STATEMENT OF
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THE AMERICAN LEGION
BEFORE THE
COMMITTEE ON VETERANS' AFFAIRS
UNITED STATES SENATE
ON
MULTIPLE LEGISLATIVE INITIATIVES

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Mr. Chairman and Members of the Committee:

Thank you for this opportunity to present The American Legion's view on the many issues being considered by the Committee today. The American Legion commends the Committee for holding a hearing to discuss these important and timely issues.

S. 50, "The Veterans Health Care Funding Guarantee Act of 2003."

This bill establishes in fiscal year 2006, a system of capitation-based funding for the Veterans Health Administration (VHA). It combines the total enrolled veteran population with the number of non-veterans who received services from VHA, then divides that number into 120 percent of the fiscal year 2003 VHA budget. This baseline per-capita amount is then adjusted for medical inflation each year and is multiplied by the veteran and non-veteran population for the prior fiscal year to arrive at a total budget for VHA for each succeeding fiscal year. This system would provide all of VHA's funding, except funding of the State Veterans Homes Construction Grant Program, which would be separately authorized. Annual funding would be without fiscal year limitation; any savings VHA realized in a fiscal year would be retained rather than returned to the Treasury. This would provide VHA with incentives to develop efficiencies and creating a pool of funds for enhanced services, needed capital improvements, expanded research and development and other purposes.

S. 50 also repeals Section 8104 of title 38, United States Code that currently requires Congressional approval of major medical facility construction in excess of $4 million. Instead, VA would be required to report any design and development costs over $500,000 for major medical facilities construction to the Senate and House Veterans' Affairs Committees, then wait thirty days before proceeding with a project. The American Legion is supportive of legislation that will create a reliable and consistent funding stream for veterans' health care programs, but believes that some level of congressional oversight of VA construction activities should remain.

S. 1014, " A Bill to Amend title 38, United States Code, to require the Secretary of Veterans Affairs in the management of healthcare services for veterans to place certain low-income veterans in a higher health-care priority category."

This bill expands eligibility for inclusion of veterans in Priority Group 5 to include those veterans whose incomes do not exceed eighty percent of the median income for the geographical area in which they reside. Currently, this is the statutory definition of Priority Group 7. This bill essentially eliminates Priority Group 8 by raising Priority Group 7 veterans to Priority Group 5 and re-designates Priority Group 8 as 7.

It is unclear to The American Legion what effect this bill will have on former Priority theGroup 8 veterans without additional funding to pay for the influx of enrollees it might create. It is likely that the Secretary of Veterans Affairs may again be forced to suspend enrollment of former Priority Group 8 veterans; now Priority Group 7 under S. 1014.

FY 2002 saw the growth of Priority Group 7 and 8 veterans seeking health care at local VA medical facilities. This unprecedented increase in enrollees into the VA health care system resulted in over 300,000 veterans being placed on waiting lists regardless of their assigned Priority Group. FY 2003 saw the suspension of enrollment of newly created Priority 8 veterans due to this unforeseen growth. The American Legion is concerned that this law could raise the hopes of Priority Group veterans now ineligible for enrollment in VA health care, only to have a new barrier erected.

As a nation at war, The American Legion advocates for adequate VA funding in FY 2005 to meet the increased health care needs
of America's veterans

S. 1153 "The Veterans Prescription Drugs Assistance Act."

S. 1153 amends title 38, United States Code, by adding Section 1710C. Veterans who have prescriptions from their private physicians would be able to obtain such drugs or medicines from the Department of Veterans Affairs (VA). Under this new provision, VA would fill the prescriptions of those veterans in receipt of special monthly compensation. Further, any Medicare-eligible veteran may elect to receive their prescription drugs and medicines from VA. However, those Medicare-eligible veterans, who make such an election, will not be eligible for VA medical care or services during the calendar year covered by the election, unless they have a compensable service-connected disability. They are also required to pay one or more of the following: an annual enrollment fee; a copayment for each 30-day supply of medicine; or an amount equal to VA's cost for such medicines and drugs.

Title 38, USC, section 1712(d), currently provides that VA shall furnish drugs and medicines prescribed by a duly licensed physician to veterans who are in receipt of special monthly compensation or special monthly pension by reason of being housebound or in need of aid and attendance. Less seriously disabled veterans, receiving VA medical care on an outpatient basis, are provided drugs and medicines only when prescribed by a VA physician or health care provider. The majority of these veterans are in Priority Groups 7 and 8.

Priority Group 8 veterans, who are currently enrolled and elect the option proposed in section 1710C (b)(1), are not guaranteed that after one year, they will be accepted back into the system

or have the ability to re-enroll. Without that assurance, they will be locked out of the system indefinitely.

There are currently 26 million veterans and forty percent of them, or 10 million, are eligible for Medicare. If they all choose to get their prescriptions filled by VA, will the VA be able to handle the workload? VA enjoys an edge in buying pharmaceuticals and wields significant clout in the marketplace. That may end if their demand becomes too high. If that happens, the reasonable prices afforded to veterans may be lost.

Due to quality and safety issues, The American Legion does not support VA filling outside prescriptions without the veteran being seen by a VA physician first. The American Legion believes that while this legislation may help to reduce the backlog, the carving out of individual benefits of veterans' health care programs should be avoided.

S. 1509 "The Eric and Brian Simon Act of 2003."

S. 1509 authorizes a gratuity of $100,000 to be paid to any veteran who becomes infected with Human Immunodeficiency Virus (HIV) or has Acquired Immune Deficiency Syndrome (AIDS) as a result of treatment of a service-connected condition. The gratuity is also paid to the spouse, former spouse and children who become HIV positive as a result of the veteran's infection and the gratuity may be paid to the survivors of a deceased veteran.

The American Legion has no objection to this legislation.

S. 1745 "The Prisoner of War/Missing in Action National Memorial Act."

This bill establishes a National Prisoner of War/Missing in Action Memorial in Riverside, California. The American Legion has no official position on this initiative but is appreciative of the Congress in recognizing the dedication and sacrifice of these service-members. .

S. 2063 "A Bill to require the Secretary of Veterans Affairs to carry out a demonstration project on priorities in the scheduling of appointments of veterans for healthcare through the Department of Veterans Affairs, and for other purposes."

S. 2063 directs the Veterans Health Administration (VHA) to carry out a two-year demonstration project to assess the feasibility and advisability of priority medical appointment scheduling of veterans who are fifty percent or greater service-connected disabled or who require treatment of a service-connected condition.

The American Legion has no official opinion on this legislation; however, we object to VHA's ongoing characterization of this group of veterans as its "core population." In the FY 04 budget request, President Bush and Secretary of Veterans Affairs Principi clearly state their objective: "a continued focus on the health care needs of VA's core groups of veterans - those with service-connected disabilities, the indigent, and those with special needs." However, the term "core groups of veterans" does not appear in Title 38, United States Code. In testimony before the House Veterans' Affairs Committee on June 17, 2003, American Legion National Adjutant

Robert W. Spanogle stated that there are no "core veterans" - a veteran is a veteran. The "traditional" veterans treated in VA medical facilities were any veteran needing medical care. In the 1980s, "budgetary constraints" created distinctions through means-testing; before then any veteran was welcomed in a VA medical facility.

It should be noted that VA recently published a final rule at 69 Fed. Reg. 34074, 34076 (June 18, 2004) in which 38 C.F.R. § 17.49 was amended to reflect the additional prioritization of veterans above and beyond that authorized by 38 U.S.C. § 1705

S. 2099 "A Bill to amend title 38, United States Code, to provide educational assistance under the Montgomery GI Bill for members of the Selected Reserve who aggregate more than two years of active duty service in any five year period, and for other purposes."

S. 2099 amends title 38, United States Code, to provide entitlement to educational assistance under the Montgomery GI Bill for members of the Selected Reserve who aggregate more than two years of active duty service in any five year period. This legislation would help to ensure that educational benefits afforded members of the Selected Reserve are indeed parallel to the level of commitment of these dedicated troops.

S. 2099 is a positive first step in ensuring that benefits earned by members of the Selected Reserve reflect the sacrifices of these citizen soldiers. The American Legion fully supports the provisions contained in S. 2099 and we commend Senators Miller and DeWine for recognizing the need to update the educational benefits in Title 38 to adequately recognize the increased reliance on members of the Selected Reserve.

S. 2296 "A Bill to require the Secretary of Veterans Affairs to give the Commonwealth of Kentucky the first option on the Louisville Department of Veterans Affairs Medical Center, Kentucky, upon its conveyance, lease or other disposal by the Department of Veterans Affairs."

The decision of the Secretary of Veterans Affairs on the Capital Asset Realignment for Enhanced Services (CARES) program for VISN 9 includes a study of the feasibility, cost-effectiveness and impact of building a replacement, state-of the-art VA Medical Center in Louisville, Kentucky. The current facility is over crowded and provides a "poor environment of care."

The American Legion has no position on this proposal; however, reiterates the position that no facility scheduled for closure or other disposal under CARES should be closed until adequate and appropriate replacement facilities are available to serve the affected veteran population.

S. 2327 "A Bill to amend title 38, United States Code, to clarify that per diem payments made by the Department of Veterans Affairs for the care of veterans in State homes shall not be used to offset or reduce other payments made to assist veterans."

S. 2327 amends title 38, United States Code, to clarify that per diem payments by VA for the care of veterans in State homes shall not be used to offset or reduce other payments made to assist veterans.

The American Legion currently does not have an official position on S. 2327. The Veterans Affairs and Rehabilitation Commission within the organization is reviewing the intent of the legislation. The American Legion has a long history of advocating on behalf of improved funding for State Veterans Homes and supports future efforts to ensure long term care is available to America's aging veterans population well into the new millennium.

In addition, The American Legion remains concerned of the exclusion of long term care services from the CARES analysis that could prove detrimental in VA's ability to meet the increasing demand for long term care.

S. 2417 "A Bill to amend title 38, United States Code, to authorize the Secretary of Veterans Affairs to furnish care for newborn children of women veterans receiving maternity care, and for other purposes."

This bill amends title 38, United States Code, to authorize VHA to provide up to 14 days of neonatal care to the newborns of female veterans who deliver children in VA facilities or in non-VA facilities under contract to VA.

The United States Armed Forces is currently comprised of 11 percent female service members and this figure is expected to climb in the near future. This bill is one of many accommodations that VA is undertaking to meet the needs of female veterans. The American Legion has no objection to this legislation.

S. 2483 "The Veterans' Compensation Cost-of-Living Adjustment Act of 2004."

This bill authorizes the annual cost-of-living increases in the rates of Disability Compensation, Clothing Allowance and Dependency and Indemnity Compensation by the same amount as the cost-of-living increases under Social Security, as well as for the publication of these new rates.

The American Legion supports this annual legislation.

S. 2484 "The Department of Veterans Affairs Health Care Personnel Enhancement Act of 2004."

Section 3, Improvement and simplification of pay provisions for physicians and dentists. This provision establishes a new system of compensation designed to recruit and retain highly qualified doctors and dentists within the VA healthcare system. The new pay system is benchmarked to representative salaries of non-VA physicians, dentists and health care clinician-executives.

Three components comprise the new system. Base pay is a uniform pay band nationwide with a minimum (Chief Grade maximum, currently $100,897) and maximum (Executive Level V, currently $128,200) that is adjustable annually by the same percentage as the GS schedule. Market pay is a variable pay band that VHA facilities may offer to a prospective physician or

dentist employee that allows the facility to be more competitive in the local marketplace by geographic location, specialty, assignment, qualifications and experience.

Market pay is based on published health care workforce employment and compensation data and may be adjusted by VA in response to health care labor trends. Performance pay is linked to the attainment of organizational and personal performance goals up to $10,000 per annum. In the case of Chiefs of Staff and other clinician-executives, performance pay up to ten percent of the total benchmark pay is authorized. Base pay for the Undersecretary for Health (USH) is set at Executive Level III, currently $145,600. The USH is also eligible for market pay.

The American Legion has long held the position that VA pay for doctors and dentist has been woefully inadequate and has led to the loss of scarce specialists, such as gastroenterologists, ophthalmologists, anesthesiologists and radiologists, to private practice. The time has come for Congress to correct this situation and pay salaries that will attract qualified physicians and dentists to work in veterans' health care. The American Legion supports this bill.

Under this bill, VA-employed physicians and dentists holding dual appointments with affiliated medical and dental schools may no longer receive compensation, in any form, from the affiliate, although waivers may be granted on a case-by-case basis. This provision is worrisome to The American Legion. The VA/Medical School affiliations system has played an important role in bringing VHA to its position of excellence in health care. This provision will force dual appointees to choose loyalties and could negatively impact this highly successful symbiotic relationship. The American Legion believes a way should be found to avoid these unintended consequences.

Section 4, Alternate work schedules.
This establishes a variety of new alternative work schedules to attract qualified nurses to work for VA. Flexible work schedules have long been used by the private healthcare sector to attract nursing personnel. This legislation will not only attract nurses who would have opted for other positions because of scheduling issues, but will provide Medical Center directors needed flexibility in staffing. The American Legion does not oppose this provision.

Section 5, Nurse executive pay.
This provision authorizes special pay for nurse-executives (minimum $10,000, maximum $25,000) depending upon factors such as grade of the position, scope and complexity of the position, personal qualifications, characteristics of the health care facility. Given the critical shortage of nurses in VA, generally, it is imperative that talented nurse-executives be retained. The American Legion supports this provision of S. 2484.

S. 2485 "The Department of Veterans Affairs Real Property and Facilities Management Act of 2004."

Section 2, Authority to use project funds to construct or relocate surface parking incidental to a construction or non-recurring maintenance project.
This authorizes the use of construction or non-recurring maintenance funds to construct or relocate surface parking lots incidental to the projects. In its visits to numerous VA healthcare

facilities, The American Legion notes that the current moratorium on new parking space has resulted in congestion and inconvenience to veterans, families and employees. In some instances, facilities have resorted to contracting valet parking services to address the short-term problem. The American Legion supports measures that will create greater ease of access to VHA facilities.

Section 3, Improvements of enhanced-use lease authorities.
This provision allows the Undersecretaries for Health, Benefits and Memorial Affairs to propose business plans involving enhanced use lease (EUL) of VA real property and allow VA to use EULs to obtain other facilities, space or services. It requires public hearings be held and requires reports on proposed EULs to Congress and reduces the comment period from 90 to 45 days. S 2485 further removes the requirement for involvement in EULs by the General Services Administration (GSA).

Section 4, Disposal of real property of the Department of Veterans Affairs.
Section 4 also removes GSA from the EUL process with regard to disposal of facilities and land, establishes the Capital Asset Fund into which proceeds from EULs are to be deposited and makes an initial deposit of $10,000,000 to the fund in FY 2005.

Section 5, Modification of other real property disposal authorities.
This redefines the parameters and processes required for VA to dispose of certain real property, including justification to Congress and the requirement that the net proceeds of disposal be deposited into the Capital Asset Fund.

Section 6, Termination of nursing home revolving fund.
Repeals section 8116, title 38, United States Code and requires that any balance in the fund be deposited into the new Capital Asset Fund on date on enactment.

Section 7, Lease of certain National Cemetery Administration (NCA) property.
This authorizes VA to engage in EULs of undeveloped land and underutilized buildings and establishes a National Cemetery Administration Facilities Operation Fund into which proceeds from EULs are to be deposited.

The American Legion has no position on this bill, but given the number of VHA properties slated for EUL under the CARES decision, this legislation streamlines the EUL process and establishes funds to ensure that proceeds from EULs remain within affected Administrations seems appropriate and timely.

Regarding the NCA EUL provision, The American Legion notes that NCA is in the midst of the largest expansion of the National Cemetery System since the Civil War and questions what undeveloped land owned by NCA is appropriate for EUL.

S. 2486 "The Veterans' Benefits Improvement Act of 2004."

S. 2486 amends title 38, United States Code, to improve and enhance education, housing, employment, medical and other benefits for veterans and to improve and extend certain authorities relating to the administration or benefits for veterans.

Title I - Educational Benefits

Increase in maximum amount of contribution for increased amount of basic educational assistance under the Montgomery GI Bill.
The American Legion does not support increasing the maximum amount of servicemember contribution for increased amount of basic educational assistance under the Montgomery GI Bill.

Pilot program on additional two-year period for use of entitlement by participants in Montgomery GI Bill for vocational or job readiness training.
The American Legion supports providing an additional two-year period for usage of GI Bill benefits for vocational or job readiness training.

Exclusion of veterans' educational benefits in determination of eligibility or amount of federal educational grants or loans.

The American Legion supports the exemption of educational benefits under the GI Bill when determining eligibility for grant or loan assistance provided under title IV of the Higher Education Act of 1965.

Collection of contributions for educational assistance under the Montgomery GI Bill from Reservists called to active duty.

While The American Legion supports increased educational benefits for Reservists under the Montgomery GI Bill, that support has never included payment of $1200 by any veteran. The American Legion does not support requiring payment of $1200 by any active duty, Guard or Reserve member in order for receiving benefits under the Montgomery GI Bill.

Title II - Housing Benefits

Increase in maximum amount of housing loan guarantee.
The American Legion fully supports increasing the maximum amount of housing loan guarantee currently provided to veterans.

"The Montgomery GI Bill for the 21st Century Act."

This draft bill amends title 38, United States Code, to extend and enhance benefits under the Montgomery GI Bill to improve housing benefits for veterans.

Sec. 2. Exclusion of basic pay contributions for participation in basic educational assistance in certain computations on student financial aid.
The American Legion has long supported elimination of the current requirement that eligible servicemembers must contribute $1200 during their first year of enlistment in order to participate in the GI Bill benefit program. Veterans should not have to purchase this well deserved benefit.

Sec. 3. Opportunity for enrollment in basic educational assistance program of certain individuals who participated or were eligible to participate in post-Vietnam Era veterans educational assistance program.
While The American Legion does not have an official position on this provision, we do not oppose offering an enrollment opportunity for those veterans who are eligible to participate in post-Vietnam Era educational assistance programs.

Sec. 4. Commencement of 10-year delimiting period for veterans, survivors and dependents who enroll in training program.
The American Legion fully supports a delimiting period for the use of educational benefits under the Montgomery GI Bill. The unique experiences of servicemembers often prevent them from utilizing educational benefits directly after discharge from active duty. Extending the delimiting period will help to ensure veterans can indeed take advantage of the educational benefits they have earned through their service.

Sec. 5. Availability of education benefits for payment for national admissions exams and national exams for credit at institutions of higher learning.
The American Legion supports allowing eligible veterans to utilize their educational benefits, under the Montgomery GI Bill for payment of national admissions tests and national exams for credit at institutions of higher learning. In addition, The American Legion supports allowing veterans to use their educational benefits for payment of written or practical tests that may be required in the acquisition of a license, certification or credential that may be needed to obtain employment in a certain career field.

Mr. Chairman, that concludes my testimony. Again, I thank the Committee for this opportunity to appear. The American Legion looks forward to working with each of you on these important issues.