final FY 2011 discretionary funding totals for VA's non-medical accounts; the President's FY 2012 proposal for these accounts; funding amounts contained in the House version of H.R. 2055; appropriations contained in the Senate version; and The American Legion's proposal for next fiscal year.

VA NON-MEDICAL DISCRETIONARY PROGRAMS

	P.L. 111-322 FY 2011 VA Funding	President's FY 2012 VA Budget Proposal	H.R. 2055 FY 2012 VA Appropriations	Senate Version Of H.R. 2055 FY 2013 VA Appropriations	American Legion's FY 2012 VA Budget Request
National Cemetery Administration	$250 mil.	$251 mil.	$251 mil.	$251 mil.	$260 mil.
General Operating Expenses – VBA	$2.5 bil.	$2.5 bil.	$2.0 bil.	$2.0 bil.	$2.6 bil.
Information	$3.3 bil.	$3.2 bil.	$3.0 bil.	$3.2 bil.	$3.5 bil.

Technology					
Major Construction	$1.2 bil.	$590 mil.	$590 mil.	$590 mil.	$1.2 bil.
Minor Construction	$468 mil.	$550 mil.	$475 mil.	$550 mil.	$800 mil.
State Veterans' Homes Grants	$100 mil.	$85 mil.	$85 mil.	$85 mil.	$100 mil.
State Veterans' Cemeteries Grants	$46 mil.	$46 mil.	$46 mil.	$46 mil.	$60 mil.

Since both the House and Senate have passed a spending measure with differing language and appropriations figures, a conference committee must now be formed to reconcile the two versions before the President can sign the bill into law. With the new fiscal year set to begin on October 1, there is a certain amount of urgency that should impel the two chambers to agree on a bill that meets VA's needs. Should the President eventually sign this measure as a stand-alone law, it will be the first time since 2001 that this will have occurred – albeit that VA funding bill for FY 2002 (P.L. 107-73) was signed two months after the beginning of the fiscal year.

Many times in the past, The American Legion has stated that balancing the Federal budget on the backs of America's veterans is bad policy. The American Legion will continue to lobby Congress and the executive branch for appropriations that are equitable, sustainable and timely for the nation's veterans and their dependents.

In addition, some deficit reduction proponents have stated that VA already receives advance appropriations for the upcoming year, so why should the department's accounts be exempt from cuts? The answer is that advance appropriations only address three accounts: Medical Care; Medical Support and Compliance; and, Medical Facilities. The other vital accounts – such as the National Cemetery Administration and the Veterans Benefits Administration – must still depend on yearly appropriations.

The House Appropriations Committee on September 14 introduced a continuing resolution (read the text here) that would keep the government funded until Nov. 18 at the debt-ceiling agreement rate of $1.043 trillion for the fiscal year. It includes $3.65 billion for disaster relief, $1 billion of which is for fiscal 2011 that will be available as soon as the bill is enacted. "By preventing a government shutdown and once again cutting spending below last year's levels," House Speaker John Boehner (OH), said in a statement, "this bill gives Congress more time to complete work on legislation that stops the Washington

spending binge and provides more certainty for job creators." It is hoped that final passage of DoL funding for FY 2012 will occur soon.

THE AMERICAN LEGION LEGISLATIVE POINT PAPER

FISCAL YEAR 2012 DOD BUDGET

Background:

On July 8 the House by a vote of 336-87 passed H.R. 2219 the Department of Defense (DOD) spending measure for FY 2012. Discretionary programs would be funded at $519.8 billion, an increase of $17.4 billion over the FY 2011 enacted amounts. An additional $118.5 billion would be assigned to cover the Overseas Contingency Operations (OCO) account – the military actions in Afghanistan and Iraq. Some of the major funding proposals include:

- $132.1 billion for Military Personnel, which includes pay and allowance, training, bonuses and incentive pays, and health and retirement benefits;
- $170 billion for Operations and Maintenance, which provides for operating and maintaining the armed forces;
- $107.6 billion for Procurement accounts, allowing DOD to provide the troops with the best weapons possible; and,
- $73 billion for Research, Development, Testing and Evaluation (RDTE), which aims to keep U.S. armed forces as up-to-date and modernized as is practicable.

Under the President's original FY 2012 budget proposal, defense spending is projected to grow slightly (1 percent per year) in FYs 2012-2014, then remain flat during FYs 2015-2016. The President's proposal seeks to accomplish what many people stated could not be done: generate annual bureaucracy / duplication / overhead / personnel / waste savings of over $20 billion per year, i.e. $100 billion over five years. Contrary to what other experts have said, President Obama has **not** cut overall defense spending.

The House-passed legislation would assign $519.8 billion for DOD programs in FY 2012, an increase of $17.4 billion over the enacted FY 2011 amounts.

The Military Personnel account would receive $132.1 billion, a decrease of $10.7 billion over the President's proposed FY 2011 amount. This account funds the day-to-day personnel costs of the Active, Reserve, and Guard forces of the Army, Navy, Air Force, and Marine Corps. They include pay and allowances of

officers, enlisted personnel, cadets and midshipmen, permanent change of station travel, inactive duty and active duty training, accruing retirement and health benefits, enlistment, reenlistment and affiliation bonuses, special and incentive pays, and other personnel costs.

Under H.R. 2219, the Operations and Maintenance (O&M) account would be funded at $170 billion, $34.4 billion below Obama's FY 2012's proposal for that account. These costs include operating and maintaining the Armed Forces, including the Reserve components and related support activities of DOD, training and operation costs, pay of civilians, contract services for maintenance of equipment and facilities. Also included in this account are:

H.R. 2219 would fund the Procurement account at $107.6 billion, for advanced weapons systems and other equipment to support not only current overseas operations, but also possible future conflicts.

- $508 million for the Cooperative Threat Reduction program, the purpose of which is to secure and dismantle weapons of mass destruction and their associated infrastructure in states of the former Soviet Union.

The House-approved measure seeks to fund the FY 2012 Procurement account at $107.6 billion for advanced weapons systems and other necessary equipment to support both today's wars as well as possible future conflicts. These include:

- $5.4 billion for procurement of 26 F-35 Lightnings (the Joint Strike Fighter) for the Navy and Air Force;
- $4.7 billion for procurement of 2 more *Virginia*-class attack submarines;
- $2.6 billion for 71 Blackhawk and 47 Chinook helicopters;
- $2.5 billion for 35 MV-22s and CV-22 Ospreys for the Air Force and Marines;
- $2.4 billion for 28 F/A-18E/F Super Hornet aircraft for the Navy;
- $2.1 billion for an additional *Arleigh Burke*-class guided missile destroyer;
- $633 million for 100 more Stryker vehicles; and,
- $453 million for 54 M1A2 SEP Abrams tanks.

The Research, Development, Test and Evaluation (RDT&E) account would receive $73 billion, a decrease of $2.3 billion from the President's request. These appropriations are primarily aimed at modernization through basic and applied research, fabrication of technology-demonstration devices, and development and testing of prototypes and full-scale preproduction hardware. Resources presented under the RDT&E area contribute primarily to achieving DOD's annual

goals of transforming the force for new missions and reforming processes and organizations. Some major areas covered under this category include:

- $2.7 billion for further RDTE for the F-35 program;
- $1.3 billion for further RDTE for the Joint Strike Fighter program; and,
- $1.3 billion for addition RDTE on the *Virginia*-class submarine program.

Other programs which interest The American Legion include:

- $1.5 billion for the chemical agents and munitions destruction account;
- $1.2 billion for the drug interdiction and counter-drug activities account; and,
- $40 million for impact aid for local school districts which contain large numbers of DOD dependent students.

In addition, the Defense Health System provides high-quality medical care to the over 9.7 million service members, retirees, and their families. This includes support for Wounded Warrior transition units and centers of excellence in vision, hearing, traumatic brain injury (TBI), and other areas to continuously improve the care to wounded, ill and injured service members.

However, one area the Administration has slated for "savings" is the TRICARE program. This medical program is used by former service members, their dependents and some members of the Reserve Component, mainly for its low cost. However, former DOD Secretary Robert Gates has voiced the opinion that the current cost of the Defense Health System – budgeted at $32.3 billion for FY 2012 – cannot be sustained in the future. He further projected that military health care will consume 10 percent of the DOD budget by 2015. Secretary Gates sought to cut $7 billion from the Defense Health System over the next five years.

Under the Administration's budget proposal, TRICARE Prime annual fees would increase next year from $230 to $260 per year for an individual, and from $460 to $520 a year for a family.

Part of the President's budget would include fee increases for TRICARE, which will **not** require approval from Congress. The current TRICARE Prime annual enrollment fees of $230 for an individual retiree and $460 for a family have not changed since TRICARE was created in 1996. The Administration's proposal would increase next year's fees to $260 per year for an individual and $520 a year for a family. Starting in 2013, annual fees for retirees using TRICARE Prime coverage would increase over time

at the rate of medical inflation, which typically rises more rapidly than the broader inflation rate and cost-of-living adjustments. The budget anticipates 6 percent annual increases in premiums.

The proposed fee increase of 13 percent on retirees' enrollment fees was significantly smaller than past proposals and far less than many veterans groups expected. The proposal does not change health coverage fees for active-duty members and their families or for Medicare-eligible TRICARE for Life beneficiaries, or for widow/widowers and disabled retirees.

Other proposed changes to TRICARE include pharmacy co-pay fees. TRICARE would eliminate the $3 drug co-pay fee for generic drugs obtained through the military's mail-order pharmacy system, while fees for drugs purchased through neighborhood retail pharmacies will increase by up to $3. Health officials hope the shift will encourage more people to use the mail-order service, which is significantly cheaper for the military, compared with retail pharmacies.

The changes are likely to be controversial, which is why Pentagon officials underscored fees that will not change. These include out-of pocket costs for active-duty service members and their families, fees and co-pays for medically retired service members or survivors of service members, TRICARE Standard coverage fees and the catastrophic cap for all plans. Calls for increased fees for stakeholders in TRICARE have been met with opposition in the past. However, in order for these changes to be avoided in this debate congress would need to find $7 billion to "cover" this portion of the budget.

The recent showdown between Congress and the White House over raising the debt limit highlighted the need for the federal government to reduce its spending levels. If this country is ever to get its economic house in order, the federal government needs to cut its exorbitant spending which has pushed the current national debt into the $14 trillion range.

Furthermore, the new Congress has made a priority of reducing federal spending, whether in selected areas or across-the-board has yet to be determined. Some budget-cutters have sought to wield a budgetary butter knife by protecting some areas of the federal fiscal pie, such as Social Security, defense, and veterans benefits. Others, brandishing a meat-cleaver, want the entire federal budget open to cuts. Only time will tell which process will be dominant.

The House Appropriations Committee on September 14 introduced a continuing resolution (read the text here) that would keep the government funded until Nov. 18 at the debt-ceiling agreement rate of $1.043 trillion for the fiscal year. It includes $3.65 billion for disaster relief, $1 billion of which is for fiscal 2011 that will be available as soon as the bill is enacted. "By preventing a government shutdown and once again cutting spending below last year's levels," House Speaker John Boehner (OH), said in a statement, "this bill gives Congress more time to complete work on legislation that stops the Washington spending binge and provides more certainty for job creators." It is hoped that final passage of DOD funding for FY 2012 will occur soon.

THE AMERICAN LEGION LEGISLATIVE POINT PAPER

FISCAL YEAR 2012 DOL VETS APPROPRIATIONS

Background:

The mission of the Department of Labor's (DOL) Veterans' Employment and Training Service (VETS) is to promote the economic security of America's veterans by assisting them in finding meaningful employment. 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.

VETS delivers its services through a variety of programs; including providing grants to states, public entities, and non-profit organizations to assist veterans seeking employment. This agency also investigates veterans' complaints filed under veterans' hiring preference and Uniformed Services Employment and Reemployment Rights Act (USERRA).

VETS provides employment and training services to eligible veterans through the Jobs for Veterans State Grants Program. Under this program, funds are allocated to State Workforce Agencies in direct proportion to the number of veterans seeking employment within their state. The agency administers the Disabled Veterans' Outreach Program (DVOP) and Local Veterans' Employment Representatives (LVER) state grant programs. VETS also provides assistance to service members and veterans through the Transition Assistance Program; Homeless Veterans' Reintegration Program (HVRP); Veterans Workforce Investment Program (VWIP); and the National Veterans' Training Institute (NVTI).

The House Appropriations Committee is still working on a measure to fund DOL functions for the next fiscal year. It is anticipated an appropriations bill will be passed in September, prior to the beginning of the next fiscal year.

Below is a chart indicating the current funding for the VETS program, the President's FY 2012 request, and funding recommendations of The American Legion.

Program	FY 2011 Annualized Funding	President's Budget Request FY 2012	Legion's Budget Request FY 2012
State Administration Grants	$166 million	$166 million	$166 million
Transition Assistance Program	$7 million	$8 million	$9 million
Homeless Veterans Program	$36 million	$36 million	$50 million
Veterans' Workforce Investment Program	$10 million	$10 million	$20 million
National Veterans Training Institute	$2 million	$2 million	$4.2 million
Program Administration	$35 million	$35 million	$40 million
Total	***$256 million***	***$257 million***	***$280.2 million***

Successful veterans' employment and training programs require both an adequate level of funding and oversight to ensure the services are being delivered to eligible veterans. However, many of these services to veterans face the possibility of spending cuts, due to the pending work of the "supercommittee," which will examine all facets of the federal budget looking for savings through spending reductions or outright elimination of programs.

Given the number of newly-separated veterans transitioning from military to civilian life and the obligation to also provide these employment services to veterans of prior wars who need assistance due to the unstable job market, The American Legion believes Congress must fully fund the FY 2012 VETS budget request that provides these employment, training, and placement programs.

The House Appropriations Committee on September 14 introduced a continuing resolution (read the text here) that would keep the government funded until Nov. 18 at the debt-ceiling agreement rate of $1.043 trillion for the fiscal year. It includes $3.65 billion for disaster relief, $1 billion of which is for fiscal 2011 that will be available as soon as the bill is enacted. "By preventing a government shutdown and once again cutting spending below last year's levels," House Speaker John Boehner (OH), said in a statement, "this bill gives Congress more time to complete work on legislation that stops the Washington spending binge and provides more certainty for job creators." It is hoped that final passage of DoL funding for FY 2012 will occur soon.

THE AMERICAN LEGION LEGISLATIVE POINT PAPER

THE CONGRESSIONAL "SUPERCOMMITTEE"

With enactment of the Budget Control Act of 2011 (P.L.112-25), Congress agreed to increase the debt ceiling in exchange for immediate deficit reductions and a process to enact additional deficit reduction measures. As the first step of this Act, new caps were put on discretionary spending for the next ten years, which, if maintained, will result in approximately $900 billion in deficit reduction.

For fiscal years (FY) 2012 and 2013, there are separate "caps" for security and non-security spending. Security spending includes defense, state and foreign operations, homeland security, and military construction/veterans affairs. In those two years, the "security savings" would comprise $5 billion of the approximate $10 billion in savings. The Department of Defense has begun drafting cuts of approximately $350 billion across those ten years. Because of advance appropriations for the medical accounts of the VA budget, most agree VA will be burdened with very little in FY12.

The second step was the creation of a Joint Select Committee on Deficit Reduction (popularly referred to as the "Supercommittee") which is tasked with proposing at least $1.2 trillion in additional deficit reduction, which could come from any combination of spending reductions, entitlement reforms, or revenue increases. The committee has an aggressive timeline with a final proposal to be completed November 23rd.

If this Committee is unable to reach agreement on a proposal, or if Congress does not approve the proposal made by the Committee, automatic "across-the-board" cuts would take effect under a process called "sequestration" beginning in January 2013. Under the Budget Control Act, if sequestration were to take effect, 50 percent of the budget cuts would come from defense spending and 50 percent would come from non-defense accounts.

The sequestration mechanism dates back to P.L. 99-177, the Balanced Budget and Emergency Deficit Control Act of 1985 (BBEDCA), commonly known as the "Gramm-Rudman-Hollings Act." Under the BBEDCA, there were exemptions from these "across-the-board" cuts, including veterans' compensation and pension payments. Other programs that are exempt from cuts include Social Security, Medicaid, and most welfare programs including food stamps.

The BBEDCA was amended by the Statutory Pay-As-You-Go Act of 2010 (P.L. 111-139) in the 111th Congress. This law expanded the exemptions from compensation and pension, to "all programs administered by the Department of Veterans Affairs,"

applying to both mandatory benefits and discretionary programs, including VA health care. As a result, it is expected if the "supercommittee" process fails and sequestration is invoked, the law would be interpreted to exempt all VA programs from cuts.

Despite the protections which appear to extend to automatic cuts to VA programs, The American Legion's work is not done at this point. There are programs providing veterans' benefits outside of VA, including the Department of Labor's Veterans Employment and Training Service (VETS), still subject to sequestration cuts. Moreover, defense and foreign affairs spending would suffer tremendous cuts. The Department of Defense (DOD) anticipates their cuts would total approximately $600 billion across that ten year period – thus burdening the DOD with $950 billion of the $2.4 trillion of cuts imposed by the Budget Control Act. So while the defense spending comprises about 20 percent of the spending, they would be burdened with almost 40 percent of the cuts. The sequestration "trigger" was developed so that both parties would find failure by the "supercommittee" to be unpalatable.

The DoD has not been without a voice in this debate. Army General Martin Dempsey, President Obama's nominee for the Chairman of the Joint Chiefs of Staff, the highest ranking post in the military, has been a vociferous opponent of over-cutting from the Defense budget and compromising national security. "National security didn't cause the debt crisis nor will it solve it," Dempsey stated firmly to the Senate Armed Service Committee. Distancing himself from remarks by the outgoing Chief of Staff Admiral Mike Mullen, who had noted the economic crisis was the "single biggest threat to national security," Dempsey continued, "I wouldn't describe our economic condition as the single biggest threat…there are a lot of clear and present threats to national security in the current operational environment."

Other military leaders have cautioned of the dangers of a "hollow force" such as the state of affairs in the late 1970's when aircraft sat idle on runways without engines because of budget shortfalls. General Phillip Breedlove, the Air Force Vice Chief of Staff and General Joseph Dunford, Assistant Commandant of the Marine Corps, have both gone on record to state if the cuts exceed $400 billion they would have to consider "fundamental changes" to the nature of their capability and mission.

Few observers are optimistic the "supercommittee" process will be successful. They point to the equal distribution of members from each party. Once the membership had been appointed, many point to the backgrounds and links of the "supercommittee's" members to the party leadership. Others point to the failure of other committees in the past when dealing with such all-encompassing issues. Finally, President Obama and some members of the "supercommittee" have recently expressed a desire to make the work of the panel larger in scope, including perhaps another round of stimulus spending and job initiatives. As the committee's proposal grows in either dollars or complexity, the likelihood of losing the votes necessary to pass a recommendation increases.

For the time being, The American Legion's work must revolve around influencing the "supercommittee" to make recommendations as benign as possible for our programs and constituency. By October 14th, each House and Senate committee will submit recommendations on programs and savings that the supercommittee can look to for savings to comprise the $1.2 trillion. The guidance on how each committee can do that, or what type of savings the "supercommittee" is asking for is unknown at this point.

Because of the limited staff and timeline imposed on the supercommittee, most agree the recommendations will be those we've seen recently. For VA those could include:

- Further restrict enrollment of Priority Group 8 *and/or* **dis**-enroll Priority Group 8 veterans
- Require enrollment fees and/or increase medical and prescription drug copayments
- Reduce the number of VA health care facilities, expand provision of private sector vouchers for veterans, and other efforts to downsize VA health care
- Means test all benefits, including disability compensation
- Tax disability compensation payments
- Offset disability compensation for veterans also receiving SSDI
- Provide lump sum payments for some or all disability compensation
- Change standard for "service-connection" to performance of duty
- Higher participation fees for GI Bill and insurance programs
- Tighten the evidentiary requirements for new presumptive conditions
- Change current Social Security CPI to "chained" CPI (lower)

For the DOD these recommendations could include:

- Savings achieved by reduction and/or removal of troops in Afghanistan and Iraq
- Elimination of certain weapons programs or development
- Change to the active duty and reserve benefits including housing allowances, education benefits, and medical coverage
- Change to the military retirement and benefits programs including eligibility for years in service, effective dates, and TRICARE coverage/fees
- Reduction in National Guard and Reserve units and replacement equipment

While The American Legion has resolutions covering many of these proposals and a history of arguing successfully against them, some are not covered by our existing resolutions. Moreover, we could be backed into a position of having to choose between two proposals or find it necessary to leverage one reduction against an expansion.

For example, The American Legion has a resolution which dictates our opposition to enrollment fees for anyone who is eligible for VA health care. This would extend to enrollment fees that are means tested. Yet, could it be appropriate to leverage means tested enrollment fees if we could open Category 8 for further enrollment? This would satisfy another resolution and private insurance fees collected on these veterans could be used to supplement the VA budget.

In contrast, The American Legion does not have a resolution opposed to changing the cost of living adjustment (COLA); yet one of the likely proposals to be considered will be a revision of the COLA to better reflect the Consumer Price Index (CPI) – also known as chained CPI. In implementing such a change, it is estimated this could generate approximately $140 billion in savings in the next ten years. This would decrease the Social Security, and therefore VA, COLA adjustments by approximately .25 percent annually.

In mid-August, the Office of Management and Budget (OMB) directed federal agencies to reduce their FY13 budget proposals. Citing difficult fiscal times and the budget reductions created by the Budget Control Act, the agencies were told to plan for FY13 budgets that were at least 5 percent below, but possibly 10 percent below, FY11 budget levels. This amount of reduction, on top of reductions by the DOD, DoL, and VA would be detrimental to the programs and benefits provided to our military and veterans.

In response to the overall tenor of budget discussion, including the "supercommittee," The American Legion has activated the grassroots lobbying efforts of the Legislative Council. The twelve members of the Legislative Council who liaise with the members of the committee have been tasked with reaching out and beginning a dialogue with their member of Congress. Legion family members from those districts and states were encouraged to do the same. These efforts will be followed up by personal meetings during the 2011 National Commander's testimony on the Hill and visits by Legion family members.

The "supercommittee" has a narrow window in which to operate and therefore they are going to be looking for the "tried and true" budget cuts that have been floated in the past. Yet other efforts, whether it be in budget planning for FY13, or the long-term ideas proposed through blue-ribbon study groups and commissions, will forever look to the military and veterans' benefits, programs and budgets to determine where there might be "savings" either real or imagined that can be used. The American Legion will continue to demonstrate that we will shoulder our fair share, but that share doesn't begin until others, other Americans who did not sacrifice in service to this country, have given a share.

Timeline of Actions under the Debt Deal

Immediately Establishes discretionary caps for 10 fiscal years, with firewalls for fiscal year 2012 and 2013 between security and nonsecurity spending.

Allows an increase of $900 billion in the debt ceiling.
$400 billion increase happens automatically.

Within two weeks House and Senate appoint a total of 12 members to a new Joint Select Committee on Deficit Reduction, whose goal is **deficit reduction of at least $1.5 trillion** over ten fiscal years.

Late September Congress has 50 days after the debt ceiling is increased to pass a resolution of disapproval, or else the debt ceiling is increased by the remaining $500 billion.
If the President vetoes the resolution of disapproval, Congress can vote to override. If the override succeeds, the debt ceiling is not raised and there is a $400 billion sequestration equal to the original debt ceiling increase.

October-December Between September 30 and December 31 both Houses of Congress must vote on a "Joint resolution proposing a balanced budget amendment to the Constitution of the United States."

October 14 Each Congressional committee may transmit recommendations to the Joint Select Committee.

November 23 The Joint Select Committee **reports its recommendations.**

December 2 If a majority of the 12 Committee members approve the report, the report and legislative **language go to the President, the House, and the Senate.**

December 23 The **House and Senate vote** on the Committee's report.

Winter (estimate) When the debt subject to limit is again within $100 billion of the ceiling, **the debt ceiling can be increased by between $1.2 trillion and $1.5 trillion.**

If Congress has passed a Constitutional amendment or if Congress has approved additional deficit reduction of at least $1.5 trillion, the debt ceiling can be increased by $1.5 trillion.
If Congress has approved additional deficit reduction of between $1.2 trillion and $1.5 trillion, the debt ceiling can be increased by that amount.

15 days later Congress has 15 calendar days after being notified of the need to increase the debt ceiling to enact a joint resolution of disapproval, or else the debt ceiling is increased. House Budget Committee Democratic Staff August 3, 2011 Page 7

January 15, 2012 If Congress has not approved additional deficit reduction of at least $1.2 trillion, the debt ceiling can be increased by $1.2 trillion, with automatic sequestration to take effect one year later and lasting the next nine fiscal years.

January 2013 If the additional deficit reduction of at least $1.2 trillion was not enacted by January 15, 2012, **a sequester takes effect**, spread equally across defense and non-defense spending, with certain programs exempt. The sequester continues through fiscal year 2021.

Debt Ceiling "Super Committee"

Sen. Patty Murray (D-WA), Co-Chair

Residence: Seattle
Marital Status: Married (Rob)
Prev. Occupation: Educator
Prev. Political Exp.: Shoreline School Board, 1983-89; WA Senate, 1989-93
Education: BA Washington State University, 1972
Birthdate: 10/11/1950
Birthplace: Bothell, WA
Religion: Catholic
Percentage in Last Election: 52%
Major Opponent: Dino Rossi
448 Russell Senate Office Building,
District of Columbia 20510-4704
Phone: (202) 224-2621
Fax: (202) 224-0238

- Chief of Staff: Mike Spahn
- Scheduler: Grace Rooney

Sen. Max Baucus (D-MT)

Residence: Helena
Marital Status: Married (Melodee Hanes)
Prev. Occupation: Attorney
Prev. Political Exp.: MT House, 1973-75; US House, 1975-78
Education: BA Stanford University, 1964; LLB Stanford University, 1967
Birthdate: 12/11/1941
Birthplace: Helena, MT
Religion: United Church of Christ
Percentage in Last Election: 73%
Major Opponent: Bob Kelleher
511 Hart Senate Office Building,
District of Columbia 20510-2602
Phone: (202) 224-2651
Fax: (202) 224-9412

- Chief of Staff: Jon Selib
- Scheduler: Nancy Orloff

Sen. John Kerry (D-MA)

Residence: Boston
Marital Status: Married (Teresa Heinz Kerry)
Prev. Occupation: Attorney
Prev. Political Exp.: MA Lt. Governor, 1983-85
Military: USN, 1966-70
Education: BA Yale University, 1966; JD Boston College, 1976
Birthdate: 12/11/1943
Birthplace: Denver, CO
Religion: Catholic
Percentage in Last Election: 66%
Major Opponent: Jeffrey Beatty
218 Russell Senate Office Building,
District of Columbia 20510-2102
Phone: (202) 224-2742
Fax: (202) 224-8525

- Chief of Staff: David Wade
- Scheduler: Julie Wirkkala

Sen. Jon Kyl (R-AZ)

Residence: Phoenix
Marital Status: Married (Caryll)
Prev. Occupation: Attorney
Prev. Political Exp.: US House, 1987-95
Education: BA University of Arizona, 1964; LLB University of Arizona, 1966
Birthdate: 04/25/1942
Birthplace: Oakland, NE
Religion: Presbyterian
Percentage in Last Election: 53%
Major Opponent: Jim Pederson
730 Hart Senate Office Building,
District of Columbia 20510-0304
Phone: (202) 224-4521
Fax: (202) 224-2207

- Chief of Staff: Tim Glazewski

Sen. Patrick Toomey (R-PA)

Residence: Zionsville
Marital Status: Married (Kris)
Prev. Occupation: Investment Banker, Restaurateur
Prev. Political Exp.: US House, 1999-2005
Education: AB Harvard University, 1984
Birthdate: 11/17/1961
Birthplace: Providence, RI
Religion: Catholic
Percentage in Last Election: 51%
Major Opponent: Joe Sestak
502 Hart Senate Office Building,
District of Columbia 20510-3802
Phone: (202) 224-4254
Fax: (202) 228-0284

- Chief of Staff: Christopher Gahan
- Scheduler: Danielle Joos

Sen. Rob Portman (R-OH)

Residence: Terrace Park
Marital Status: Married (Jane)
Prev. Occupation: Attorney, Business Owner
Prev. Political Exp.: US House, 1993-2005; US Trade Representative, 2005-06; Office of Management & Budget Director, 2006-07
Education: BA Dartmouth College, 1979; JD University of Michigan, 1984
Birthdate: 12/19/1955
Birthplace: Cincinnati, OH
Religion: Methodist
Percentage in Last Election: 57%
Major Opponent: Lee Fisher
338 Russell Senate Office Building,
District of Columbia 20510-3504
Phone: (202) 224-3353
Fax: (202) 224-9075

- Chief of Staff: Rob Lehman
- Scheduler: Marisa Etter

Rep. Jeb Hensarling (R-TX), Co-Chair

Residence: Dallas
Marital Status: Married (Melissa)
Prev. Occupation: Businessman
Prev. Political Exp.: no prior elected office
Education: BA Texas A&M University, 1979; JD University of Texas, 1982
Birthdate: 05/29/1957
Birthplace: Stephenville, TX
Religion: Episcopal
Percentage in Last Election: 71%
Major Opponent: Tom Berry
129 Cannon House Office Building,
District of Columbia 20515-4305
Phone: (202) 225-3484
Fax: (202) 226-4888
Chief of Staff: Andrew Duke

Rep. Dave Camp (R-MI)

Residence: Midland
Marital Status: Married (Nancy)
Prev. Occupation: Attorney, Congressional Aide
Prev. Political Exp.: MI House, 1989-91
Education: BA Albion College, 1975; JD University of San Diego, 1978
Birthdate: 07/09/1953
Birthplace: Midland, MI
Religion: Catholic
Percentage in Last Election: 66%
Major Opponent: Jerry Campbell
341 Cannon House Office Building,
District of Columbia 20515-2204
Phone: (202) 225-3561
Fax: (202) 225-9679

- Chief of Staff: Jim Brandell
- Appt. Secy.: Allie Judson

Rep. Fred Upton (R-MI)

Residence: St. Joseph
Marital Status: Married (Amey)
Prev. Occupation: Congressional Aide
Prev. Political Exp.: no prior elected office
Education: BA University of Michigan, 1975
Birthdate: 04/23/1953
Birthplace: St. Joseph, MI
Religion: Protestant
Percentage in Last Election: 62%
Major Opponent: Don Cooney
2183 Rayburn House Office Building,
District of Columbia 20515-2206
Phone: (202) 225-3761
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- Chief of Staff: Joan Hillebrands
- Scheduler: Bits Thomas

Rep. James Clyburn (D-SC)

Democrat – South Carolina
Residence: Columbia
Marital Status: Married (Emily)
Prev. Occupation: Educator
Prev. Political Exp.: SC Human Affairs Commissioner, 1974-92
Education: BS South Carolina State College, 1961
Birthdate: 07/21/1940
Birthplace: Sumter, SC
Religion: African Methodist Episcopal
Percentage in Last Election: 63%
Major Opponent: Jim Pratt
2135 Rayburn House Office Building,
District of Columbia 20515-4006
Phone: (202) 225-3315
Fax: (202) 225-2313

- ☐ Chief of Staff: Yelberton Watkins
- ☐ Scheduler: Angela Wright

Rep. Xavier Becerra (D-CA)

Democrat - California
Residence: Los Angeles
Marital Status: Married (Carolina Reyes)
Prev. Occupation: Attorney
Prev. Political Exp.: CA Assembly, 1990-92
Education: BA Stanford University, 1980; JD Stanford University, 1984
Birthdate: 01/26/1958
Birthplace: Sacramento, CA
Religion: Catholic
Percentage in Last Election: 84%
Major Opponent: Stephen Smith
1226 Longworth House Office Building,
District of Columbia 20515-0531
Phone: (202) 225-6235
Fax: (202) 225-2202

- Chief of Staff: Debra Dixon
- Scheduler: Stephanie Venegas

Chris Van Hollen (D-MD)

Residence: Kensington
Marital Status: Married (Katherine)
Prev. Occupation: Attorney
Prev. Political Exp.: MD House, 1991-95; MD Senate, 1995-2003
Education: BA Swarthmore College, 1982; MPP Harvard University, 1985; JD Georgetown University, 1990
Birthdate: 01/10/1959
Birthplace: Karachi, Pakistan
Religion: Episcopal
Percentage in Last Election: 73%
Major Opponent: Michael Philips
1707 Longworth House Office Building,
District of Columbia 20515-2008
Phone: (202) 225-5341
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- Acting Chief of Staff: C.R. Wooters
- Appt. Secy.: Emily Contillo

THE AMERICAN LEGION LEGISLATIVE POINT PAPER

VETERAN EMPLOYMENT LEGISLATION

Background

One of the top issues facing American veterans today is unemployment. According to numbers released by the House Committee on Veterans Affairs, over 1 million veterans are currently unemployed, including 236, 000 of the Vietnam War era, 258,000 of the Cold War era, 182,000 of the Persian Gulf era and 192,000 of the Iraq and Afghanistan era. Commander Fang Wong, in response to President Obama's jobs proposals, has stated, "The president has challenged the private sector to hire or train 100,000 jobless veterans by the end of 2013. We join the president's call to action, but would like to up the ante. The American Legion is challenging America to bring veterans unemployment below the 5 percent mark before Election Day of 2012.

Hiring veterans is one of the best ways to honor their service." Representative Jeff Miller, Chairman of the House Committee on Veterans' Affairs, has introduced legislation aimed at easing this situation in these tough economic times. The "Veteran Opportunity to Work (VOW) Act of 2011" (**H.R. 2433**) would implement several measures which appear likely to assist veterans in securing meaningful employment upon discharge for active military members, or upon returning from deployment for Reserve and Guard members.

First, the bill proposes that veterans ages 35-60 who are not eligible for the benefits provided under the Post 9/11 G.I. Bill or any other educational assistance will be eligible for 1 year of benefits for job training. Up to 55,000 veterans may participate between the dates of October 1, 2012 and March 31, 2014 for up to 12 months. The bill requires that the program be offered at a community college or tech school, that it be a degree- or certificate-granting program, and that it provide training for a "high-demand occupation, as determined by the Secretary of Labor." Participants must have been honorably discharged, and must have been unemployed for an extended period, as determined by the Labor Secretary. The bill requires the Secretary of Labor and the Committees on Veterans' Affairs to submit reports tracking the progress of the programs, including numbers of eligible veterans who participated, credit

hours completed, degrees and certificates awarded, and data related to the employment progress of participating veterans.

The bill also provides for an improvement of the transition programs the military offers to assist personnel who are making the change from military to civilian life. The Labor Secretary is authorized to contract private individuals or companies to provide services which include counseling, assistance in identifying appropriate employment and/or training opportunities, and any other information or service the Secretary deems appropriate. This transition training is made mandatory by this act.

Additionally, this act seeks to reconcile the discrepancy between civilian and military certification. Military medics, mechanics, truck drivers and others gain valuable skills through their military occupational specialties which can easily be applied to equivalent civilian careers. Current protocol does not allow for the majority of these certifications to carry over. This bill would offer a step toward reconciling this issue by working with the Secretary of Labor and the states to find solutions on this issue.

Finally, the measure works to improve the Uniformed Services Employment and Reemployment Rights Act (USERRA) by inserting more precise language into the text of the statute.

A similar measure has been introduced in the Senate by Senator Patty Murray known as the "Hiring Heroes Act of 2011" (**S. 951**)

This bill provides a two year extension of the sunset date of the Wounded Warrior Act (Title XVI of Public Law 110-181), which provides rehabilitation and job training for severely injured or ill veterans. Currently, the Wounded Warrior Act is set to expire on December 31, 2012. The measure would extend the expiration date to December 31, 2014.

Existing law gives the VA Secretary the ability to authorize incentive payment of employers to provide on-the-job training to severely wounded or ill veterans who have undergone rehabilitation, and are rehabilitated to the point of employability. This bill authorizes VA to expand incentive payments for veterans who are being rehabilitated, but have not reached a point at which they are fully employable. Furthermore, this bill would offer an additional 24 months of vocational rehabilitation and employment services after veterans have exhausted their benefits under the current Chapter 31 Vocational Rehabilitation and Employment law. VA would be required to follow up and assess the progress of participating veterans.

As in the House's VOW Act, the Hiring Heroes Act would make the Transition Assistance Program (TAP) mandatory for all separating members of the Armed forces, and would require that the Department of Labor follow up with veterans who participate in TAP. Non-profit organizations would be given competitive grants to assist in the rendering of these transition services to veterans.

Also similar to the VOW Act, the Hiring Heroes Act would require the Departments of Defense, Labor and VA to study and identify equivalencies between military occupational specialty requirements and their civilian counterparts with the goal of direct credentialing and licensing for seamless transition between military and civilian employment. This information would be made available to separating members of the Armed Forces through the TAP program, thereby giving these individuals a sense of direction as they separate from military life.

This measure would smooth the transition between military service and federal service by waiving certain requirements in order to expedite federal employment of separating military members. The Office of Personnel Management would be required to designate federal agencies to provide employment assistance coordinated with TAP. Additionally, the Labor Department will be required to reach out to veterans who have been unemployed for more than 105 days and provide employment assistance.

Finally, the bill proposes the establishment of a program to provide service members who are on terminal leave with the opportunity to gain work experience with civilian employers or DOD contractors, and to allow DOD and the Department of Homeland Security the ability to provide opportunities for apprenticeships to certain separating service members.

The American Legion is strongly supporting these two bills as they await a full vote on the House and Senate floors. Though there are other bills promoting veteran employment, The American Legion believes these to be the most comprehensive, most effective, and most likely to be passed by Congress. This issue affects over a million individuals who have sacrificed greatly for our country, and therefore we urge quick action on these bills.

THE AMERICAN LEGION LEGISLATIVE POINT PAPER

FLAG PROTECTION 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 protection 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 ignored a century of American law and tradition that provided a measure of protection for the flag. Acts of physical desecration are conduct, not speech. Accordingly, these acts should not be recognized and protected as "speech" by the First Amendment. 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…." The American people intend to give 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…."

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.

With a new Congress, The American Legion Family has launched a renewed grassroots effort to generate support for the constitutional amendment. It is time

to rally around the flag once again and tell legislators the public wants passage of the flag amendment.

House Actions

In the first session of the 112th Congress, Representative Jo Ann Emerson (MO) introduced **House Joint Resolution (H.J. Res.) 13**, 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 January 7. It was later referred to the House Subcommittee on the Constitution, Civil Rights, and Civil Liberties on January 24.

The Judiciary Committee chairman is Rep. Lamar Smith (TX) and the chairman of the Constitution, Civil Rights and Civil Liberties Subcommittee is Rep. Trent Franks (AZ). Unlike the past two Congresses, both Smith and Franks are known supporters of the proposed constitutional amendment; therefore, the possibility of hearings in the House are good and the chances of passage, at least in this body, are much improved.

> 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 following list contains the 57 House members as of September 14, 2011, who are cosponsors of the bill. If your representative is not listed please contact him or her and ask that they sign on as a cosponsor.

COSPONSORS (57)

Alexander, Rodney [LA-5] – 9/09/2011
Austria, Steve [OH-7] - 3/29/2011
Bachus, Spencer [AL-6] - 1/19/2011

Biggert, Judy [IL-13] - 2/8/2011
Canseco, Francisco [TX-23] - 3/3/2011
Coffman, Mike [CO-6] - 2/8/2011
Duncan, John J., Jr. [TN-2] - 2/8/2011
Ellmers, Renee L. [NC-2] - 4/1/2011
Fitzpatrick, Michael G. [PA-8] - 3/16/2011
Forbes, J. Randy [VA-4] - 2/16/2011
Fortenberry, Jeff [NE-1] - 3/30/2011
Foxx, Virginia [NC-5] - 3/16/2011
Manzullo, Donald A. [IL-16] - 4/6/2011
McCarthy, Carolyn [NY-4] - 2/8/2011
McKinley, David B. [WV-1] - 2/16/2011
McMorris Rodgers, Cathy [WA-5] – 9/13/2011
Miller, Jeff [FL-1] - 1/19/2011
Myrick, Sue Wilkins [NC-9] - 3/29/2011
Noem, Kristi L. [SD] - 3/3/2011
Palazzo, Steven M. [MS-4] - 7/18/2011
Pearce, Stevan [NM-2] - 3/30/2011
Platts, Todd Russell [PA-19] - 2/16/2011
Pompeo, Mike [KS-4] - 5/5/2011
Posey, Bill [FL-15] - 3/29/2011

Frelinghuysen, Rodney [NJ-11] - 2/8/2011
Green, Gene [TX-29] - 2/8/2011
Guinta, Frank C. [NH-1] - 6/21/2011
Hall, Ralph M. [TX-4] - 7/25/2011
Harris, Andy [MD-1] - 5/5/2011
Hartzler, Vicky [MO-4] - 4/1/2011
Heller, Dean [NV-2] - 4/6/2011
Jordan, Jim [OH-4] - 3/29/2011
Keating, William R. [MA-10] - 2/9/2011
King, Steve [IA-5] - 2/8/2011
Kline, John [MN-2] - 1/24/2011
Lance, Leonard [NJ-7] - 7/11/2011
Latham, Tom [IA-4] - 2/9/2011
Lee, Christopher J. [NY-26] - 2/8/2011
LoBiondo, Frank A. [NJ-2] - 2/8/2011
Luetkemeyer, Blaine [MO-9] - 2/8/2011
Lummis, Cynthia M. [WY] - 5/24/2011
Rahall, Nick J., II [WV-3] - 4/6/2011
Reed, Tom [NY-29] - 4/6/2011
Rehberg, Denny [MT] - 5/2/2011
Roe, David P., [TN-1] – 9/09/2011
Rogers, Mike J. [MI-8] - 3/29/2011
Ross, Dennis [FL-12] - 2/18/2011
Ross, Mike [AR-4] - 1/24/2011
Runyan, Jon [NJ-3] - 3/29/2011
Scott, Austin [GA-8] - 4/1/2011
Simpson, Michael K. [ID-2] - 2/8/2011
Smith, Adam [WA-9] - 2/16/2011
Smith, Christopher H. [NJ-4] - 2/9/2011
Tiberi, Patrick J. [OH-12] - 5/12/2011
Walden, Greg [OR-2] - 5/5/2011
Young, C.W. Bill [FL-10] - 2/8/2011
Young, Don [AK] - 1/19/2011

Senate Update

On June 14, 2011, Senator Orrin Hatch (UT), along with Max Baucus (MT), introduced a companion bill, **Senate Joint Resolution (S.J. Res.) 19.** 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. Dick Durbin (IL). Both are outspoken opponents of the flag amendment. As in past years, this will be an uphill fight in the Senate. Nevertheless, we intend to persevere until we prevail.

The following list contains the 26 Senate members who are cosponsors of the bill. If your senators are not listed please contact them and ask that they sign on as cosponsors.

COSPONSORS (26)

Barrasso, John [WY] - 6/14/2011
Baucus, Max [MT] - 6/14/2011
Blunt, Roy [MO] - 6/15/2011
Burr, Richard [NC] - 6/20/2011
Chambliss, Saxby [GA] - 7/6/2011
Coats, Daniel [IN] - 7/12/2011
Coburn, Tom [OK] - 6/21/2011
Collins, Susan M. [ME] - 7/13/2011
Hutchison, Kay Bailey [TX] - 7/7/2011
Inhofe, James M. [OK] - 6/14/2011
Isakson, Johnny [GA] - 6/29/2011
Johanns, Mike [NE] - 6/21/2011
Kyl, Jon [AZ] - 6/20/2011
Lugar, Richard G. [IN] - 6/14/2011
Nelson, E. Benjamin [NE] - 6/22/2011
Roberts, Pat [KS] - 7/25/2011

Cornyn, John [TX] - 6/15/2011
Enzi, Michael B. [WY] - 6/15/2011
Graham, Lindsey [SC] - 6/15/2011
Grassley, Chuck [IA] - 6/14/2011
Heller, Dean [NV] - 9/7/2011
Rockefeller, John D., IV – 9/6/2011
Rubio, Marco [FL] - 6/29/2011
Sessions, Jeff [AL] - 6/20/2011
Thune, John [SD] - 7/7/2011
Vitter, David [LA] - 6/14/2011

Next Steps

Given the makeup of the 112th Congress and the chairs of the relevant committees, the chances for hearings on the flag protection amendment, at least in the House, are good. Neither the House nor the Senate has held a vote on this amendment since 2006. But with the turnover in the House as a result of the 2010 elections, known supporters now hold the leadership positions in that body. Therefore, convincing the House leadership to bring this to the House floor for a vote, and back on to the radar screen, is the next big step ahead of us.

Past precedent has shown that constitutional amendments can take a long time, but they can be accomplished. The successful effort to change constitutional law, and in particular to overturn a Supreme Court decision, is dependent on a sense of conviction. Thus, we have a great advantage, because the American people love their flag. And that, in the end, is our treasure on which we can, should, and will draw.

THE AMERICAN LEGION LEGISLATIVE POINT PAPER

H.R. 2369, THE AMERICAN LEGION CHARTER LEGISLATION

Resolution 1: Direct Payment of Renewal Dues was adopted at last year's National Convention. This resolution changed the National Constitution and made needed changes that will support our membership. As The American Legion was chartered by Congress, Congress needs to authorize these changes, by legislation, to our Congressional charter.

On June 24, 2011, Representative Jason Altmire (PA), with Representative Thomas J. Rooney (FL), introduced H.R. 2369, entitled the *American Legion Modernization Act*, to amend our Congressional charter to authorize these changes mandated by Resolution 1.

This legislation has a twofold purpose. One, it protects The American Legion from frivolous lawsuits and, two, it allows The American Legion to collect annual dues renewals over the internet by using a credit card.

HR 2369 protects The American Legion from frivolous law suits.

The legislation clarifies, by statute, the autonomous, independent nature of our posts and departments. This legislation will set into law what courts have ruled: that no independent entity of The American Legion is legally responsible for the actions of another. This clarification is necessary because as we begin to accept dues over the internet, and sending these funds to the departments and posts, someone may sue the National Organization claiming that it now 'controlled' this money because it was providing this service. This bill provides protection from that legal liability claim by setting into law that our posts and departments are independent of the national organization.

H.R. 2369 is assigned to the House Committee on Judiciary where it awaits further action.

THE AMERICAN LEGION LEGISLATIVE POINT PAPER

THE MILITARY WIDOWS' TAX

Under current federal law, if the surviving spouse of a military retiree is eligible to receive the monthly **Survivor Benefit Program (SBP)** annuity payment and also awarded a monthly **Dependency and Indemnity Compensation (DIC)** benefit by the Department of Veterans Affairs (VA), the SBP annuity is offset, dollar-for-dollar, by the amount of DIC received. This offset is commonly referred to throughout the veterans' community as the ***Military Widows' Tax***. The American Legion believes this offset is an injustice to surviving spouses of America's heroes.

Retired military service members are eligible to participate in the SBP. SBP is an optional annuity insurance plan designed to pay an eligible surviving spouse a monthly payment to help make up for the loss of the military retirement income. Those military retirees who choose to enroll in SBP have deductions made from their retired pay to purchase a survivor's annuity. Under the plan, upon the military retiree's death, the annuity is paid monthly to eligible beneficiaries.

Among the earned benefits awarded by VA to service-connected disabled veterans and their survivors is the DIC program. DIC is an earned benefit awarded monthly to the eligible surviving spouse of a service-connected disabled veteran by a grateful nation. DIC is a tax-free benefit for the surviving spouse and dependent children. VA also adds a transitional benefit of $250 to the surviving spouse's monthly DIC if there are children under age 18. The amount is based on a family unit, not individual children. It is paid for two years from the date that entitlement to DIC commences, but is discontinued earlier when there is no child under age 18 or no child on the surviving spouse's DIC for any reason.

Clearly, SBP is a personal financial decision made by a military retiree to provide some degree of financial security for the surviving spouse; whereas, DIC is an earned benefit awarded for a veteran's death due to a service-connected medical condition. The American Legion believes that the VA indemnity compensation should be added to the SBP the retiree paid for, not subject to the dollar-for-dollar offset.

SBP and DIC are two distinct and independent programs with unique eligibility criteria. SBP is optional only for military retirees and mandates financial contributions, whereas DIC is awarded only to survivors of service-connected disabled veterans.

The American Legion fully supports corrective legislation – **S. 260** as introduced by Senator Nelson (FL) and **H.R. 178** introduced by Representative Wilson (SC-2) – to amend title 10, United States Code, to repeal the requirement for reduction of survivor annuities under the Survivor Benefit Plan by veterans' dependency and indemnity compensation. As of September 12, S. 260 has 46 cosponsors and H.R. 178 has 148 cosponsors.

THE AMERICAN LEGION LEGISLATIVE POINT PAPER

MEDICARE REIMBURSEMENT FOR VA MEDICAL CARE

Under current law, the Department of Veterans Affairs' Veterans Health Administration (VHA) is prohibited from receiving Medicare payments 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-covered veterans, a concept called "Medicare subvention."

Medicare is a 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 must continue 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 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 approximately 22.1 million veterans; only about 8.5 million are enrolled in VHA. Of those enrollees, about half of the VHA patient population is estimated to be 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 must continue to seek other revenue streams to supplement limited annual Federal discretionary appropriations and meet the growing demands for quality treatment of enrolled veterans. Highlighting this necessity is an October 2010 report by the Congressional Budget Office (CBO), a nonpartisan agency that provides economic data to Congress. It projects that the future costs for VA to treat enrolled veterans will be substantially higher than recent appropriations for that purpose, partly because more veterans are likely to seek care in the VA system but mostly because health care costs per enrolled veteran are projected to increase at a faster rate than the consumer price index. In order to help close this gap, The American Legion supports Medicare reimbursements to supplement VA's annual budget.

112th Congress Update

House Veterans' Affairs Ranking Member Bob Filner (CA) introduced H. R. 814, the *Medicare VA Reimbursement Act of 2011*, on February 18, 2011. This bill provides Medicare payments to VA medical facilities for items and services provided to Medicare-eligible veterans for nonservice-connected conditions. As of September 12, 2011, the bill has 5 cosponsors.

This bill is legislatively complex because its subject matter crosses three committees' jurisdictions in the House. Those committees are Veterans' Affairs, Energy and Commerce, and Ways and Means. No hearings have been scheduled on the bill and no Senate companion legislation has been introduced. 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.